



IN THE MATTER OF an application submitted by 250 Seaport District, LLC 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. Section 74-743(a)(1) – to allow the distribution of total allowable floor area without regard for zoning lot lines; and
2. Section 74-743(a)(2) – to modify the height and setback requirements of Section 62-341 (Development on land and platforms), Section 35-652 (Maximum height of buildings and setback regulations), and Section 23-662 (Maximum height of buildings and setback regulations), and the street wall location requirements of Section 35-651 (Street wall location);

in connection with a proposed mixed use development on property located at 250 Water Street (Block 98, Lot 1), in a C6-2A District, within a Large-Scale General Development generally bounded by Pearl Street, Peck Slip, Water Street, Beekman Street and its easterly prolongation, the U.S. Pierhead line and John Street and its easterly prolongation (Block 73, p/o Lot 10, p/o Lot 8, Lot 11 & a portion of Marginal Street, Wharf or Place, Block 98, Lot 1, Block 74, p/o Lot 20, and the de-mapped portions of Fulton Street, Water Street & Front Street), in C4-6, C5-3, and C6-2A Districts, within the Special Lower Manhattan District.

This application (C 210438 ZSM) for a special permit was filed by 250 Seaport District, LLC on May 12, 2021. The special permit, along with its related actions, would facilitate the development of a mixed-use building with 547,000 square feet of zoning floor area located at 250 Water Street (Block 98, Lot 1) in the South Street Seaport area of Lower Manhattan, Community District 1. It would also allow the distribution of floor area without regard to zoning lot lines, and to modify height, setback, and street wall requirements within a Large-Scale General Development (LSGD). On August 2, 2021, 250 Seaport District, LLC filed an application (C 210438 (A) ZSM) to reflect modifications to the proposed massing and building design pursuant to a Certificate of Appropriateness issued by the Landmarks Preservation Commission (LPC) on May 4, 2021, including a change to the proposed building height. On October 15, 2021, 250 Seaport District, LLC filed an application (C 210438 (A) ZSM) to reflect modifications to the proposed development at 250 Water Street including designating university and theater uses as a primary or secondary use, permitting certain obstructions on the building's terraces up to a height of 15 feet, and changing the floor area calculations within the LSGD to

reflect the size reduction of the proposed building.

RELATED ACTIONS

In addition to the proposed zoning special permit (C 210438 (A) ZSM) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following applications submitted by 250 Seaport District, LLC, which are being considered concurrently with this application:

N 210439 ZRM Zoning text amendment to modify Zoning Resolution (ZR) Article IX, Chapter 1;

N 210441 ZAM Zoning authorization to provide a curb cut on a wide street;

N 210445 ZAM Zoning authorization to provide for modifications within a Waterfront Public Access Area related to permitted obstructions and bollards;

N 210446 ZCM Zoning certification pursuant to Zoning Resolution Section 62-12(c) related to proposed design changes to a Waterfront Public Access Area;

M 130053(B) ZSM Modifications to the previously approved South Street Seaport / Pier 17 LSGD.

BACKGROUND

The 250 Water Street development site (Block 98, Lot 1) is an irregular 48,057 square-foot, full-block site bounded by Water Street to the south, Beekman Street to the west, Pearl Street to the north, and Peck Slip to the east. It is located within the South Street Seaport Subdistrict (SSSS) of the Special Lower Manhattan District (SLMD). While the site is located within the South Street Seaport Historic District (SSSHD), it has been used as an open, surface parking lot for over 50 years.

On May 15, 1968, the CPC approved the Brooklyn Bridge Southeast Urban Renewal Plan (CP-20254) for the South Street Seaport area for the purpose of developing a museum complex and restoring buildings in the area to reflect its maritime history. The Urban Renewal Plan (URP), which expires in 2068, imposes regulations, controls, and restrictions on the South Street Seaport area. In 1968 the LPC designated buildings on Schermerhorn Row as New York City landmarks. In 1972, the entire South Street Seaport was listed on the National Register of Historic Places, and on May 10, 1977, the LPC-designated the South Street Seaport Historic District (LP-0948) as the area bounded by Brooklyn Bridge to the east, Fletcher Street to the west, Pearl and Water Streets on the north, and the East River on the south, as well as Piers 15 and 16, and a portion of Pier 17. The historic district was expanded on July 11, 1989 (LP-1646) to include the block bounded by Dover Street, Pearl Street, Water Street, and Peck Slip.

The Special South Street Seaport District was created in 1972 by a zoning text amendment (CP-21975) as a means of preserving and encouraging the restoration of the Schermerhorn Row landmark buildings by creating a mechanism for the transfer of development rights within the area. In 1998, the Special South Street Seaport District was incorporated into the SLMD as a subdistrict (South Street Seaport Subdistrict or SSSS). Pursuant to the mechanisms created by the zoning regulations, the transferable development rights were transferred to a consortium of banks with the remaining unused rights purchased in 2015 by Seaport Development Holdings LLC (now known as the Seaport Development Rights Bank), an affiliate of the applicant, 250 Seaport District, LLC. 250 Seaport District, LLC (the applicant) is an affiliate of the Howard Hughes Corporation (HHC). Since the creation of the transfer mechanism, the CPC has certified the transfer from the Seaport Development Rights Bank to six sites: 180 Maiden Lane, 175 Water Street, 199 Water Street, 151 Maiden Lane, 30 Fletcher Street, and 80 South Street. There is currently 30,216 square feet of unused development rights remaining in the Seaport Development Rights Bank and they are available for transfer to designated receiving sites in the SSSS with granting sites and receiving sites mapped in the Z.

Much of the Seaport's current configuration and design dates from a 1977 master plan commissioned by the City, in collaboration with the Seaport Museum and the Rouse Company,

emphasized commercial development in the area. The master plan was ultimately adopted through a series of public approvals in 1981 that included street demappings (C 830356 MMM), an amendment of the URP, and lease dispositions to the Seaport Museum and the Rouse Company. The streets that were demapped include Fulton Street between South and Water streets, Front Street between John and Beekman streets, Water Street between Fulton and Beekman streets, and a portion of South Street between John and Beekman streets. The South Street Seaport Limited Partnership (SSSLP), an affiliate of the Howard Hughes Corporation, has since acquired the Rouse Company's interest in the original lease, administered by the New York City Economic Development Corporation (EDC) on behalf of the New York City Department of Small Business Services (SBS). The lease was further amended in 2017 adding the Tin Building to the premises covered by the lease and conveying to SSSLP a leasehold interest to it.

In 2003, 10 blocks within the SSSS, including the 250 Water Street development site, were rezoned from a C6-4 zoning district, which has no height restrictions, to a C6-2A zoning district, which has a height restriction of 120 feet (C 020213 ZMM). The maximum allowable commercial floor area ratio (FAR) within these areas was decreased from 10.0 for all uses, to 6.0 for commercial uses, 6.02 for residential uses, and 6.5 for community facility uses.

In 2013, the CPC adopted a series of actions (C 130052 ZMM, C 130053 ZSM, C 130054 ZSM, C 130055 ZSM, N 130056 ZAM, N 130057 ZAM, N 130058 ZCM, C 130059 PPM, and N 130060 ZRM) to facilitate the redevelopment of the existing Pier 17 building and the surrounding area in an effort to revitalize the Seaport. The 2013 actions created a LSGD at Pier 17, comprising portions of Lots 8 and 10 (Block 73) and a portion of Marginal Street. Pursuant to a series of modifications adopted by the CPC in 2016 (M 130053A ZSM, M 130054A ZSM, M 130055A ZSM, N 170054 ZAM, and N 170055 ZSM), the special permits, zoning lot boundaries, and site plan of the 2013 actions were modified and the Tin Building (Block 73, Lot 11) was incorporated into the LSGD. Pursuant to the 2016 modifications, a First Amended and Restated Declaration was entered into by the City and the South Street Seaport Limited Partnership on January 11, 2017 (CRFN 2017000036236) on January 26, 2017.

The SSSLP purchased the development site, 250 Water Street, in 2018. In 2019, the development site was accepted into the State's Brownfield Cleanup Program and would undergo remediation by the applicant.

In 2020, SSSLP filed an application (LPC-21-04480) with the LPC for a Certificate of Appropriateness to allow for construction of the proposed development at 250 Water Street. On May 4, 2021, the LPC voted to issue Certificates of Appropriateness for the proposed development and a potential expansion of the South Street Seaport Museum within the South Street Seaport Historic District.

Surrounding Area

The development site is located in Manhattan Community District 1 to the southwest of the Brooklyn Bridge in lower Manhattan. The surrounding area includes the South Street Seaport neighborhood, which is located on the East River waterfront, as well as portions of the Financial District, Civic Center, and Two Bridges neighborhoods. The South Street Seaport neighborhood includes a range of land uses and building types. The block containing Schermerhorn Row includes ground floor retail uses and other commercial uses as well as space for the existing South Street Seaport Museum. Other blocks include low-rise residential uses and ground floor restaurant and retail uses, with other scattered uses including hotel uses and a Con Edison substation along South Street between Peck Slip and Dover Street. Two schools are located across from the development site are: P.S. 34, located across Peck Slip, and the Blue School, located across Water Street. Along Fulton Street is the Fulton Market Building, with restaurant, retail and entertainment uses.

The larger nearby area includes portions of the Financial District neighborhood, generally to the south and west of the Brooklyn Bridge, and the Two Bridges neighborhood, generally to the north and east of the Brooklyn Bridge. The Financial District, historically the city's primary commercial center with shopping and office uses, has recently undergone significant redevelopment with residential, retail and entertainment uses. There has also been some modern infill construction, which generally includes residential and retail uses. The inland area to the

south of Fulton Street contains the traditional high-density center of the Financial District with large office towers, generally along Water Street, South Street, and further inland. The area also contains several recently built residential towers or conversions.

The area along the waterfront contains the East River Esplanade open space and two piers (Piers 16 and 15) that are in use as recreational and cultural/entertainment spaces. Pier 16, leased by the City to the South Street Seaport Museum, is also used for docking of historic ships and other vessels. Pier 15 has been reconstructed as publicly accessible open space and contains a pavilion with rooftop open space.

The development site is located within the northeastern portion of the SLMD which extends approximately one block to the northeast and southeast. To the southwest, west, and northwest, the SLMD extends over the rest of lower Manhattan, south of the Brooklyn Bridge and Murray Street and east of West Street. One block to the northeast and southeast, and for several blocks to the southwest, is the SSSS.

The area surrounding the development site immediately to the northeast, southeast, south, and southwest, are mapped within a C6-2A zoning district within the SLMD, which provides a base maximum FAR of 6.5. Further to the south along the waterfront is a C4-6 zoning district (3.4 FAR) within the SLMD. The waterfront to the east of the development site, outside of the SLMD, is located within a C2-8 zoning district (10.0 FAR). Directly to the north of Zoning Lot A is an R8 zoning district (6.5 FAR), which is surrounded by a C6-4 (10.0 FAR) zoning district to the north, east, and west. Further to the west of the development site is a C5-5 zoning district (15.0 FAR) and a C5-3 zoning district (15.0 FAR). Past the Brooklyn Bridge to the northeast of Zoning Lot A, and outside of the SLMD, is an R7-2 zoning district (3.44 FAR).

The South Street Seaport neighborhood includes a range of land uses and building types. The block containing Schermerhorn Row includes ground floor retail uses and other commercial uses as well as space for the existing South Street Seaport Museum. Other blocks include low-rise residential uses and ground floor restaurant and retail uses, with other scattered uses including

hotel uses and a Con Edison substation along South Street between Peck Slip and Dover Street. Along Fulton Street is the Fulton Market Building, with restaurant, retail and entertainment uses. The area along the waterfront contains the East River Esplanade open space and two piers (Piers 16 and 15) that are in use as recreational and cultural/entertainment spaces. Pier 16, leased by the City to the South Street Seaport Museum, is also used for docking of historic ships and other vessels. Pier 15 has been reconstructed as publicly accessible open space and contains a pavilion with rooftop open space mainly used for music concerts.

The larger nearby area includes portions of the Financial District neighborhood, generally to the south and west of the project area, and the Two Bridges neighborhood, generally to the north and east of the project area. The Financial District, historically the city's primary commercial center with shopping and office uses, has recently undergone significant redevelopment with residential, retail and entertainment uses. There is some modern infill construction, which generally includes residential and retail uses. The inland area to the south of Fulton Street contains the traditional high-density center of the Financial District. This includes large office towers, generally along Water Street, South Street, and further inland. The area also contains several recently built residential towers or conversions.

The area north of Fulton Street and west of the development site contains Southbridge Towers, a large housing cooperative built under the Mitchell-Lama housing program that was completed in 1969. The Southbridge Towers complex is located on a superblock between Gold and Pearl streets and includes approximately 1,641 residential units within four 27-story buildings and five low-rise buildings. This portion of the neighborhood also contains the New York-Presbyterian Lower Manhattan Hospital and the facilities of Pace University, both of which are located along Spruce Street west of Gold Street, as well as 8 Spruce Street, a residential tower further to the northwest.

The surrounding area is well served by public transit. The Fulton Street subway is located six blocks to the northwest of the development site and provides service for the 2, 3, A, C, J, Z, 4, and 5 trains, and provides transfers to the E, N, R, and W trains at the World Trade Center /

Cortlandt Street subway station. The M15, M15-SBS, and the Free Downtown Connection buses have a bus stop one block to the west of the development site. The Wall Street – Pier 11 ferry terminal is eight blocks to the southwest and has access to the Astoria, East River, Rockaway, Soundview, South Brooklyn, and Governors Island routes. Further down South Street is Whitehall Terminal which has access to the Staten Island Ferry.

Project Area

The project area is comprised of three zoning lots. The first is the existing Pier 17 LSGD which is comprised of parts of Lots 8 and 10 and all of Lot 11 on Block 73 and a portion of Marginal Street and referred to as the Pier 17 zoning lot. The Pier 17 LSGD currently includes the Pier 17 building (a three-story retail structure) and the Tin Building (an approximately 60,000 square-foot market structure), both of which were developments enabled by the LSGD, and is served by an Access Drive for loading and deliveries.

As modified, the existing LSGD would be expanded to encompass two additional zoning lots with no existing buildings for a total of three zoning lots: the Pier 17 zoning lot, the proposed 250 Water Street zoning lot (Block 98, Lot 1), and the demapped street zoning lot, which was demapped in 1983. The latter consists of the demapped portion of Fulton Street between South and Water streets, the demapped portion of Water Street between Fulton and Beekman streets, and the demapped portion of Front Street between Beekman and John streets. As modified, the LSGD would have a total lot area of 336,601 square feet and be permitted a maximum floor area of 1,087,421 square feet. Buildings within the LSGD currently comprise 302,074 square feet of zoning floor area.

The proposed development site zoning lot, which is owned by the applicant, is an irregular, full-block site with approximately 333 feet of frontage on Water Street, 108 feet of frontage on Beekman Street, 323 feet of frontage on Pearl Street, and 190 feet of frontage on Peck Slip. The zoning lot has a lot area of 48,057 square feet and is located in a C6-2A zoning district in the SLMD. C6-2A zoning districts are medium density districts permitting a wide range of residential, community facility, and commercial uses. The maximum residential FAR permitted

is 6.02, 6.0 for commercial use, and 6.5 for community facility use. Residential portions of buildings in C6-2A districts have a minimum base height requirement of 60 feet, a maximum base height requirement of 85 feet, and a maximum building height of 120 feet. After the base height, a 10-foot setback is required from a wide street and a 15-foot setback is required from a narrow street. The development site is located within the SSSHD as well as the Coastal Zone Boundary and within a flood zone. The site is currently used as a surface parking lot with a capacity of approximately 400 parking spaces and is served by a kiosk structure, accessed by a single 25-foot-wide curb cut on Pearl Street.

The demapped street zoning lot has a lot area of 60,570 square feet and is located within a C5-3 zoning district and a C6-2A zoning district. The demapped street portion of the LSGD was originally City-owned mapped streets but were demapped in 1983 (C 830356 MMM) in order to be used as a pedestrian plaza and to spur economic development in the area. All floor area generated by the zoning lot comprising the demapped streets was transferred to the Seaport Development Rights Bank in 1983, and no floor area remains on the demapped streets. Although streets become zoning lots when demapped, text within the Special Lower Manhattan District (Section 91-62; Section 91-68) treats these demapped areas as “streets” for purposes of applying a range of zoning regulations . Located within the demapped street is an existing open air eating and drinking establishment that is approximately 1,500 square feet and provides a bar and seating near the corner of Fulton Street and Front Street.

The Pier 17 zoning lot is located in a C4-6 zoning district and has a lot area of 227,974 square feet. The underlying zoning regulations permit a maximum floor area of 775,112 square feet (3.4 FAR). Currently, Pier 17 has approximately 302,074 square feet of floor area (1.33 FAR). Pier 17 includes public open space and a mixed-use building comprising retail, restaurant, entertainment, and office uses as well as a multi-purpose rooftop space with areas for public access as well as concerts and other events. Pier 17 underwent a redevelopment pursuant to the 2013 actions, which were modified in 2016 (M 130053 (A) ZSM, M 130054 (A) ZSM, M 130055 (A) ZSM, N 170054 ZAM, N 170055 ZCM).

The Tin Building is an approximately 60,000-square-foot market structure on Pier 17, being developed by SSSLP pursuant to the 2016 modifications, and slated to open as a culinary marketplace in late 2021 or early 2022. Surrounding the Tin Building is a C-shaped Access Drive to the southwest, southeast, and northwest. The Access Drive has a one-way entrance on South Street opposite Fulton Street and a one-way exit back to South Street as a prolongation of Beekman Street. Pursuant to the Restrictive Declaration (2016), the Access Drive may only be used for loading and deliveries to Pier 17 and the Tin Building and must be used and operated in accordance with a Traffic Management Plan. The LSGD also requires Waterfront Public Access Areas (WPAA) and Public Access Areas (PAA) in the area surrounding the building footprints.

Proposed Development

The proposed modified LSGD that consists of the Pier 17 zoning lot, the demapped street zoning lot, and the 250 Water Street development site, would have a total lot area of 336,601 square feet and comprise 849,179 square feet of floor area. The LSGD would include 373,280 square feet of residential use, 4,800 square feet of community facility use, and 471,099 square feet of commercial use. The total transfer of development rights from the Pier 17 zoning lot to the 250 Water Street site via the LSGD would be 234,630 square feet.

The proposed development site would contain a mixed-use building with 547,000 square feet of zoning floor area and would include approximately 373,280 square feet of residential use (including affordable units), 153,000 square feet of office use, 15,920 square feet of retail use, and 4,800 square feet of community facility use. The mix of uses may also include theater uses classified as community facility or commercial uses. The proposed building would designate a total of approximately 77,160 square feet, or 20 percent of total residential floor area (approximately 75 to 108 dwelling units), as affordable floor area at an average income threshold of 40 percent of area median income (AMI) which is comparable to Option 3 (Deep Affordability) for developments subject to Mandatory Inclusionary Housing (MIH) regulations.

The proposed development would consist of an approximately 74-foot tall, five-story base with office, community facility, retail uses, and an outdoor terrace. The residential portion of the

building would rise above the base and reach a total height of up to 324 feet (27 stories including mechanical floors). Above the base and in certain rooftop areas, outdoor terraces would be provided for the residents of the building. The ground floor would consist of community facility and retail uses, lobbies for the residential and commercial uses, a garage entrance for as-of-right parking spaces, and a loading dock area. The proposed building would comply with flood zone regulations of Article VI, Chapter 4 of the Zoning Resolution, and may incorporate resiliency measures and zoning deductions available pursuant to the Zoning for Coastal Flood Resiliency text amendment (N 210095 ZRY).

The proposed development site would include a below-grade, as-of-right accessory attended parking facility with a capacity for approximately 108 vehicle spaces and 187 bicycle parking spaces. An authorization pursuant to ZR Section 13-441 would allow for a curb cut to be located on Pearl Street, a 90-foot wide street. Vehicles would enter the parking facility using the proposed curb cut on Pearl Street and would exit the facility using a curb cut on Beekman Street. Vehicles would be able to access the lower level parking facilities by elevators. There would be 10 reservoir spaces on the ground floor to provide queuing of vehicles waiting to enter into the parking facility and a stop sign and speed bump at the garage exit. To service the retail and office uses of the proposed building, two loading berths would be located on Pearl Street.

The Pier 17 zoning lot would be modified to allow for several changes. Bollards are proposed within the Pier 17 zoning lot for safety and perimeter security along South Street in front of the Tin Building and Pier 17. Both fixed and retractable bollards would be provided within the upland connection of the WPAA and PAA, and would provide protection to pedestrians and to users of the Tin Building and Pier 17 building. There are three guard booths proposed to be added adjacent to the Access Drive to provide weather protection for traffic safety staff. One booth would be provided west of the Tin Building and within the portion of the esplanade surrounded by the Access Drive; the second booth would be provided in the middle of the Access Drive loop; and the third booth would be provided to the east of the Tin Building outside of the portion of the esplanade surrounded by the Access Drive. The curb boundaries of the Access Drive would be realigned to accommodate a Con Edison gas meter (150 square feet)

required for the Tin Building while also maintaining a continuous 10-foot clear pedestrian path along the northern side of the Tin Building. The previously enabled development on Pier 17 would add a skylight, a permitted obstruction.

There are no proposed changes to the demapped street portion of the LSGD.

Proposed Actions

In order to facilitate the development, the applicant requests a special permit, two zoning authorizations, a Chairperson certification, and modifications to a previously approved LSGD.

Zoning Special Permit (C 210438 (A) ZSM)

A special permit to ZR Section 74-743(a)(1) would allow the distribution of the total allowable floor area without regard to zoning lot lines or district boundaries. The proposed special permit would allow the distribution of 234,630 square feet of floor area from the Pier 17 zoning lot to the 250 Water Street zoning lot in accordance with the modified site plan for the LSGD, increasing the maximum allowable FAR from 7.13 to 11.45. The maximum floor area permitted on Pier 17 is 775,112 square feet, of which 302,179 square feet of floor area is currently being utilized for commercial use. Of the 472,933 square feet of available floor area, 234,630 square feet would be transferred to the 250 Water Street development site, leaving 238,303 square feet remaining at Pier 17.

Pursuant to ZR Section 74-743(a)(2), the proposed special permit would allow the 250 Water Street development to be built without regard to the height, setback, and street wall controls of the underlying zoning district. The zoning regulations require a minimum base height of 60 feet and a maximum base height of 85 feet along all street frontages. Above a base height of 85 feet, a 15-foot setback would be required on all sides of the proposed development, excluding the 10-foot setback required on Pearl Street. The base height of the proposed development would range from 43.17 feet to 74.33 feet along Beekman Street and Water Street, which would require a waiver to reduce the minimum base height requirement. Above the base height, a setback greater than 15 feet would be provided on Beekman Street and Water Street, in compliance with the

minimum 10-foot setback requirements along narrow street frontages. Along Peck Slip, a setback ranging from 6.94 feet to 16.28 feet would be provided, requiring waivers of the minimum 15-foot setback requirement and the maximum permitted base height. Along Pearl Street, portions of the building would not provide a setback, requiring waivers of the minimum 10-foot setback requirement along a wide street frontage and the maximum permitted base height. The proposed development has a two-tiered podium ranging in heights of 57.33 feet to 74.33 feet. Above each podium level, beyond the required setback areas, the proposed development would provide outdoor terraces for users and residences of the building. Above the podium, the residential portion of the building would rise to heights ranging from 282.71 feet up to a maximum of 324 feet. On the rooftop areas of the lower tower portions, outdoor terraces will be provided for residents of the building. All of the outdoor terraces would be located within designated areas that are set back from the required setback zones and have a maximum height of 15 feet above the respective podium or tower heights.

Accordingly, the proposed waivers would permit the building to reduce the minimum base height and increase the maximum base height, allow the residential portion to encroach into the required setback area along Peck Slip and Pearl Street, and exceed the maximum permitted roof height of 120 feet. Additionally, along Pearl Street, the building's street wall must be located entirely at the street line and because the proposed building's street wall would not be located entirely along the street line, a waiver is required.

Zoning Text Amendment (N 210439 ZRM)

A zoning text amendment to ZR Section 91-68 is proposed to confirm that the demapped portions of Fulton Street, Front Street, and Water Street may serve as "zoning lots" for purposes of the ZR Section 12-10 definition of LSGD. These former streets became zoning lots upon demapping in 1983, after which the appurtenant development rights were added to the Seaport Development Rights Bank. This text amendment would ensure that the special district text that allows them to serve as streets for limited purposes, does not preclude their inclusion in the LSGD.

Zoning Authorization (N 210441 ZAM)

A zoning authorization pursuant to ZR Section 13-441 is proposed to allow a 20-foot-wide curb cut to be located on Pearl Street, a wide street. Currently, an approximately 25-foot-wide curb cut exists on Pearl Street that provides access to the existing open parking facilities on the development site. The new curb cut, located within the same general area as the existing curb cut, would serve as an entrance to the below-grade as-of-right accessory attended parking facility with an exit located on Beekman Street. As both Beekman Street and Peck Slip face north towards Pearl Street, locating the curb cut on Pearl Street would allow entry to the parking garage without requiring vehicles to enter through the SSSHD. With an exit on Beekman Street, traffic would be directed back to Pearl Street and away from the SSSHD.

Zoning Authorization (N 210445 ZAM)

A zoning authorization pursuant to ZR Section 62-822(b) would modify design requirements within the WPAA to allow bollards to be located within the upland connection of the WPAA, and to be treated as a permitted obstruction within the required circulation path leading to the PAA of Pier 17. ZR Section 62-651(b)(1) permits bollards to be located along the bulkhead, stabilized shore or the water edges of a pier or platform, along a zoning lot line adjacent to and limiting access from an upland public street and along the boundaries of a roadway within an upland connection. ZR Section 62-651(b)(2) requires bollards to be configured with a maximum of 30 inches in height and 15 inches in width and provide a minimum clearance of five feet between two bollards. ZR Section 62-611(a) treats bollards as a permitted obstruction within a WPAA but does not allow permitted obstructions, such as bollards, within a required circulation path.

Security bollards are proposed within the Pier 17 zoning lot to improve safety and perimeter security along South Street in front of the Tin Building and Pier 17. Both fixed and retractable security bollards are proposed within the upland connection of the WPAA and the PAA and would cross through a portion of the required pedestrian circulation path. Pursuant to the Department of State's guidelines, the security bollards would be configured and designed to meet K-12 rating standards. The proposed bollards would have a height of 36 inches and a minimum

clearance of three feet, which would not comply with the dimensional requirements set forth in ZR Section 62-651(b)(2).

Zoning Chairperson Certification (N 210446 ZCM)

A Chairperson certification pursuant to ZR Section 62-12(c) is necessary to certify that the proposed design changes to the WPAA would not increase the degree of non-compliance or would result in a greater level of compliance with the regulations of the waterfront zoning regulations, as modified by the proposed authorization pursuant to ZR Section 62-822(b) and the WPAA authorizations. The proposed design changes would add bollards and three guard booths, as well as re-align the curb boundaries of the Access Drive around the Tin Building.

Modification to the South Street Seaport / Pier 17 LSGD (M 130053(B) ZSM)

A modification to the previously approved South Street Seaport / Pier 17 LSGD would expand the LSGD to include the two additional zoning lots – the demapped street lot and the 250 Water Street development site in order to facilitate the proposed development at 250 Water Street. The site plan for the LSGD would be further modified to reflect minor changes to the Pier 17 zoning lot including the addition of bollards, three guard booths along the Access Drive, a skylight on the Pier 17 building, and a realignment of the Access Drive curb in order to install a Con Edison gas meter for the Tin Building. The addition of the guard booths at 105 SF total (35 SF per booth) and the 150 SF gas meter will reduce the area of the PAA by 255 SF, resulting in a total area of 44,760 SF of PAA. The proposed Access Drive curb realignment to accommodate the gas meter will maintain the continuous 10-foot clear pedestrian path along the PAA surrounding the Tin Building.

ENVIRONMENTAL REVIEW

The amended application (C 210438 (A) ZSM), in conjunction with the originally referred application (C 210438 ZSM) and the related applications for a zoning text amendment (N 210439 ZRM), zoning authorizations (N 210441 ZAM and N 210445 ZAM), zoning certification (N 210446 ZCM), and modifications to a previously approved special permit (M 130053(B) ZSM), 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 designated CEQR number is 21DCP084M. The lead is the City Planning Commission.

It was determined that this application, in conjunction with the related actions, may have a significant effect on the environment, and that an Environmental Impact Statement (EIS) would be required. A Positive Declaration was issued on November 16, 2020 and subsequently distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on November 16, 2020. A public scoping meeting was held on December 17, 2020 and the Final Scope of Work was issued on May 17, 2021.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on May 17, 2021. Pursuant to SEQRA regulations and the CEQR procedure, a joint public hearing was held on September 1, 2021, in conjunction with the public hearing on the related Uniform Land Use Review Procedure (ULURP) items. The public hearing also considered modifications to the proposed actions (the amended application, C 210438 (A) ZSM). A Final Environmental Impact Statement (FEIS) reflecting comments made during the public review process was completed, and a Notice of Completion for the FEIS was issued on October 8, 2021. The FEIS and the Notice of Completion were revised on October 10, 2021 to reflect a small number of additional comments and responses.

The original application as analyzed in the FEIS identified significant adverse impacts with respect to shadows, open space (due to shadows), historic and cultural resources (architectural resources), transportation (traffic and pedestrians), and construction activities related to traffic and noise. In addition, the FEIS analyzed the amended application (C 210438 (A) ZSM), called the Reduced Impact Alternative, as an alternative to the original application. This alternative was included in Chapter 18 of the FEIS, "Alternatives." The analysis concludes that the amended application would result in the same impacts as the original application except that it would not

result in significant adverse impacts with respect to historic and cultural resources or open space, and the shadows impact on one open space resource would be reduced but the impact would remain.

Significant adverse impacts related to hazardous materials, air quality and noise would be avoided through the placement of (E) designation (E-621) on the Development Site (Block 98, Lot 1), and an equivalent mechanism on the Museum Site (Block 74, Lot 1). Other commitments made related to the environmental review will be codified in a Restrictive Declaration.

UNIFORM LAND USE REVIEW

The original application (C 210438 ZSM) was certified as complete by the CPC on May 17, 2021, and duly referred to Manhattan Community Board 1 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 applications for a zoning text amendment and zoning authorizations (N 210439 ZRM, N 210445 ZAM, and N 210441 ZAM), which were referred for information and review in accordance with the procedures for non-ULURP matters.

On August 2, 2021, the amended application (C 210438 (A) ZSM) was referred to Manhattan Community Board 1 and the Manhattan Borough President.

Community Board Review

Manhattan Community Board 1 held a public hearing on the original application (C 210438 ZSM) and the related applications on June 27, 2021. On that date, by a vote of 31 in favor, two opposed, one abstaining, and one recused, Community Board 1 voted to disapprove the application. The complete Community Board recommendation is appended to the report.

Borough President Recommendation

The amended application (C 210438 (A) ZSM) and the related applications, were considered by the Manhattan Borough President who issued a recommendation dated September 1, 2021, to approve the application with conditions: present a legal mechanism that will ensure the Seaport

Museum obtains its \$50 million in funding which should be in place before the ULURP application receives final approval; maintain transparent and open communication with the environmental consultant, and contaminants and hazardous materials are removed or maintained at safe levels during and after the period of construction; traffic, excavation, pile driving, placement of fill and soil, and other disruptive construction activities must fully protect air quality and existing water and electrical transmission lines and minimize vibration and noise; conduct outreach to all surrounding property owners, residents, and schools with detailed information concerning future and continuing construction and potential impacts and respond to the questions and concerns of these owners and residents; and, allocate the space in the Trans-Lux Building to the Fulton Stall Market and/or other greenmarkets that feature locally grown goods and products.

City Planning Commission Public Hearing

On August 18, 2021 (Calendar No. 13), the CPC scheduled a public hearing on the amended application (C 210438 (A) ZSM), and the original application (C 210438 ZSM) (Calendar No. 12), in conjunction with the related applications (N 210439 ZRM, N 210441 ZAM, N 210445 ZAM, N 210446 ZCM, M 130053(B) ZSM). The public hearing was duly held on September 1, 2021 (Calendar No. 55). Fifty speakers testifying in favor of the application and 44 in opposition.

The applicant team gave a presentation on the project and discussed the design of the building and how it relates to the surrounding context of the Seaport neighborhood. They noted the purpose of the LSGD and how it furthers the development by severing the floor area that currently sits on the waterfront at Pier 17 and moves it inland.

Speakers in support of the applications include the Manhattan Borough President, Waterfront Alliance, residents and workers of Lower Manhattan, Downtown Alliance, NoHo Hospitality Group, Live Nation Entertainment, South Street Seaport Museum, Lower Manhattan Historic Association, AAFE Downtown Manhattan Community Development Corporation, Building Conservation Associates, Brookfield Properties, IPIC Theaters, Open New York, Manhattan Chamber of Commerce, Building Trades Employer Association, Sons of the Revolution of the

State of New York and the Black Gotham Experience.

The Manhattan Borough President provided testimony that focused on support for the South Street Seaport Museum and noted that it is an important physical manifestation of the SSSHD. She stated that HHC needs to prioritize transparency and open dialogue with the community moving forward with any new developments and in their stewardship of existing.

A representative of the Waterfront Alliance noted that the proposed project will exceed regulatory requirements for resiliency and sustainability and will have LEED certification. They noted that HHC rebuilt Pier 17 to be above the 100-year floodplain.

A local university student stated that while he appreciates the new design and massing of the proposed building, the original, taller building design was preferable because it provided the most affordable housing units which are needed in a city with an affordable housing crisis. He further noted that the benefits of the development site – a ten-minute walk to a dozen subway lines, jobs, schools, waterfront access – are what makes this site an ideal place for working class families.

A representative of the Downtown Alliance noted the need for economic development in the Seaport area and throughout the city and stated the multimillion-dollar investment in the Seaport by HHC is projected to create 1,000 construction jobs and over 1,500 permanent jobs. They also noted that HHC rehabilitated the historic Tin Building and relocated it to be six feet higher than the 100-year floodplain.

Three people representing the South Street Seaport Museum spoke in support of the project and noted that the transfer of development rights was originally created to help support the museum and that this proposal will ensure that support.

Many speakers spoke in favor of the creation of affordable housing and the economic opportunities the project will bring to the city and the Seaport neighborhood, as well as

highlighting support for the South Street Seaport Museum.

One supporter of the project stated that rejecting this proposal would not prevent construction, but instead would likely result in a smaller building with fewer affordable housing units and no support for the South Street Seaport Museum.

Speakers in opposition to the applications included many parents of students at the Peck Slip School, the Municipal Art Society, South Street Seaport Coalition, Southbridge Towers Coalition, Members of Community Board 1, Friends of South Street Seaport, Children First, NYS Assemblymember Yuh-Line Niou, NYS Committee Member Christopher Marte, the Lower East Side Preservation Initiative, and local neighborhood residents.

Many speakers testifying against the project were residents of the area and/or associated with the Peck Slip School, the Parent Teacher Association, or Children First, and they raised concerns regarding environmental impacts of the proposed development on the community and students related to construction, noise, shadows, air quality and the environmental remediation at the development site.

The Chair of Community Board 1 provided testimony that the proposed project is a departure from years of carefully crafted regulations and that the transfer of development rights is supposed to land outside of the Historic District.

Many speakers against the proposal spoke in support of affordable housing development and the South Street Seaport Museum but, on the latter issue, questioned the commitment of HHC and the City to provide support for the Museum.

The President of the South Street Seaport Coalition testified against the project and discussed the importance of the district and referenced the previous failed proposals for the development site. Similarly, a number of speakers testified against the project and said that HHC could not be trusted because they had broken previous promises to have a publicly accessible green roof

recreation space at Pier 17 and an affordable fresh food market.

Many speakers in opposition to the project noted that the proposed development is out-of-scale with the historic district and that the developer manipulated zoning regulations to create the project.

A representative of the Municipal Art Society of New York stated that there has been no clear disclosure of the project benefits including the value of the development rights and the legal process for facilitating the transfer.

One person testifying against the project stated that the developer could build a residential building over 100 feet in height within the existing zoning regulations.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This application (C 210438 (A) ZSM) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910, et seq.). The designated WRP number is 21-056. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this application for a special permit (C 210438 (A) ZSM) as amended, in conjunction with the other related actions (N 210441 ZAM, N 210445 ZAM, N 210446 ZCM, N 210439 ZRM, M 130053 (B) ZSM), is appropriate.

The Commission is pleased to note that the 250 Water Street LSGD project is in line with the

City's continued efforts to support the South Street Seaport and the historic district. When the Commission originally established the special district in 1972, the intent was to create a mechanism to transfer development rights that would help preserve and encourage the restoration of historic buildings and to support the South Street Seaport area. Much has changed in this area over the decades and Lower Manhattan and the Seaport has seen a demographic shift to more residential and active uses and new, contemporary mixed-use and residential development including along the waterfront and at Pier 17. The Commission believes that the 250 Water Street development will successfully balance the preservation of the historic waterfront and associated maritime uses and create new, contextual appropriate residential development.

The Commission notes that this project will redevelop an underutilized open parking lot use that has contributed little to the character of the area for decades. The expansion and modification of the existing LSGD to include 250 Water Street will enable the creation of a significant amount of new permanently affordable and market rate housing in a desirable historic district. The proposed building would include approximately 77,160 square feet (20 percent of total residential floor area) of affordable housing floor area at an average income threshold of 40 percent of the AMI which is comparable to MIH Option 3 for developments subject to MIH regulations. While MIH is only applicable when an area is rezoned to increase housing, and thus is not applicable here, the CPC will require HHC to develop MIH-conforming affordable housing as a condition of the transaction for development rights from Pier 17. The project will help to address the need for more housing which is consistent with the City's policy objectives for promoting housing production and affordability across the city, as outlined in *Housing New York*.

The Commission believes the special permit is appropriate. The proposed bulk modifications will distribute 234,630 square feet of floor area from the Pier 17 zoning lot to 250 Water Street; the minimum base height would be reduced from 60 feet to 43.17 feet; the maximum base height would be increased in limited areas from 85 feet to 324 feet; and the maximum building height would increase from 120 feet to 324 feet, with less than 10 feet of setback along Pearl Street and less than 15 feet of setback along Peck Slip. The Commission acknowledges that the applicant worked with the Landmarks Preservation Commission to secure their approval on the design of

the building which included an overall reduction in the building height to a maximum of 324 feet. The Commission also notes that the special permit gives the Commission additional discretion over the development outcome in a sensitive and historic waterfront area.

The distribution of floor area from the Pier 17 zoning lot to 250 Water Street will result in a better site plan and a better relationship between buildings, benefiting both the occupants of the LSGD and the surrounding neighborhood. The Commission believes that redistributing the floor area from the Pier 17 shoreline waterfront to a location closer inland to the commercial district is a more effective way to utilize floor area at a more appropriate location. Distributing the floor area away from the shoreline would maintain the current scale of Pier 17 and shift bulk to the upland portion of the Historic District. Further, distributing the floor area to the 250 Water Street site will result in being able to utilize this floor area more effectively on a single, full-block site, creating more housing, community facility space, office, and retail opportunities for nearby residents.

The Commission notes that the height and setback modifications will facilitate the addition of floor area onto the 250 Water Street site while allowing the development to be constructed with the taller portions of the building concentrated along Pearl Street, which is both appropriate in this portion of the historic district and consistent with the context of the surrounding area outside the historic district. The proposed development will also be constructed with lower base heights and deep setbacks from the narrow Beekman Street and Water Street, maintaining a streetscape that is consistent with and appropriate to the context of the historic district.

The Commission recognizes that the design of 250 Water Street concentrates the floor area on the northwestern portion of the block towards Pearl Street, a 90-foot wide street, and away from the narrow Water and Beekman streets. Because the existing width of Pearl Street, the area to the north of 250 Water Street will not be unduly obstructed from light and air. The block to the west of 250 Water Street across Beekman Street will not be unduly obstructed from light and air due to the reduced base height and the deep setback provided above the lower base height. Similarly, the block to the east across Peck Slip will not be unduly obstructed from light and air due to the

setback that gradually widens to 16.28 feet as it nears Water Street. The block to the south across Water Street will not be unduly obstructed from light and air due to the reduced base height and the deep setback provided above the lower base height. Further, the base of the building will be of a similar scale with the historic district to the south, east, and west of the development site.

The Commission believes that the development site is well-served by a network of major streets and public transit that are designed to handle vehicle traffic and pedestrian volumes within and through the Lower Manhattan area. Because of the various thoroughfares proximate to 250 Water Street, the Commission believes that the existing street system can adequately handle vehicle traffic generated from the development with convenient access to the Brooklyn Bridge, Franklin D. Roosevelt Drive, West Street, and the Brooklyn-Battery Tunnel. The authorization for a curb cut on a wide street (Pearl Street) to access the as-of-right parking at 250 Water Street is appropriate, as it will ensure that vehicles can only enter the parking facility from the wide street located outside the historic district. Additionally, the site is in close proximity to major subway lines including the Fulton Street Subway Station, ferry terminals, bus service, including the M15 Select Bus Service, and the Manhattan Waterfront Greenway which make this a well-connected location for housing and mixed-use development.

The Commission believes the zoning text amendment to confirm that the demapped portions of Fulton Street, Front Street, and Water Street, is appropriate and that qualifying these lots as zoning lots for purposes of the ZR Section 12-10 definition of LSGD is similarly appropriate. The Commission acknowledges the comments made during public review about the unusual shape of the zoning lots comprise the LSGD. A previous demapping rendered these former streets zoning lots decades ago, and zoning lots, regardless of shape, may be included within LSGDs, so long as the Commission is satisfied with the planning outcome achieved thereby. As such, the Commission is pleased with the outcome of the LSGD for a long-neglected site in one of the highest opportunity areas of the City -- rich in both jobs and transit access, among other amenities, and an exciting location for a significant amount of new affordable housing.

Regarding the many public comments including from the Manhattan Borough President and the

Community Board regarding the South Street Seaport Museum, the Commission recognizes the importance of the Museum to this project, but notes that any commitments to the Museum by the Howard Hughes Corporation are outside the scope of the land use process and actions that are detailed in this report. The City is committed to use funds from the sale of development rights to benefit the museum. The EDC, with the New York City Law Department, is creating a legal structure to accomplish this.

The Commission believes that the changes related to Pier 17 and the Access Drive are appropriate. The previously approved design features of the WPAA and PAA establish an open continuously accessible connection to the water's edge while activating the pier's edges with seating and amenities. The 10-foot clear pedestrian path will be maintained around the Tin Building while accommodating for the realigned curb and the new gas meter infrastructure. The Commission notes that the three guard booths adjacent to the Access Drive are also appropriate as they provide weather protection for traffic safety staff who are providing oversight and safety services for vehicles making deliveries and for the wide variety of users of the publicly accessible areas around the Pier, especially during the warmer months and during special events.

The Commission is pleased that the applicant modified the ground floor lobby area to make it a through-block lobby that is more inclusive and accessible to all residential users of the building. The Commission notes that the ground floor community facility and retail uses will activate the streetscape and create an engaging and active street frontage.

The Commission believes that the requested actions will produce a better site plan and that the modified LSGD gives the project the flexibility to design a two-part massing that creates a base height that is contextual to the Historic District as well as a taller massing that is consistent and responsive to the larger commercial and mixed-use buildings along Pearl Street. By moving the floor area from the waterfront to this more suitable upland location, it furthers a better site plan that can accommodate the transferred floor area. The ground floor plan is designed to have active street frontages on all sides which will enliven and engage the area for residents, pedestrians, workers and tourists. The proposed actions will facilitate a development that will be a vast

improvement on the existing open parking lot and contribute to the revitalization of the neighborhood and the SSSHD.

FINDINGS

In order to grant a special permit pursuant to this Section for any large-scale general development, the Commission shall find that:

1. the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood and the City as a whole;
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. where a zoning lot of a large-scale general development does not occupy a frontage on a mapped street, appropriate access to a mapped street is provided;
4. considering the size of the proposed large-scale general development, the streets providing access to such large-scale general development will be adequate to handle traffic resulting therefrom;
5. when the Commission has determined that the large-scale general development requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
6. where the Commission permits the maximum floor area ratio in accordance with the provisions of paragraph (a)(4) of this Section, the open space provided is of sufficient size to serve the residents of new or enlarged buildings. Such open space shall be

accessible to and usable by all residents of such new or enlarged buildings, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such large-scale general development shall include superior landscaping for open space of the new or enlarged buildings;

7. where the Commission permits the exclusion of lot area or floor area in accordance with the provisions of paragraph (a)(5) of this Section or modification of the base and maximum floor area ratios or requirements regarding distribution of affordable housing units in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of uses in the large-scale general development and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section 74-74 (Large-scale General Development) with respect to better site planning;
8. where the Commission permits portions of buildings containing accessory parking spaces to be excluded from the calculation of lot coverage in accordance with the provisions of paragraph (a)(9) of this Section, the exclusion of lot coverage will result in a better site plan and a better relationship among buildings and open areas than would be possible without such exclusion and therefore will benefit the residents of the large-scale general development;
9. where the Commission permits a floor area bonus for a public park improvement in accordance with the provisions of paragraph (a)(11) of this Section:
 - a. the amount of such bonus floor area is appropriate in relation to the size and quality of the proposed public park improvement; and
 - b. such bonus floor area will not unduly increase the bulk of buildings on the zoning lot or unduly obstruct access of light and air to the detriment of the occupants or users of buildings on the block or nearby blocks or of people using the public streets.

Grant of a floor area bonus for a public park improvement in accordance with the provisions of paragraph (a)(11) of this Section shall be conditioned upon adequate assurances for provision of the funding identified by the Commissioner of Parks and Recreation in a letter pursuant to paragraph (a)(11)(ii) of this Section as necessary for completion of the necessary infrastructure, landscape and other work for the public park

improvement. The Commissioner of Buildings shall not issue a building permit for the large-scale general development unless the Commissioner of Parks and Recreation shall have certified that the funding has been made or secured in a manner acceptable to such Commissioner;

10. a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in Section 12-10 (DEFINITIONS) has been filed with the Commission; and
11. where the Commission permits floor area distribution from a zoning lot containing existing light industrial buildings to be demolished in accordance with the provisions of paragraph (a)(12) of this Section, such floor area distribution shall contribute to better site planning of the waterfront public access area and shall facilitate the development of affordable housing units within a large-scale general development.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 10, 2021 with respect to this application (CEQR No.21DCP084M) the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and regulations have been met and that:

1. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the action[s] that are set forth in this report; and
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration dated October 20, 2021, those project components related to the environment and mitigation measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitutes 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, that the City Coastal Commission finds that the action will not substantially hinder the achievement of any Waterfront Revitalization Program (WRP) policy and hereby determines that this action is consistent with WRP policies; 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 250 Seaport District, LLC pursuant to Sections 197-c and 201 of the New York City Charter and proposed for modification pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-743(a)(1) – to allow the distribution of total allowable floor area without regard for zoning lot lines; and
2. Section 74-743(a)(2) – to modify the height and setback requirements of Section 62-341 (Development on land and platforms), Section 35-652 (Maximum height of buildings and setback regulations), and Section 23-662 (Maximum height of buildings and setback regulations), and the street wall location requirements of Section 35-651 (Street wall location);

in connection with a proposed mixed use development on property located at 250 Water Street (Block 98, Lot 1), in a C6-2A District, within a Large-Scale General Development generally bounded by Pearl Street, Peck Slip, Water Street, Beekman Street and its easterly prolongation, the U.S. Pierhead line and John Street and its easterly prolongation (Block 73, p/o Lot 10, p/o Lot 8, Lot 11 & a portion of Marginal Street, Wharf or Place, Block 98, Lot 1, Block 74, p/o Lot 20, and the de-mapped portions of Fulton Street, Water Street & Front Street), in C4-6, C5-3, and C6-2A Districts, within the Special Lower Manhattan District . Borough of Manhattan, Community District 1, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 210438 (A) ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by T.J.

Gottesdiener, Skidmore, Owings & Merrill, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Revised Date</u>
Z-001	LSGD Zoning Analysis	10/15/2021
Z-002	LSGD Zoning Site Plan	10/15/2021
Z-400	Zoning Lot A – Analysis	10/15/2021
Z-401	Zoning Lot A – Site Plan	10/15/2021
Z-402	Zoning Lot A – Waiver Plan	10/15/2021
Z-403	Zoning Lot A – Waiver Sections	10/15/2021
Z-404	Zoning Lot A – Waiver Sections	10/15/2021
Z-405	Zoning Lot A – Waiver Sections	10/15/2021
Z-406	Zoning Lot A – Waiver Sections	10/15/2021
Z-407	Zoning Lot A – Waiver Sections	10/15/2021

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. 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, sublessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated September 20, 2021, executed by New York Blood Center, Inc., the terms of which are hereby incorporated in this resolution, shall have been

recorded and filed in the Office of the Register of the City of New York, County of New York.

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 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 or breach of any of the conditions as stated above, may constitute grounds for the City Planning Commission or City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted or of the attached restrictive declaration.

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

The above resolution (C 210438 (A) ZSM), duly adopted by the City Planning Commission on October 20, 2021 (Calendar No. 21), is filed with the Office of the Speaker, the City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

ANITA LAREMONT, *Chair*
KENNETH J. KNUCKLES, ESQ., *Vice Chairman*

**ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO, III, ANNA HAYES LEVIN,
RAJ RAMPERSHAD, JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT,
ORLANDO MARÍN, RAJ RAMPERSHAD, LARISA ORTIZ, *Commissioners***

DAVID BURNEY, *Commissioner*, VOTING NO



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: 250 Water Street	
Applicant: 250 Seaport District, LLC	Applicant's Primary Contact: DAVID KARNOVSKY/ FRIED, FRANK, HARRIS SHRIVER & JACOBSON LLP
Application # N210439ZRM	Borough:
CEQR Number: 21DCP084M	Validated Community Districts: M01

Docket Description:

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

RECOMMENDATION: Unfavorable			
# In Favor: 31	# Against: 2	# Abstaining: 1	Total members appointed to the board: 35
Date of Vote: 7/27/2021 12:00 AM		Vote Location: 1 Centre Street, New York, NY	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 6/14/2021 6:00 PM	
Was a quorum present? Yes	<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>
Public Hearing Location:	live.mcb1.nyc

CONSIDERATION: Manhattan Community Board 1 strongly opposes the 250 Water Street ULURP application. See full resolution for details.		
Recommendation submitted by	MN CB1	Date: 7/29/2021 12:30 PM

COMMUNITY BOARD 1 – MANHATTAN
RESOLUTION

DATE: JULY 27, 2021

COMMITTEE OF ORIGIN: LAND USE, ZONING & ECONOMIC DEVELOPMENT

COMMITTEE VOTE:	12 In Favor	1 Opposed	0 Abstained	0 Recused
PUBLIC VOTE:	0 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	31 In Favor	2 Opposed	1 Abstained	1 Recused

RE: 250 Water St ULURP Application

WHEREAS: A series of ULURP and non-ULURP actions to facilitate the development of a new, 324-foot tall, 550,000 ZSF, mixed-use building with approximately 376,300 ZSF of residential use, 4,800 ZSF of community facility use, 153,000 ZSF of commercial/office and 15,900 ZSF of retail being sought by a private applicant, 250 Seaport District LLC, at 250 Water Street (Block 98, Lot 1) in the South Street Seaport Special District, within the Lower Manhattan Special District, Community District 1, Manhattan; and

WHEREAS: In December 2020 and March 2021, CB1 adopted resolutions urging the Landmarks Preservation Commission (LPC) to reject the application for the 250 Water Street proposed development. On May 4, 2021, LPC voted to approve HHC’s third 250 Water Street design as appropriate for the Seaport Historic District; and

WHEREAS: The application package (M130053BZSM; N210439ZRM; N210446ZCM; N210441ZAM; M210442LDM; N210443LDM; N210445ZAM;N210440ZCM; C210438ZSM) was certified as complete by the City Planning Commission (CPC) at its May 17, 2021, meeting, triggering the start of the Uniform Land Use Review Procedure, the public review process known as ULURP; and

WHEREAS: The Howard Hughes Corporation (HHC)’s application for its privately owned 250 Water Street site seeks major changes to the Seaport zoning and the City’s de-mapped public streets; and

WHEREAS: CB1 played a major role in putting into place the existing C6-2A Seaport zoning in 2003 when it sponsored a ULURP action to change the zoning and won overwhelming support for this zoning from the community, Seaport property owners, the South Street Seaport Museum, the Downtown Alliance, the CPC, and all local and Citywide elected officials; and

WHEREAS: The current zoning caps the height of new buildings at 120’ and is meant to maintain the low scale size of the buildings that populate the Seaport Historic District, which average 4-5 stories in height and make it such a unique part of NYC; and

WHEREAS: CB1 has adopted multiple resolutions indicating it would support the construction of a new building at 250 Water Street that complies with the existing zoning and is extremely troubled by the proposed HHC building that would be roughly three times taller than what is permitted by zoning in this low scale district; and

WHEREAS: In 2014, the Seaport Working Group outlined as one of its eight guiding principles Building Heights and Views, encouraging “the transfer of development rights to incentivize lower buildings and public open space in the immediate vicinity of the South Street Seaport Historic District in conformance with the design objectives of the 1998 Urban Renewal Plan Area;” and

WHEREAS: This proposal involves expanding the existing Pier17 Large Scale General Development area (LSGD), using the de-mapped City streets around the Seaport’s Fulton Plaza core to provide a physical connection between the 250 Water Street development site and the Pier 17/ Tin Building sites. This one action provides the link to unused development rights at the Pier17/Tin Building waterfront necessary for achieving the desired density at 250 Water Street; and

WHEREAS: HHC’s proposal to expand the LSGD has been designed as a way to circumvent at least two problems: it connects the 250 Water Street site physically to the Pier 17 site, which attempts to address adjacency for development rights transfer; and it uses the expanded LSGD as a vehicle for redistributing unused development rights within the LSGD bounds, thus avoiding having to deal with the issues of granting and receiving sites of the 1972 Seaport Transfer Mechanism specifically designed to control how development rights are transferred throughout the Seaport area; and

WHEREAS: The Brooklyn Bridge Southeast Urban Renewal Plan (BBSE-URP) has been in effect since 1968. Alongside ongoing public involvement in preservation efforts, it has provided some guidance and controls over the development that has taken place in the South Street Seaport area since then. It will expire in 2068; and

WHEREAS: This timing is relevant to an application that NYC Small Business Services (SBS) will be filing shortly to extend the Seaport Lease (HHC interests) for another 99 years until 2120; and

WHEREAS: Unless significant changes are incorporated, the extension of HHC’s amended 2013 Marketplace Lease beyond its final current expiration date of 2072, in conjunction with its 250 Water Street proposed expansion of the Pier 17 LSGD, will place a major portion of the South Street Seaport Historic District in the hands of a sole private developer with little counter-balance in place from competitors, or from City agencies that should be protecting the Seaport’s public assets; and

WHEREAS: From the Rouse Corporation to General Growth Properties, the City has established a history of relying on private developers in the South Street Seaport area, only to result in a pattern of failure; and

WHEREAS: CB1 has great concerns over how EDC has historically managed City assets in Lower Manhattan. There have been missed opportunities to generate affordable housing and provide community facilities and amenities with the disposition of various properties; including 49-51 Chambers Street, 346 Broadway and 137 Centre Street; and

WHEREAS: In December 2019, CB1 voted on a resolution regarding a proposed SBS/Economic Development Corporation (EDC) concession agreement via the NYC Franchise and Concession Review Committee (FCRC) for demapped pedestrian streets in the Historic South Street Seaport district, where EDC represented to CB1 that the funds would be restricted so that they cannot be spent outside of the Historic South Street Seaport district and that, in coordination with the Manhattan Borough President's Office and CB1, the revenue would be used to contribute back to the character of the South Street Seaport, specifically for improving maritime history, boat maintenance, etc. To date, no funds generated by this concession agreement have been used for such purposes, and the Seaport Museum has represented that they have not yet received any funding via this agreement; and

WHEREAS: Regarding the transfer of development rights from Pier 17, the applicant has represented that an open procurement process is not required; and that since the development rights are within HHC's leasehold, HHC is entitled to exclusive use of them. However, a January 2020 letter from EDC to the New York City Comptroller's office states that: "If the City were to consent to the transfer of development rights from Pier 17 and the Tin Building sites, the development rights would first need to be alienated from HHC's leasehold through negotiation, and then disposed of through a public procurement process;" and

WHEREAS: When asked to comment on this discrepancy, EDC reported that "upon further review by City Law Department and EDC, it was determined that a competitive process would not be warranted because most of the development rights associated with Pier 17 are included in HHC's lease and therefore would not be available for use by others until 2072," and that

WHEREAS: Since HHC's first activities in the South Street Seaport, CB1 has made repeated requests for the developer to provide a master plan for its properties throughout the entirety of the South Street Seaport area. It puts the community at an inherent disadvantage to review segmented, piecemeal applications in a vacuum without the contextual understanding of broader plans for the area. This is exacerbated by the fact that the community has not received sufficient information, nor had sufficient time for review or meaningful discussion regarding the pending Seaport Disposition ULURP/Marketplace lease renewal which directly impacts the areas currently under consideration; and

WHEREAS: Last year, a private developer expressed interest in purchasing city-owned development rights and the plan was presented to the Manhattan Borough President and local Council Member by CB1, but there was no interest or follow-up from the City; and

WHEREAS: HHC had initially stated that the South Street Seaport Museum would receive a \$50 million endowment as a result of the proposed 250 Water Street development. HHC proposes to purchase from the City unused development rights from Pier 17, the proceeds of which the City would then transfer as funding to the Museum. After the LPC review and corresponding reduction in total square footage, it is unlikely- if not impossible- for \$50 million to be generated from the disposition of unused development rights by the applicant for the 250 Water Street project. There is no plan for how the additional funds will be sourced and there are no contractual agreements in place to guarantee that the Museum will receive any funding, let alone funding at the levels represented as part of this proposal. Further, there is no guarantee that the Museum will be able to complete the John Street expansion as a result of this proposal; and

WHEREAS: CB1 held a public hearing on this application during the June 14, 2021 Land Use, Zoning & Economic Development Committee meeting with 64 speakers (67% in support, 30% in opposition and 3% undecided). CB1 also collected over 90 written comments on this application (73% opposed, 26% in favor and 1% undecided). Additionally, CB1 has received one petition in opposition which has gathered 1,004 signatures, and a second petition in opposition with 9,840 signatures; now

THEREFORE
BE IT
RESOLVED

THAT: CB1 fully opposes this extremely complex and convoluted package of zoning actions intended to upzone this site to allow for the proposed oversized building at 250 Water Street, based on the issues outlined above and for the following additional reasons:

- The proposed development would undermine years of carefully crafted zoning regulations meant to guide the orderly growth of the Seaport through modifications proposed by HHC which reconfigure the rules to advance a private, profit-driven agenda.
- Given that the 1972 Seaport Transfer Mechanism was created to maintain the very unique low-scale character of this 11-block historic district, where the average building is four to five stories in height, by creating a mechanism to move such development rights to sites *outside* the Seaport Historic District, CB1 opposes the proposed zoning text amendment to make 250 Water Street into a receiving site. This runs completely counter to the intention of the existing Seaport Transfer Mechanism and to the community's long-standing and well-documented desire to maintain this unique part of Lower Manhattan. Further, allowing such a radical change creates a dangerous precedent for other Seaport property owners who may wish to follow suit.
- There is critical concern over the fact that there is nothing in writing to guarantee the Seaport Museum's endowment (at \$50 million or any other level) or the pledged John Street expansion as a result of this proposal. CB1 has identified in our April 2021 resolution a series of workable, alternative ways to generate income for the Seaport

Museum that can be done without the approval of an inappropriate building in the South Street Seaport Historic District, and continues to lobby for additional needed affordable housing in Lower Manhattan and in numbers far greater than what is contemplated at 250 Water Street at 5 WTC and at other sites.

- Our comments are at best incomplete at this time, and at worst subject to massive change, as we have not received full information, nor had time for review or meaningful discussion regarding the Disposition of Seaport Properties ULURP and the proposed amended Marketplace lease. We are also still in the process of discussing the DEIS for 250 Water Street, and the 250 Water Street Brownfield Cleanup Program Remedial Action Work plan that was only released to the public on June 25, 2021. These applications are being rushed through the review and approval process at the benefit of HHC, and the City should postpone review of all of these related applications until CB1 and the community have full information on all HHC, EDC and SBS Seaport applications that City Planning is aware of so we have a full understanding and sufficient opportunity to review.
- This proposal is not in line with the guiding principles developed by the Seaport Working Group, particularly as it relates to building heights and density.
- CB1 is disturbed by the discrepancy and lack of transparency surrounding whether or not the transfer of development rights from Pier 17 would require an open bidding process, and we object to the City's opaque processes surrounding this question as well as the conflicting explanations we have received. This suggests that the applicant and the City have created a "work around" to sell the purported public assets known as "air rights" to the applicant in a single-source transaction without an RFP to solicit competitive bids.
- CB1 rejects these actions which give HHC even more control of the South Street Seaport area, and maintains that a single profit-driven developer will exert outsized power over how the Seaport evolves.
- CB1 believes that the proposed actions to expand the LSGD and incorporate the de-mapped portions of Fulton Street to allow for the transfer of development rights from Pier 17 to 250 Water Street is a particularly egregious means of skirting the long-standing 1972 Seaport Transfer Mechanism.
- CB1 strongly opposes the proposal to redefine de-mapped portions of Fulton, Front and Water Streets as a "zoning lot," which is being done solely to create a physical connection to the 250 Water St site and enable HHC to move development rights from Pier 17 to the 250 Water Street site. These de-mapped streets are City owned, are intended to serve the public interest, and should not be used as a tool to boost a private developer's profits. CB1 maintains that the City should continue to control use of these important streets as they indicated in 2019 with the FCRC plan to activate these streets and make them even more accessible with additional recreational, cultural and educational public events.
- CB1 views these major proposed zoning changes as an attempt by HHC to impose new controls over even more Seaport assets than are currently locked into its existing lease

arrangements with the City. CB1 believes that the expanded LSGD would set the stage not only for a vastly large and out-of-context building at 250 Water Street, but also has the potential for HHC to have future undue influence over the de-mapped portions of Fulton Street via its inclusion in the LSGD area.

- CB1 believes HHC's claim that transferring unused development rights from Pier 17 would save the waterfront from inappropriate overbuild is false and self-serving, and CB1 opposes the transfer of development rights from Pier 17, which is being done solely to generate additional square footage for the 250 Water Street site. The waterfront sites are City-owned, and the City has full control over what could and would get built there. In recent years, the City's direction, in line with full community backing, has been and continues to be towards opening the waterfront for full public access and water-dependent and water-enhancing uses. Furthermore, the NYC Parks Department has been given control of the marginal streets underneath the FDR Drive to the water's edge. By definition, parkland would need to be alienated by the NYS Legislature for "development" to take place there.
- CB 1 objects to the proposal to allow the service road on Pier 17 (the "Access Drive") to be utilized for passenger pickup and drop-off instead of only for loading and deliveries. Use of the Access Drive was the subject of discussion during the Pier 17 renovation project development and the Tin Building site merged into the project in 2015-16. After consideration of the pedestrian concerns, it was decided that only delivery vehicles within controlled access hours, and emergency vehicles would use the access drive, and a lay-over area along the marginal street area in front of the Tin Building would be available for other drop-offs. If anything has changed, it is that more pedestrians are now using the waterfront, and there is no justification to change the type of use or access hours.
- Since there is now active litigation to overturn the LPC Certificate of Appropriateness for this specific design, City Planning should strongly consider delaying any action on this until a final determination is made by the Courts. This is particularly relevant to the various actions sought regarding height and setback or street wall regulations to allow for construction of the LPC approved building.



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Gale A. Brewer, Borough President

September 1, 2021

Recommendation on ULURP Application No. N210439ZRM
250 Water Street
by 250 Seaport District, LLC

PROPOSED ACTIONS

250 Seaport District, LLC (the “Applicant”) is seeking a number of zoning text amendments to the New York City Zoning Resolution (“ZR”), modifications, authorizations, certifications, and a special permit by the City Planning Commission (the “CPC”) to facilitate the redevelopment of Manhattan Block 98, Lot 1 in Lower Manhattan that is bounded by Water Street, Beekman Street, Pearl Street, and Peck Slip (“Zoning Lot A”). Zoning Lot A is located within the South Street Seaport Subdistrict of the Special Lower Manhattan District and the South Street Seaport Historic District in Manhattan Community District 1 (“CD1”).

The Proposed Actions would facilitate the development of Zoning Lot A into a new mixed-use residential, community facility, and commercial development containing 550,000 zoning square feet (the “Proposed Development”). The Applicant proposes to transfer floor area from the Seaport Development Rights Bank to Zoning Lot A, and modify the boundaries of the “Large-Scale General Development” (“LSGD”) to include Zoning Lot A and the intervening demapped streets (“Zoning Lot B”), distribute development rights from Pier 17 (“Zoning Lot C”) to Zoning Lot A, and modify bulk regulations to accommodate the proposed building envelope. Additionally, these actions would allow the service road on Pier 17 (the “Access Drive”) to be used for passenger pick-up and drop-off instead of only for loading and deliveries.

The Applicant is requesting approval the following actions:

- Zoning text amendments to the South Street Seaport Subdistrict regulations, including:
 - ZR Section 91-62 to modify the definition of “receiving lot” to include Zoning Lot A;
 - ZR Section 91-68 to allow the demapped portions of Fulton, Front, and Water Streets to be defined as a “zoning lot” for purposes of the ZR 12-10 definition of the LSGD; and
 - ZR Article IX, Chapter 1, Appendix A, Map 6 to designate Zoning Lot A as a receiving site.
- Modifications to the South Street Seaport/Pier 17 LSGD to update the LSGD site plan and zoning calculations, and to include two additional zoning lots: the Demapped Street Portion (Zoning Lot B) and the project site (Zoning Lot A);
- Modifications to the restrictive declaration to update the previously approved LSGD site plan and zoning calculations and to modify the Pier 17 Traffic Management Plan;

- A CPC special permit pursuant to ZR 74-743(a) to allow:
 - the distribution of floor area without regard for zoning lot lines or district boundaries; and
 - the location of buildings without regard to applicable height, setback, or street wall regulations.
- A CPC authorization pursuant to ZR 13-441 to modify ZR 13-241(c) to allow a 20-foot wide curb cut to be located on Pearl Street, a wide street. The new curb cut would serve as an entrance to an as-of-right accessory attended off-street parking facility with a maximum capacity of 108 spaces;
- A CPC authorization pursuant to ZR 62-822(b) to modify the requirements within the Pier 17 Waterfront Public Access Area (the “WPAA”) to allow for security bollards to be located within the upland connection of the WPAA and allow them as permitted obstructions within the required pedestrian circulation path;
- A CPC certification pursuant to ZR 62-12(c) that the proposed design changes to the WPAA would not increase the degree of non-compliance or would result in a greater level of compliance with the waterfront zoning regulations, as modified by the proposed authorization under ZR 62-822(b) and previously approved authorizations (N130056ZAM, N130057ZAM, and N170054ZAM, collectively the “WPAA Authorizations”); and
- A CPC certification pursuant to ZR 91-65 to transfer development rights to Zoning Lot A.

BACKGROUND

Area Context

The South Street Seaport neighborhood includes a range of land uses and building types. The block containing Schermerhorn Row includes ground-floor retail uses and other commercial uses as well as space for the existing South Street Seaport Museum. Other blocks include low-rise residential uses and ground-floor restaurant and retail uses, with other scattered uses including hotel uses and a Con Edison substation along South Street between Peck Slip and Dover Street. Across from Zoning Lot A are two schools: the Blue School across Water Street and P.S. 343 across Peck Slip. Along Fulton Street is the Fulton Market Building, with restaurant, retail, and entertainment uses.

The area along the waterfront contains the East River Esplanade and Piers 16 and 15 that are in use as recreational and cultural/entertainment spaces. Pier 16, which is leased by the City to the South Street Seaport Museum, is also used to dock historic ships and other vessels. Pier 15 has been reconstructed as publicly accessible open space and contains a pavilion with rooftop open space.

The larger nearby area includes portions of the Financial District, generally to the south and west of the Brooklyn Bridge and the Two Bridges neighborhood. The Financial District, historically the city’s primary commercial center with shopping and office uses, has recently undergone significant redevelopment with residential, retail, and entertainment uses. There is some modern infill construction, which generally includes residential and retail uses.

The inland area to the south of Fulton Street contains the traditional high-density center of the Financial District. This area includes large office towers along Water Street, South Street, and further inland. The area also contains several recently built residential towers and residential conversions.

The area north of Fulton Street and west of Zoning Lot A contains Southbridge Towers, a large housing cooperative built under the Mitchell-Lama housing program that was completed in 1969. Southbridge Towers are on a superblock between Gold and Pearl Streets and include approximately 1,641 residential units within four 27-story buildings and five low-rise buildings. In late 2014, by a margin of 10 votes, residents of Southbridge Towers voted to exit Mitchell-Lama, effectively terminating the below-market affordability of all units on-site. This portion of the neighborhood also contains the New York-Presbyterian/Lower Manhattan Hospital and facilities for Pace University, both of which are located along Spruce Street west of Gold Street, as well as 8 Spruce Street, a residential tower further to the northwest.

The area to the north of the Brooklyn Bridge in the Two Bridges neighborhood contains the New York City Housing Authority Governor Alfred E. Smith Houses. Completed in 1953, the complex contains approximately 1,931 residential units in 12 buildings that are between 15 and 17 stories tall, as well as open space and a public school (P.S. 126). This area also contains Murry Bergtraum High School, the Urban Assembly Maker Academy, and the Manhattan Early College School for Advertising, all located northwest of the Smith Houses across Pearl Street.

The surrounding area is well served by public transit. The Fulton Street Subway Station is six blocks to the northwest of Zoning Lot A and provides service for the A, C, J, Z, 2, 3, 4, and 5 trains, as well as transfers to the E, N, R, and W trains at the World Trade Center/Cortlandt Street Subway Station. The M15, M15-SBS, and the Free Downtown Connection buses have a bus stop one block to the west of Zoning Lot A. In addition, Zoning Lot A is eight blocks to the northeast of the Wall Street/Pier 11 ferry terminal, which has access to the Astoria, East River, Rockaway, Soundview, South Brooklyn, and Governors Island routes. Further down South Street is Whitehall Terminal which has access to the Staten Island Ferry.

According to Census data, from 2010–2020, Manhattan Community District 1 grew in population by 28.6%. The district's Black, white, Asian, and Latinx populations have increased 14.2%, 20.8%, 34.5%, and 42.6% respectively. The total number of housing units has increased 23%, while the vacancy rate has increased 20.4%.

Site Description

The Project Area is comprised of the LSGD. The existing LSGD is comprised of parts of Lots 8 and 10 and all of Lot 11 on Block 73 and part of Marginal Street. It currently includes the Pier 17 building, a three-story retail structure, the Tin Building, an approximately 60,000 square foot market structure on Pier 17, and is served by an access drive in Zoning Lot C, described below. Buildings within the LSGD currently comprise 302,074 square feet of zoning floor area.

Under the proposed modifications, the LSGD would consist of the Pier 17 Zoning Lot, the demapped portion of Fulton Street between South Street and Water Street, the demapped portion

of Water Street between Fulton Street and Beekman Street, the demapped portion of Front Street between Beekman Street and John Street (collectively the “Demapped Street Portions” or “Zoning Lot B”), and Zoning Lot A. As modified, the LSGD will have a total lot area of 336,601 square feet and be permitted a maximum floor area of 1,117,698.5 square feet. Buildings within the LSGD currently comprise 302,074 square feet of zoning floor area.

Zoning Lot A (Block 98, Lot 1)

Zoning Lot A, comprised of 250 Water Street and 304 Pearl Street, is owned by the Applicant and is located in Manhattan CD1 to the southwest of the Brooklyn Bridge in lower Manhattan. It is an irregular, full-block site with approximately 333.03 feet of frontage on Water Street, 108.24 feet of frontage on Beekman Street, 323.84 feet of frontage on Pearl Street, and 189.69 feet of frontage on Peck Slip. Zoning Lot A has a lot area of 48,057 square feet.

Zoning Lot A is located within a C6-2A zoning district, which is a medium-density district that permits a wide range of residential, community facility, and commercial uses. The maximum FAR permitted for residential use is 6.02, 6.0 for commercial use, and 6.5 for community facility use. Residential portions of buildings in a C6-2A district are required to have a base height that is between 60 feet and 85 feet, and are allowed maximum overall building height of 120 feet. After the base height, a 10-foot setback is required from a wide street, and a 15-foot setback is required from a narrow street.

Zoning Lot A is currently used as a surface parking lot with a capacity of approximately 400 parking spaces and is served by a kiosk structure. It is located one block west of the Brooklyn Bridge. Zoning Lot A currently has a curb cut on Pearl Street that provides access to and from the parking lot, located approximately 60 feet east of Beekman Street.

Zoning Lot B (Demapped Street Portions)

Across South Street is the Demapped Street Portion (Zoning Lot B), which has a lot area of 60,570 square feet and is located within a C5-3 zoning district and a C6-2A zoning district. The Demapped Street Portion originally contained City-owned streets. Those streets were demapped in 1983 pursuant to C830356MMM (the “Map Change Resolution”) in order to accommodate a pedestrian plaza and spur economic development. All floor area generated by the demapped streets has been transferred to the Seaport Development Rights Bank. No floor area remains on the demapped street. Although demapped, the former streets within the Demapped Street Portion are considered “streets” for purposes of applying Zoning Resolution regulations, pursuant to ZR 91-62 and 91-68.

The Demapped Street Portion also contains an existing Use Group 6, open-air eating and drinking establishment (the “Garden Bar”). The existing Garden Bar is approximately 72.50 feet by 20.50 feet, and includes seating near the corner of Fulton Street and Front Street.

Zoning Lot C (Pier 17 Zoning Lot)

Pier 17, which is located within a C4-6 zoning district, has a lot area of 227,974 square feet. Underlying zoning regulations permit a maximum floor area of 775,111.6 square feet (3.4 FAR). Approximately 302,074 square feet of floor area (1.33 FAR) are currently being used on Pier 17.

Pier 17 includes public open space and a mixed-use building comprising retail, restaurant, entertainment, and office uses as well as a multipurpose rooftop space with areas for public access, concerts, and other events. Pier 17 underwent a redevelopment pursuant to the 2013 actions, which were modified by the 2016 modifications.

The “Tin Building” is an approximately 60,000 square foot market structure on Pier 17, being developed by SSSLP pursuant to the 2016 modifications, and is slated to open in late 2021 or early 2022. The Tin Building will feature a culinary marketplace offering fresh and prepared foods. Surrounding the Tin Building to the southwest, southeast, and northwest is the Access Drive.

The Access Drive has a one-way entrance on South Street opposite Fulton Street and a one-way exit back to South Street as a prolongation of Beekman Street. Pursuant to the restrictive declaration, the access drive may only be used for loading and deliveries to Pier 17 and the Tin Building.

The existing New Market Building on Pier 17, adjacent to the Tin Building, is currently being demolished by the City. The site is currently owned by the NYC Department of Small Business Services and is expected to be redeveloped into a commercial and community facility building.

On May 5, 2021, the Landmarks Preservation Commission (“LPC”), by a 6-2 vote, granted a Certificate of Appropriateness (LPC application No. 21-03235; certificate No. 21-03235) for the proposed design of the residential tower at 250 Water Street. The Certificate expires on May 4, 2027.

Project Description

The LSGD is comprised of three zoning lots: Zoning Lot A, the Demapped Street Portion (Zoning Lot B, which includes an open-air eating and drinking establishment), and the Pier 17 Zoning Lot (Zoning Lot C). Zoning Lot A would be developed into a new, mixed-use building.

Zoning Lot A - 250 Water Street

The Proposed Development would be developed into a mixed-use building containing 550,000 square feet of zoning floor area (the “Building”). The Building would include approximately 376,300 square feet of residential floor area, 153,000 square feet of office floor area, 15,900 square feet of retail, and 4,800 square feet for community facility use.

The Building would include approximately 75,260 square feet – 20% of the total residential floor area – as “affordable” floor area at an average of 40% of the area median income (“AMI”). The Building would consist of a 74.33-foot tall, five-story base with office, community facility, and retail uses. Above the base, the Proposed Development would set back 10 feet from Beekman Street, five feet from Peck Slip, and 15 feet from Water Street. The residential portion of the building (the “Residential Portion”) would rise above the base and reach a total height of up to 324 feet. The Building would comply with flood zone regulations of Article VI, Chapter 4 of the Zoning Resolution, and may incorporate resiliency measures and zoning deductions available pursuant to the Zoning for Coastal Flood Resiliency text amendment.

The Proposed Development would include a 108-space, below-grade as-of-right accessory parking facility. Vehicles would enter the parking facility using a curb cut on Pearl Street and exit using a curb cut on Beekman Street. Vehicles would be able to access the lower level for parking facilities by elevators. There would be 10 reservoir spaces on the ground floor. As required by ZR 13-26, the exit to the parking garage on Beekman Street would be equipped with stop signs and speed bumps to slow exiting vehicles. Parking would be primarily for residents and tenants, with a small percentage potentially available to the public depending on the final building program.

To service the retail and office uses of the Proposed Development, two loading berths would be located on Pearl Street. The Proposed Development would also include 187 bicycle parking spaces.

Zoning Lot B - Demapped Street Portion

Located within Zoning Lot B is the Garden Bar, an existing Use Group 6, open-air eating and drinking establishment. The Garden Bar is approximately 72.50 feet by 20.50 feet, and includes seating near the corner of Fulton Street and Front Street.

Zoning Lot C - Pier 17

Zoning Lot C would be modified to allow for the following changes:

- Fixed and retractable bollards are proposed within the Pier 17 Zoning Lot along South Street in front of the Tin Building and Pier 17;
- Three guard booths, with an aggregate area of 105 square feet, are proposed to be adjacent to the access drive. One booth would be located west of the Tin Building and within the portion of the Esplanade surrounded by the access drive. The second booth would be located at the top of the access drive loop. The third booth would be provided to the east of the Tin Building outside of the portion of the Esplanade surrounded by the access drive;
- The building on Pier 17 would add a skylight, which is a permitted obstruction;
- The curb boundaries of the access drive would be realigned to accommodate a Con Edison gas meter for the Tin Building while also maintaining a continuous 10-foot clear pedestrian path along the northern side of the Tin Building; and
- The Traffic Management Plan for the access drive at Pier 17 would be modified to allow for passenger pick-up and drop-off instead of service for loading and deliveries only.

COMMUNITY BOARD RECOMMENDATION

Manhattan Community Board 1 (“CB1”) held a public hearing for the 250 Water Street application on June 14, 2021. On July 27, 2021 at its Full Board meeting, CB1 voted to recommend disapproval of the application unless the Applicant met certain conditions. Thirty-one board members voted in favor of disapproval, 2 members voted in opposition, 1 abstained, and 1 recused.

CB1 recommended denial of the application and outlined their comments on the application, including:

- The Proposed Development would undermine years of carefully crafted zoning regulations meant to guide the orderly growth of the Seaport through modifications proposed by Howard Hughes Corporation which reconfigure the rules to advance a private, profit-driven agenda;
- Given that the 1972 Seaport Transfer Mechanism was created to maintain the very unique low-scale character of this 11-block historic district, where the average building is four to five stories in height, by creating a mechanism to move such development rights to sites *outside* the Seaport Historic District, CB1 opposes the proposed zoning text amendment to make 250 Water Street into a receiving site;
- The Applicant has not committed in writing that they will contribute to the Seaport Museum's endowment or the pledged John Street expansion as a result of this proposal;
- This proposal is not in line with the guiding principles developed by the Seaport Working Group, particularly as it relates to building heights and density;
- The Applicant has not specified whether or not the transfer of development rights from Pier 17 would require an open bidding process;
- The Howard Hughes Corporation would control a greater portion of the South Street Seaport area, and would therefore have greater power over how the Seaport evolves; and
- The proposal to expand the LSGD and incorporate the demapped portions of Fulton Street to allow for the transfer of development rights from Pier 17 to 250 Water Street skirt the long-standing Seaport Transfer Mechanism.

BOROUGH PRESIDENT'S COMMENTS

The South Street Seaport Historic District is a testament to the City's preservation efforts throughout the decades. From its historic cobblestone streets to its Greek Revival buildings, the protection and maintenance of this landmarked area is vital in conserving the history of the nation's first major port and the history of New York City's trade, commerce, and architecture. This application is not just for a new development. It is also a proposal to preserve and revitalize the Historic District and the South Street Seaport Museum – an anchor for the district. In addition, this proposal would bring new affordable housing units to the area.

250 Water Street is one of the last remaining developable lots in the area and is the largest vacant site within a historic district in New York City. The site is a non-contributing site that is currently being used as a parking lot. As written in my testimony presented to the Landmarks Preservation Commission (LPC) on two separate occasions, developing this site would be in line with the 1969 South Street Seaport Museum's Master Plan for the neighborhood. That Master Plan called for the preservation of low-density historic buildings closer to the waterfront and the development of taller buildings further inland. For this particular site, the Master Plan predicted a building with more density that would serve as a transition toward the low masonry buildings closer to the waterfront. The updated project design shows a singular tower, which has already been approved by the LPC for a Certificate of Appropriateness. I reiterate my approval with LPC's determination that the building's design, fenestration, materials, color, and detailing of the building pairs well with pre-existing historic structures in the area.

I am aware that the issues important to the Seaport area are pertinent to this application, notably historic preservation, economic development, and environmental resiliency. My office began

engaging the Seaport community as early as 2014, with the formation of the Seaport Working Group. That group was re-established in 2018 as the Seaport Advisory Group. Participants included elected officials, members of City agencies, Community Board 1, and other vital stakeholders. The South Street Seaport Museum in particular has been a key player and advocate of historic preservation of the Historic District. Seaport residents have all benefitted from the Museum's active and ongoing work, and this project is a one-of-a-kind opportunity to continue aiding the Museum's preservation programs and educational outreach. If we care about preservation, then we must ensure that institutions like the Seaport Museum remain in operation for many years to come. The Applicant has demonstrated that they understand the value of retaining and supporting the museum. However, I remain concerned that at this time, the financial mechanism for approval and delivery of that funding has not yet been established. I am aware that negotiations are continuing over approval of the \$50 million to establish an endowment for the museum, but I await the conclusion of these discussions before I support this application.

I remain concerned that the Applicant has yet to address the ongoing environmental concerns of the Peck Slip School and the Blue School, and Southbridge Towers. The 250 Water Street parking lot sits above a 19th-century thermometer factory and has tested positive for underground contaminants, such as mercury and petroleum. On June 24, 2019, the New York State Department of Environmental Control (NYSDEC) admitted the project into the Brownfield Cleanup Program (BCP). Throughout 2020 and 2021, residents and parents submitted numerous public comments regarding the Remedial Investigation Work Plan. My office helped to negotiate an agreement under which an environmental engineer has been providing analysis of the design and implementation of the clean-up for the community, and this support must continue. I urge that the Applicant maintain transparent and open communication with that contracted environmental consultant, Excel Environmental Resources, Inc. (Excel), and that contaminants and hazardous materials be removed or maintained at safe levels in consideration of the two schools and several day care centers in the vicinity of the site.

A second concern voiced by teachers and parents of the Peck Slip School and the Blue School, as well as residents of Southbridge Towers, pertains to future construction work on the Project Site. Traffic, excavation, pile driving, placement of fill and soil, and other disruptive construction activities must fully protect existing air quality and water and electrical transmission lines and minimize vibration and noise. Regulations for engine emissions, construction waste reduction, and water and sewage infrastructure must be in effect and communicated to both construction companies as well as neighborhood residents and businesses. The Applicants must conduct outreach to all surrounding property owners, residents, and schools with detailed information concerning future and continuing construction and potential impacts, and respond to the questions and concerns of these owners and residents. Like many other projects occurring in the borough of Manhattan, a community construction liaison must be made available 24/7 from pre-construction through the project's completion to serve as a direct community contact via a hotline and email address to be posted prominently on the construction site and social media.

I emphasize that this opportunity to develop a non-contributing site as one of the last remaining sites in the South Street Seaport Historic District is momentous. Bringing new residents into the neighborhood – including the opportunity for more affordable units – the project supports the

economic revitalization of the area, which is sorely needed after the devastating impacts of COVID-19. Furthermore, the project is an opportunity to sustain efforts of the South Street Seaport Museum, which furthers ongoing preservation projects in the community.

250 Water Street is a project that both celebrates the past and effectively plans for the future of the South Street Seaport neighborhood. But the Seaport area will not be successful or honor New York City's history unless the South Street Seaport Museum is able to secure the funding for an endowment.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends that the Applicant ULURP Application No. N210439ZRM agree to the following:

1. Present a legal mechanism that will ensure the Seaport Museum obtains its \$50 million in funding. This mechanism should be in place before the ULURP application receives final approval;
2. Maintain transparent and open communication with the contracted environmental consultant, Excel Environmental Resources, Inc. (Excel), and contaminants and hazardous materials are removed or maintained at safe levels during and after the period of construction;
3. Traffic, excavation, pile driving, placement of fill and soil, and other disruptive construction activities must fully protect air quality and existing water and electrical transmission lines and minimize vibration and noise; and
4. Conduct outreach to all surrounding property owners, residents, and schools with detailed information concerning future and continuing construction and potential impacts and respond to the questions and concerns of these owners and residents.
5. Allocate the space in the Trans-Lux Building to the Fulton Stall Market and/or other greenmarkets that feature locally grown goods and products.



Gale A. Brewer
Manhattan Borough President

RESTRICTIVE DECLARATION

**NEW YORK COUNTY
BLOCK 98, LOT 1
BLOCK 73, LOT 11, P/O LOTS 8 AND 10**

RECORD AND RETURN TO:

**Fried Frank Harris Shriver & Jacobson, LLP
One New York Plaza
New York, New York 10004
Attention: David Karnovsky, Esq.**

RESTRICTIVE DECLARATION

THIS RESTRICTIVE DECLARATION (“Declaration”), made as of the ____ day of _____, 2021, by 250 Seaport District, LLC, a Delaware limited liability company having an address at c/o The Howard Hughes Corporation, One Galleria Tower, 13355 Noel Road, 22nd Floor, Dallas, Texas 75240 (the “HHC Declarant”), the City of New York, a municipal corporation of the State of New York, having an address at City Hall, New York, New York 10007 (the “City Declarant”) and South Street Seaport Limited Partnership, a Maryland limited partnership, with an address at 199 Water Street, 28th Floor, New York, New York 10038 (the “SSSLP Declarant”, and together with the HHC Declarant and the City Declarant, the “Declarants”).

WITNESSETH:

WHEREAS, the HHC Declarant is fee owner of certain real property located in the Borough of Manhattan, City and State of New York, designated as Lot 1 of Block 98 (the “Subject Property”) on the Tax Map of the City of New York, which is more particularly described in Exhibit A attached hereto;

WHEREAS, the City Declarant is the fee owner of certain real property located in the South Street Seaport Area of the Borough of Manhattan, County of New York, City and State of New York, known as Block 73, Lot 11, and parts of Lots 8 and 10 on the Tax Map for said borough, and part of the adjacent marginal street, which real property is more particularly described as Exhibit B annexed hereto and made a part hereof (together, the “Pier 17 Property”);

WHEREAS, the SSSLP Declarant and the City Declarant entered into that certain amended and restated lease, dated as of June 27, 2013 with regard to the leasing of certain land and improvements in the South Street Seaport area of Manhattan, including the Pier 17 Property;

WHEREAS, the New York City Planning Commission (“CPC” or the “Commission”) adopted resolutions on February 6, 2013, under Calendar Numbers 7-14, approving certain applications by Declarants with the New York City Department of City Planning (“DCP”) pursuant to Application Numbers 130052 ZMM, 130053 ZSM, 130054 ZSM, 130055 ZSM, 130056 ZAM, 130057 ZAM, 130058 ZCM, 130059 PPM, 130080 ZRM; and the New York City Council adopted resolutions approving the decision of CPC on March 20, 2013, under Resolution Numbers 1692-2013 (L.U. No. 766), 1693-2013 (L.U. No. 767), 1694-2013 (L.U. No. 768), 1695-2013 (L.U. No. 769), 1696-2013 (L.U. No. 770), 1697-2013 (L.U. No. 771), 1698-2013 (L.U. No. 772) (such resolutions of the CPC and New York City Council, the “2013 Land Use Approvals”);

WHEREAS, the HHC Declarant and SSSLP Declarant executed a restrictive declaration dated June 27, 2013, recorded on July 18, 2013 at CRFN 2013000283409 (the “2013 Restrictive Declaration”), which set forth certain obligations for the development of the Pier 17 portion of the Subject Property pursuant to the 2013 Land Use Approvals;

WHEREAS, the Chairperson of the CPC and the CPC adopted resolutions on October 19, 2016, under Calendar Numbers 1-4, approving certain applications filed with DCP pursuant to Application Numbers M130053A ZSM, M130054A ZSM, M130055A ZSM, N170054 ZAM, N170055 ZCM (the “**2016 Modification**”);

WHEREAS, the HHC Declarant and SSSLP Declarant executed an amendment to the 2013 Restrictive Declaration dated January 11, 2017, recorded on January 27, 2017 at CRFN 2017000036236 (the “**First Amended and Restated Declaration**”), which set forth certain obligations for the development of the Pier 17 portion of the Subject Property pursuant the 2016 Modification;

WHEREAS, the City Declarant is the fee owner of the demapped portions of Fulton Street between South Street and Water Street, Water Street between Fulton Street and Beekman Street, and Front Street between John Street and Beekman Street (which includes a portion of Block 74, Lot 20), (the “**Demapped Property**”; together with the Subject Property and Pier 17 Property, the “**Covered Property**”);

WHEREAS, the HHC Declarant filed applications with DCP for approval by the Commission of (a) a zoning text amendments to the Zoning Resolution of the City of New York (the “**Zoning Resolution**” or “**ZR**”) to the South Street Seaport regulations; (b) modifications to the boundaries of and site plan for the South Street Seaport / Pier 17 Large-Scale General Development to update the previously approved large-scale general development site plan and zoning calculations and to include two additional zoning lots (the Subject Property and the Demapped Property); (c) modifications to the First Amended and Restated Declaration recorded against the Pier 17 Property; (d) a special permit by the Commission pursuant to ZR Section 74-743 to allow the distribution of floor area without regard for zoning lot lines or district boundaries and the location of buildings without regard to applicable height, setback, or street wall regulations; (e) an authorization by the Commission pursuant to ZR Section 13-441 to modify ZR Section 13-241(c) to locate a curb cut accessing an off-street parking facility on a wide street; (f) an authorization by the Commission pursuant to ZR Section 62-822(b) to modify the requirements within the Pier 17 Waterfront Public Access Area to allow for security bollards to be located within the upland connection of the waterfront public access area and treated as permitted obstructions within the required pedestrian circulation path; (g) a certification by the Chairperson of the Commission pursuant to ZR Section 62-12(c) that the proposed design changes to the waterfront public access area would not increase the degree of non-compliance with the waterfront zoning regulations, as modified by several authorizations (collectively, the “**Land Use Approvals**”);

WHEREAS, the HHC Declarant intends to develop the Subject Property pursuant to the Land Use Approvals with a new building utilizing approximately 547,000 square feet of zoning floor area, containing a mix of residential, community facility, and commercial uses as set forth in the Approved Drawings (defined below) (the “**Proposed Development**”);

WHEREAS, the Commission conducted an environmental review of the Land Use Approvals as lead agency pursuant to City Environmental Quality Review, Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY§5-01 et seq. (“**CEQR**”) and the State Environmental Quality Review Act, New York State Environmental

Conservation Law § 8-0101 et seq. and the regulations promulgated thereunder at 6 NYCRR Part 617 (“**SEORA**”), and issued a Notice of Completion of the Final Environmental Impact Statement (“**FEIS**”) on October 10, 2021;

WHEREAS, to ensure that construction of the Subject Property is consistent with the analysis in the FEIS upon which the Commission has made findings pursuant to CEQR and SEQRA, and the implementation of certain project components related to the environment (“**PCREs**”), which were material to the analysis of environmental impacts in the FEIS and certain measures (“**Mitigation Measures**”) identified in the FEIS to mitigate significant adverse construction impacts (the PCREs and Mitigation Measures collectively, the “**Environmental Obligations**”), HHC Declarant has agreed to restrict the construction the Subject Property in certain respects, which restrictions are set forth in this Declaration;

WHEREAS, HHC Declarant desires to restrict the manner in which the Subject Property may be developed, redeveloped, maintained and operated now and in the future;

WHEREAS, pursuant to the certificate(s) annexed hereto as **Exhibit C** (“**Certification of Parties-in-Interest**”), [Title Company] has certified that as of [date], the parties listed on **Exhibit C** are the sole “parties-in-interest” (as defined in subdivision (c) of the definition of the term “zoning lot” in Section 12-10 of the Zoning Resolution) (each, a “**Party-in-Interest**”; multiple being “**Parties-in-Interest**”), to the Covered Property;

WHEREAS, all Parties-in-Interest have executed this Declaration or waived their right to execute and subordinated their interest in the Covered Property to the Declaration pursuant to the instruments annexed here to as **Exhibit D**;

WHEREAS, Declarants represent and warrant that, except with respect to mortgages or other instruments specified herein, the holders of which have given their consent or waived their respective rights to object hereto, there are no restrictions of record on the development or use of the Covered Property, nor any existing lien, obligation covenant, easement, limitation or encumbrance of any kind that shall preclude the enforcement of the obligations and restrictions as set forth herein.

NOW, THEREFORE, Declarants do hereby declare and agree that the Covered 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 Covered Property and which shall be binding on Declarants, their successors and assigns.

ARTICLE I.

CERTAIN DEFINITIONS

Section 1.01 Definitions.

For purposes of this Declaration, the following terms shall have the following meanings:

“Alternative Environmental Measures” shall have the meaning set forth in Section 3.04(a) of this Declaration.

Approved Drawings shall have the meaning set forth in Section 2.02 of this Declaration.

As-of-Right Development shall mean any building that can be developed and constructed on the Subject Property without utilizing the Land Use Approvals.

Building Permit shall mean shall mean a work permit under a “New Building” application authorizing construction of above-grade portions of the Proposed Development.

Business Days means any day other than a Saturday, Sunday or other day on which banks in the State of New York are not open for business.

CEQR shall have the meaning set forth in the Recitals of this Declaration.

Certification of Parties-in-Interest shall have the meaning set forth in the Recitals of this Declaration.

City Council shall mean the New York City Council.

Chair shall mean the Chairperson of the City Planning Commission.

Commission shall have the meaning set forth in the Recitals of this Declaration.

CO Notice shall have the meaning set forth in Section 4.03 of this Declaration.

Construction Commencement shall mean the issuance of the first Building Permit by DOB to HHC Declarant for the commencement of work to develop the Subject Property, in whole or in part, with the Proposed Development, or any portion thereof.

Core and Shell TCO shall mean a temporary certificate of occupancy issued by DOB for the core and shell of the Proposed Development. A Core and Shell TCO shall not include any certificate of occupancy that permits occupancy of the building or portions thereof for office, retail, eating and drinking establishment, amenity or other tenant uses.

Council Member shall mean the elected member of the City Council for the Councilmanic District in which the Subject Property is located, from time to time or at the applicable time.

Covered Property shall have the meaning set forth in the Recitals of this Declaration.

CPP shall have the meaning set forth in Section 3.01(e) of this Declaration.

DCP shall have the meaning set forth in the Recitals of this Declaration.

Declarants shall have the meaning set forth in the Preamble hereof.

“Declaration” shall have the meaning set forth in the Preamble hereof.

“Default Notice” shall have the meaning set forth in Section 6.01(a) of this Declaration.

“Delay Notice” shall have the meaning set forth in Section 6.04(a) of this Declaration.

“Demapped Property” shall have the meaning set forth in the Recitals of this Declaration.

“DOB” shall mean the New York City Department of Buildings.

“Elimination or Modification of FEIS Obligation” shall have the meaning set forth in Section 3.04(b).

“Environmental Obligations” shall have the meaning set forth in the Recitals of this Declaration.

“FEIS” shall have the meaning set forth in the Recitals of this Declaration.

“Final Completion” or **“Finally Complete”** shall mean the completion of all relevant items of work, including any so-called “punch-list” items that remain to be completed upon Substantial Completion (defined below).

“Final Approval” shall mean approval or approval with modifications of the Land Use Approvals by the City Council, or (b) if the City Council disapproves the decision of the Commission and the Mayor of the City of New York (the **“Mayor”**) files a written disapproval of the City Council’s action pursuant to New York City Charter Section 197-d(e), and the City Council does not override the Mayor’s disapproval, in which event “Final Approval” shall mean the Mayor’s written disapproval of the City Council’s action pursuant to such New York City Charter Section 197-d(e).

“Fugitive Dust Control Plan” shall have the meaning set forth in Section 3.01(b) of this Declaration.

“Land Use Approvals” shall have the meaning as set forth in the Recitals of this Declaration.

“LPC” shall mean the New York City Landmarks Preservation Commission.

“Mitigation Measures” shall have the meaning set forth in the Recitals of this Declaration.

“Mortgage” shall mean a mortgage given as security for a loan in respect of all or any portion of the Subject Property.

“Mortgagee” shall mean the holder of a Mortgage.

“Named Mortgagee” shall have the meaning set forth in Section 7.01(d) of this Declaration.

“Noise Reduction Plan” shall have the meaning set forth in Section 3.01(c) of this Declaration.

“Notice” shall have the meaning set forth in Section 7.01(a) of this Declaration.

“Notice of Final Completion” shall have the meaning set forth in Section 4.02 of this Declaration.

“Notice of Substantial Completion” shall have the meaning set forth in Section 4.01 of this Declaration.

“Parties-in-Interest” shall have the meaning set forth in the Recitals of this Declaration.

“PCO” shall mean a Permanent Certificate of Occupancy issued by DOB.

“PCREs” shall have the meaning set forth in the Recitals of this Declaration.

“Pier 17 Property” shall have the meaning set forth in the Recitals of this Declaration.

“Proposed Development” shall have the meaning set forth in the Recitals of this Declaration.

“SEORA” shall have the meaning set forth in the Recitals of this Declaration.

“Subject Property” shall have the meaning set forth in the Recitals of this Declaration.

“Substantial Completion” or **“Substantially Complete”** shall mean that the Environmental Obligations set forth in Section 3.01 and Section 3.02(c) of this Declaration have been substantially completed. An improvement may be deemed Substantially Complete notwithstanding that (a) minor or insubstantial items of construction, decoration or mechanical adjustment remain to be performed or (b) HHC Declarant has not completed any relevant planting or vegetation or tasks that must occur seasonally. A portion of the Public Realm Improvements shall be considered Substantially Complete where it has been certified as Substantially Complete by DCP.

“TCO” shall mean a Temporary Certificate of Occupancy issued by DOB.

“Uncontrollable Circumstances” shall include the following elements: strike(s) or labor dispute(s); inability to obtain labor, equipment, supplies or materials or reasonable substitutes therefore in the open market; acts of God; governmental restrictions, regulations, omissions or controls; enemy or hostile government actions, war, hostilities, terrorism, explosion, invasion; civil commotion, riot, mob violence, malicious mischief, insurrection, revolution or sabotage; a lockout; a flood, earthquake, or fire (destruction due to any of the foregoing events in this paragraph hereinafter referred to as **“Casualty”**); inclement weather or field conditions of such a nature as to make performance or completion of the Environmental Obligations not feasible; a

taking of the Subject Property, or a portion thereof, by condemnation or eminent domain; failure of a public utility to provide power, heat or light; unusual delay in transportation; governmental actions with respect to construction projects in the vicinity of the Environmental Obligations that directly delay performance or completion of the Environmental Obligations; disruptions in subway services that impact the timely delivery of materials for the Environmental Obligations; inability to perform work due to transit related accidents including property damage, repairs as a result thereof or criminal investigations; inability to access the work area; the pendency of litigation not initiated by HHC Declarant or similar proceeding which results in an injunction or restraining order or similar relief prohibiting or otherwise delaying the commencement or continuation of the obligations of HHC Declarant pursuant to this Declaration, provided such litigation or proceeding was not instituted, financed or supported by HHC Declarant or any of its affiliates; actual or threatened health emergency (including, without limitation, epidemic, pandemic, famine, disease, plague, quarantine, and other health risk); or other conditions similar in character to the foregoing which are beyond the control of HHC Declarant. In addition, “Uncontrollable Circumstances” shall also include (i) material delays by the City, State or United States government, or any agency or instrumentality thereof, Metropolitan Transit Authority, or any utility company, in the performance of any work or processing or approval of any applications, or comment on architectural and engineering plans within a reasonable time period following receipt of such plans, unless due to any act or failure to act by HHC Declarant, and (ii) denial to HHC Declarant by any owner, ground lessee or franchisee of an enforceable interest in adjoining real property, including any private fee owner or ground lessee of adjoining real property, or any agency of the City or State or any utility company having an enforceable interest in adjoining real property, including sidewalk or streets, of a right to access to such adjoining real property. No event shall constitute Uncontrollable Circumstances unless (i) the event is not due to an act or failure to act of HHC Declarant, (ii) HHC Declarant complies with the procedures set forth in Section 6.04 hereof, and (iii) the Chair has certified the existence of Uncontrollable Circumstances in accordance with the provisions of Section 6.04 hereof or has failed to respond.

“**Zoning Resolution**” shall mean the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time.

ARTICLE II.

DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.01 Designation of Large-Scale General Development. Declarants hereby declare and agree that, following the Effective Date (as defined in Section 5.01 below), the Covered Property shall be treated as a large-scale general development and shall be developed or enlarged as a single unit. To the extent that the Covered Property is subject to this Declaration and the First Amended and Restated Declaration dated January 11, 2017, and recorded on January 27, 2017 at CRFN 2017000036236, as modified by the Modification to the First Amended and Restated Declaration, dated _____ and recorded at CRFN _____, and as further amended by the Second Modification to the First Amended and Restated Declaration, dated _____, and recorded at CRFN _____, this Declaration shall supersede (except that the First Amended and Restated Declaration, as modified, shall be applicable to acknowledge that the large-scale general development shall be treated as a single unit).

Section 2.02 The Proposed Development shall be constructed substantially in accordance with the locations, dimensions and specifications as indicated on the following drawings prepared by Skidmore, Owings & Merrill LLP, annexed hereto as **Exhibit E** (collectively, the “**Approved Drawings**”):

DWG No.	Title	Revised Date
VL-101	ALTA / NSPS Land Title Survey	5/18/19
Z-001	LSGD Zoning Analysis	10/15/21
Z-002	LSGD Zoning Site Plan	10/15/21
Z-300	Zoning Lot B - Site Plan	10/15/21
Z-400	Zoning Lot A - Analysis	10/15/21
Z-401	Zoning Lot A - Site Plan	10/15/21
Z-402	Zoning Lot A - Waiver Plan	10/15/21
Z-403	Zoning Lot A - Waiver Sections	10/15/21
Z-404	Zoning Lot A - Waiver Sections	10/15/21
Z-405	Zoning Lot A - Waiver Sections	10/15/21
Z-406	Zoning Lot A - Waiver Sections	10/15/21
Z-407	Zoning Lot A - Waiver Sections	10/15/21
Z-601	Curb Cut Neighborhood Character	10/15/21
Z-701	Zoning Lot A - Garage Plan	10/15/21

(a) Notwithstanding the foregoing provisions of this Article II, HHC Declarant may develop an As-of-Right Development, in which case the provisions of Sections 2.02 and the provisions of Articles III through IV of this Declaration shall not apply to such development.

ARTICLE III.

PROJECT COMPONENTS RELATING TO THE ENVIRONMENT AND MITIGATION MEASURES

Section 3.01 Project Components Related to the Environment. HHC Declarant shall implement as part of its construction of the Proposed Development, as appropriate, the following PCREs:

(a) **Construction Air Emissions Reduction Measures.** HHC Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, the following measures for all construction activities (including excavation) during the development of the Subject Property:

(i) on-site vehicle idle time would be restricted to three minutes for all equipment and vehicles that are not using their engines to operate a loading, unloading, or processing device (e.g., concrete mixing trucks) or are otherwise required for the proper operation of the engine;

(ii) ULSD fuel would be used exclusively for all diesel engines throughout the Subject Property;

(iii) electrically powered equipment would be preferred over diesel-powered and gasoline-powered versions of that equipment to the extent practicable;

(iv) equipment that would use grid power in lieu of diesel engines includes, but may not be limited to, hoists and small equipment (such as welders);

(v) to the extent practicable, all diesel-powered non-road construction equipment 50 horsepower (hp) or greater would meet at least the EPA Tier 3 emissions standard;

(vi) non-road diesel engines with a power rating of 50 hp or greater and controlled truck fleets (i.e., truck fleets under long-term contract with the project) including but not limited to concrete mixing and pumping trucks would utilize the best available tailpipe (BAT) technology for reducing diesel particulate matter (DPM) emissions; and

(vii) construction contracts would specify that all diesel non-road engines rated at 50 hp or greater and controlled truck fleets would utilize Diesel Particulate Filters (DPF), either installed by the original equipment manufacturer or retrofitted, to the extent practicable and feasible. Retrofitted DPFs must be verified by EPA or the California Air Resources Board. Active DPFs or other technologies proven to achieve an equivalent reduction may also be used.

(b) **Fugitive Dust Control Plan.** HHC Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, a plan for the minimization of the emission of dust from construction-related activities during development of the Proposed Development (the "**Fugitive Dust Control Plan**"), which Fugitive Dust Control Plan shall contain the following measures:

(i) all trucks hauling loose material would be equipped with tight-fitting tailgates and their loads securely covered prior to leaving the Subject Property;

(ii) water sprays would be used for all demolition, excavation, and transfer of soils;

(iii) stockpiled soils or debris would be watered, stabilized with a chemical suppressing agent, or covered;

(iv) stabilized truck exit areas would be established for washing off the wheels of all trucks where feasible;

(v) truck routes within the Subject Property would be either watered as needed or, in cases where such route would remain in the same place for an extended duration, the routes would be stabilized, covered with gravel, or temporarily paved to avoid the resuspension of dust; and

(vi) all measures required by DEP's *Construction Dust Rules* regulating construction-related dust emissions would be implemented.

(c) **Construction Noise Reduction Measures.** HHC Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, the following measures for all construction activities (including excavation) related to the development of the Proposed Development:

(i) HHC Declarant shall develop and implement a plan for minimization of construction noise (the "**Noise Reduction Plan**"). The Noise Reduction Plan shall contain both path control and source control measures, including the following:

(1) equipment that meets the sound level standards specified in Subchapter 5 of the *New York City Noise Control Code* would be utilized from the start of construction;

(2) as early in the construction period as logistics would allow, diesel- or gas-powered equipment would be replaced with electrical-powered equipment such as welders, water pumps, bench saws, and table saws (i.e., early electrification) to the extent feasible and practicable. Where electrical equipment cannot be used, diesel or gas-powered generators and pumps would be located within buildings to the extent feasible and practicable;

(3) where feasible and practicable, construction sites would be configured to minimize back-up alarm noise;

(4) all trucks would not be allowed to idle more than 3 minutes at the construction site based upon Title 24, Chapter 1, Subchapter 7, Section 24-163 of the New York City Administrative Code;

(5) contractors and subcontractors would be required to properly maintain their equipment and mufflers;

(6) where logistics allow, noisy equipment, such as cranes, concrete pumps, concrete trucks, and delivery trucks, would be located away from and shielded from sensitive receptor locations;

(7) Noise barriers at least 8 feet tall with a cantilever toward the work area would be erected around the Subject Property to provide shielding;

(8) noise barriers would be erected around the Museum Site (as defined in the FEIS) to provide shielding, which would be 12 feet tall along the edge of the site facing the Imagination Playground, and 8 feet tall along the remaining perimeter;

(9) noise barriers would be constructed from plywood or other materials consistent with the noise barrier requirements set forth in the New York City Department of Environmental Protection (DEP)'s "Rules for Citywide Construction Noise Mitigation";

(10) concrete trucks would be required to be located inside site-perimeter noise barriers while pouring or being washed out; and

(11) additional path noise control measures (i.e., portable noise barriers, panels, enclosures, and acoustical tents) may be required for certain dominant noise equipment to the extent feasible and practical based on the results of the construction noise calculations.

(d) **Archeological Protocols.** HHC Declarant shall perform certain archeological investigations within and/or around the Subject Property as follows: Archeological monitoring, and where possible, testing shall occur during excavation beneath a depth of 8 feet below the ground surface. HHC Declarant shall develop, with its contractor, archeological consultant and LPC a strategy to determine where archeological testing and monitoring can be safely completed. This strategy will be summarized in a Work Plan that will be submitted to LPC before the commencement of any archaeological work, remediation, or subsurface construction efforts. If archaeological monitoring or testing is to occur during any remediation work or within soils that have been identified as contaminated, work, such work would have to be completed in consultation with the hazardous materials specialists completing that work, including the preparation of a comprehensive Health and Safety Plan (HASP) tailored to the specific contaminants that may be encountered on the site and that would any specialized training that the archaeological team may need (e.g., 40-hour HAZWOPER training). Furthermore, the Work Plan prepared for any archaeological monitoring or testing on Block 98, Lot 1 should include a discussion about alternative methods for documenting artifacts or features that may not be accessible via traditional archaeological analytical methods as a result of their associated with contaminated soils.

(e) **Historic and Cultural Resources.** Prior to Construction Commencement, a Construction Protection Plan (“**CPP**”) for historic structures shall be developed to avoid any inadvertent demolition and/or construction-related damage from ground-borne construction period vibrations, falling debris, collapse, etc. The CPP shall be developed in coordination with LPC and implemented in consultation with a licensed professional engineer. The CPP shall be prepared in compliance with the procedures included in DOB’s TPN #10/88 and LPC’s Guidelines for Construction Adjacent to a Historic Landmark and Protection Programs for Landmark Buildings.

Section 3.02 Mitigation Measures.

(a) **Shadows.** Upon the acceptance of a TCO for any portion of the Proposed Development to be developed on the Subject Property, HHC Declarant shall commence a program to annually monitor the trees and vegetation within the Southbridge Towers open spaces for a period of five (5) years. If, based on the monitoring program, it is determined that trees or vegetation within the Southbridge Towers open spaces require replacement with shade tolerant plantings, HHC Declarant shall (i) contact the Board of the Southbridge Towers and offer to replace the impacted trees and vegetation within the open spaces with shade tolerant plantings, and (ii) have caused such replacement trees and vegetation to be installed at locations within the plaza where the Board has accepted the offer.

(b) Transportation:

(i) Within six (6) months of the issuance of a final TCO for the Proposed Development, if the Theater Option (as defined in the FEIS) is advanced as the Proposed Development is developed, HHC Declarant shall undertake a traffic monitoring plan. Prior to undertaking any monitoring, a scope of work shall be submitted to DCP and DOT for review and approval. The traffic monitoring plan shall include original travel demand surveys for the theater use, new data collection, and analyses to study the impacts associated with this alternative for both weekdays and weekends. If necessary, new or different improvement measures shall be identified for consideration to address these specific effects. HHC Applicant shall be responsible for all costs associated with the post-approval monitoring plan, analyses and the design and construction of any recommended improvement measures.

(ii) Prior to the issuance of a TCO for any portion of the Proposed Development, HHC Declarant shall coordinate with CitiBike and DOT, following the procedures and outreach guidance provided by DOT, regarding the relocation of the existing CitiBike station from the east sidewalk of Pearl Street between Peck Slip and Beekman Street.

(iii) The HHC Declarant shall notify DOT in writing six (6) months before the completion and full occupancy of the Proposed Development and request that DOT determine the feasibility or necessity of implementing the transportation mitigation measures described in Chapter 19 of the FEIS. DOT shall advise HHC Declarant of its determination of the feasibility and necessity in writing after the project is fully occupied. HHC Declarant shall have no obligations with respect to those mitigation measures that DOT determines are not feasible or necessary.

(iv) With respect to those mitigation measures requiring physical changes, HHC Declarant shall submit to DOT for review and approval all required drawings/designs as per AASHTO and DOT specifications. HHC Declarant shall either implement such measures as directed by DOT, or if directed by DOT, pay DOT/City of New York the ordinary and customary costs for DOT to implement such mitigation measures.

(c) Construction Noise:

(i) At its expense, HHC Declarant shall offer to replace monolithic (i.e., non-insulated) glass windows with storm windows for the facades of the residential units identified in FEIS Figure 17-7 as having a “Predicted Construction Noise Impact”.

(ii) At its expense, HHC Declarant shall offer well-sealed window air conditioning units for:

(1) any classroom located at 1 Peck Slip that does not have air conditioning;

(2) living rooms or bedrooms that do not have air conditioning located along the facades of the residential units identified in FEIS Figure 17-7 as having a “Predicted Construction Noise Impact”.

(iii) HHC Declarant shall not accept a new building permit unless and until (i) such window treatment and alternative ventilation has been offered by mail to those residences listed above and a period for acceptance of not less than 20 days has elapsed, and (ii) where such offer has been accepted within the specified period, HHC Declarant has installed or funded the installation of such window treatment and/or alternative ventilation measures at those locations where the owner or resident has made the residence or community facility space available for installation within 60 days of request therefore.

Section 3.03 Uncontrollable Circumstances Involving a PCRE or Mitigation Measure. Notwithstanding any provision of this Declaration to the contrary, if Declarant is unable to perform a PCRE or Mitigation Measure set forth in this Article III by reason of the occurrence of Uncontrollable Circumstances, HHC Declarant shall not be excused from performing such obligation unless the failure to implement the obligation during the period of Uncontrollable Circumstances, or that implementing an alternative proposed by HHC Declarant, would not result in any new or different significant environmental impact not addressed in the FEIS.

Section 3.04 Innovation; Alternatives; Modifications Based on Further Assessments.

(a) **Innovation and Alternatives.** In complying with any obligation set forth in this Article III, HHC Declarant may, at its election, implement innovations, technologies or alternatives now or hereafter available, including replacing any equipment, technology, material, operating system or other measure previously located on the Subject Property or used within the Proposed Development, provided that HHC Declarant demonstrates to the satisfaction of DCP that such alternative measures would result in equal or better methods of achieving the relevant obligation than those set forth in this Declaration (such measures, “**Alternative Environmental Measures**”), in each case subject to approval by DCP.

(b) **Modifications Based on Further Assessments.** In the event that HHC Declarant believes, in good faith, based on changed conditions, that an obligation under this Article III should not apply or could be modified without diminishment of the environmental standards which would be achieved by implementation of the obligation, it shall set forth the basis for such belief in an analysis submitted to DCP. In the event that, based upon review of such analysis, DCP determines that the relevant PCRE or Mitigation Measure should not apply or could be modified without diminishment of the environmental standards which would be achieved by implementation of the obligation, HHC Declarant may eliminate or modify the PCRE or Mitigation Measure consistent with the DCP determination (“**Elimination or Modification of FEIS Obligation**”).

(c) If HHC Declarant implements any Alternative Environmental Measures Obligation or an Elimination or Modification of FEIS Obligation, a notice indicating of such change may be recorded against the Subject Property in the Register’s Office, in lieu of modification to this Declaration.

ARTICLE IV.

CERTIFICATES OF OCCUPANCY

Section 4.01 Temporary Certificate of Occupancy. HHC Declarant shall not accept a TCO for any portion of the Proposed Development prior to acceptance of the CO Notice by DCP in accordance with Section 4.03. In the event that DCP has not accepted the CO Notice in accordance with Section 4.03 as a result of a determination by the Chair of the existence of Uncontrollable Circumstances in accordance with Section 6.04 hereof, the Chair may, in his or her sole discretion (a) authorize HHC Declarant to accept a TCO for the Proposed Development as the Chair determines to be warranted; (b) in authorizing such occupancy of the Proposed Development, the Chair may take into account commitments to tenants relating to the occupancy of such space; (c) require such additional security as the Chair determines is sufficient to assure the performance of HHC Declarant's obligations; and (d) specify a date whereby performance of HHC Declarant's obligations shall be completed. Notwithstanding the foregoing, HHC Declarant may apply for and accept a Core and Shell TCO prior to DCP's acceptance of the CO Notice in accordance with Section 4.03.

Section 4.02 Permanent Certificates of Occupancy. HHC Declarant shall not accept a PCO for any portion of the Proposed Development prior to acceptance of the CO Notice by DCP in accordance with Section 4.03. In the event that DCP has not accepted the CO Notice in accordance with Section 4.03 as a result of Uncontrollable Circumstances, the Chair may (a) authorize HHC Declarant to apply for and accept a PCO for the Proposed Development, and (b) require such additional security as the Chair determines is sufficient to assure the performance of HHC Declarant's obligations.

Section 4.03 DCP Review. Prior to accepting a TCO or PCO from DOB, HHC Declarant shall submit a notice to DCP (the "**CO Notice**") certifying that that the Environmental Obligations set forth in Section 3.01 and Section 3.02(c) of this Declaration (or in the case of a PCO, Finally Complete), or if not Substantially Complete or Finally Complete due to Uncontrollable Circumstances, certifying the reasons therefor. If DCP notifies HHC Declarant that it has failed to Substantially Complete or Finally Complete the Environmental Obligations set forth in Section 3.01 and Section 3.02(c) of this Declaration, HHC Declarant and DCP shall meet within five (5) business days of such written notice to review the claimed omission or failure, develop any measures required to respond to such claim, and HHC Declarant shall take all steps necessary to remedy such omission or failure. Upon the completion of such steps to the satisfaction of DCP, HHC Declarant shall be entitled to obtain the TCO or PCO as the case may be. Notwithstanding the foregoing, in the event that DCP has failed to (x) respond in writing to HHC Declarant within twenty (20) business days of receipt of the CO Notice, (y) meet with HHC Declarant within ten (10) business days of receipt of the CO Notice, or (z) respond in writing to HHC Declarant within ten (10) business days of receipt of any additional materials provided to DCP under this Section, then DCP shall be deemed to have accepted the CO Notice and any subsequent materials related thereto as demonstrating compliance with the requirements for the issuance of the TCO or PCO and HHC Declarant shall be entitled to apply for and accept the TCOs or PCOs.

ARTICLE V.

EFFECTIVE DATE; AMENDMENTS AND MODIFICATIONS TO AND CANCELLATION OF THIS DECLARATION

Section 5.01 Effective Date; Lapse; Cancellation.

(a) This Declaration and the provisions and covenants hereof shall become effective upon Final Approval of the Land Use Approvals, but HHC Declarant's obligations hereunder shall be postponed until: (A) the latest to occur of the following dates: (i) the date on which the right to seek judicial review of the Land Use Approvals has expired; (ii) the date on which the time to appeal from an order of any court of competent jurisdiction upholding or affirming the Land Use Approvals has expired; and (iii) the date on which a final order upholding or affirming the Land Use Approvals is entered pursuant to a decision by a court of competent jurisdiction from which no appeal can be taken; or (B) at any time prior to the latest to occur of the dates set forth in (A) above, such earlier date upon which HHC Declarant proceeds to develop the Proposed Development in accordance with the Land Use Approvals. For avoidance of doubt, demolition of improvements presently on the Subject Property shall not be deemed development for purposes of the foregoing sentence.

(b) Promptly, after execution by the City and no later than ten (10) days after Final Approval of the Land Use Approvals, HHC Declarant shall file and record this Declaration and any related waivers executed by Mortgagees or other Parties-in-Interest that are required to be recorded in public records, in the Office of the City Register, indexing them against the entire Covered Property, and deliver to the Commission within ten (10) days from any such submission for recording, a copy of such documents as submitted for recording, together with an affidavit of submission for recordation. HHC Declarant shall deliver to the Commission a copy of all such documents, as recorded, certified by the Office of the City Register, promptly upon receipt of such documents from the Office of the City Register. If HHC Declarant fails to so record such documents within ten (10) days after Final Approval of the Land Use Approvals, then the City may record duplicate originals of such documents. However, all fees paid or payable for the purpose of recording such documents, whether undertaken by HHC Declarant or by the City, shall be borne by HHC Declarant.

(c) Notwithstanding anything to the contrary contained in this Declaration, if any of the Land Use Approvals 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 an instrument discharging this Declaration, HHC Declarant shall notify the Chair of HHC Declarant's intent to cancel and terminate this Declaration and request the Chair's approval, which approval shall be limited to insuring that such cancellation and termination is in proper form. The Chair shall respond to such notice and request within thirty (30) days of receipt by the Chair of such notice, and shall at HHC Declarant's request execute an instrument in recordable form consenting to the discharge

of HHC Declarant's obligations hereunder. The failure of the Chair to respond within such thirty (30) day period shall be deemed an approval by the Chair of the cancellation of the Declaration. Upon recordation of such instrument, HHC Declarant shall provide a copy thereof to the Commission so certified by the Office of the City Register.

Section 5.02 Modification and Amendment.

(a) Except as otherwise provided in Sections 5.01, 5.02(b), or 5.02(c) hereof, this Declaration may be amended, modified or cancelled only with the express written approval of the Commission. No other approval or consent shall be required from any public body, private person or legal entity of any kind, including, without limitation, any other present Party-in-Interest or future Party-in-Interest who is not a successor of HHC Declarant.

(b) Changes to the Approved Drawings that the Chair deems to be minor may be amended or modified administratively by the and no other approval or consent (including modifications to the Land Use Approvals) shall be required from any public body, private person or legal entity of any kind, including, without limitation, any other present Party-in-Interest or future Party-in-Interest who is not a successor of HHC Declarant.

(c) Any modification or amendment of this Declaration shall be executed and recorded in the same manner as this Declaration. HHC Declarant shall record any such modification or amendment immediately after approval or consent has been granted pursuant to Section 5.02(a) and provide an executed and certified true copy thereof to DCP and, upon HHC Declarant's failure to so record, permit its recording by DCP at the cost and expense of HHC Declarant.

ARTICLE VI.

COMPLIANCE; DEFAULTS; REMEDIES

Section 6.01 Default.

(a) The City shall give written notice (each, a "**Default Notice**") of any alleged breach of the provisions of this Declaration to HHC Declarant. Upon receipt of a Default Notice, HHC Declarant shall effect a cure within forty-five (45) days thereof. Alternatively, if the violation is not capable of cure within such forty-five (45) day period, HHC Declarant shall promptly initiate and diligently pursue any steps required to cure such breach and, if HHC Declarant thereafter proceeds diligently toward the effectuation of such cure, the aforesaid forty-five (45) day period shall be deemed extended for so long as HHC Declarant continues to proceed diligently with the effectuation of such cure. HHC Declarant shall have the right, in its sole discretion, to determine the manner in which a breach of this Declaration will be cured, provided such cure is in compliance with this Declaration. The forty-five (45) day period for curing any breach of this Declaration by HHC Declarant (as such may be extended in accordance with this Section 6.01) shall be subject to further extension for Uncontrollable Circumstances, provided that HHC Declarant shall have taken the steps required by Section 6.04 hereof.

(b) The City retains all remedies at law and in equity and via administrative enforcement to enforce this Declaration.

(c) The City retains the right to resolve any dispute regarding the provisions of this Declaration by an alternate dispute resolution acceptable to HHC Declarant, before resorting to litigation or administrative enforcement.

(d) In the case of an alleged breach of, or other dispute regarding the provisions of this Declaration, both HHC Declarant and the City may (but shall not be obligated to) agree that the same shall be resolved by arbitration in a manner to be agreed upon, provided that nothing herein shall be construed to limit the provisions of Section 6.01(b) of this Declaration.

(e) A Named Mortgagee shall have the right to cure a breach on behalf of HHC Declarant within the applicable notice and cure period provided in this Article V.

Section 6.02 Enforcement of Declaration.

(a) The obligations of HHC Declarant under this Declaration shall be enforceable solely by the City. No person or entity other than the City shall be entitled to enforce, or assert any claim arising out of or in connection with, this Declaration. This Declaration shall not create any enforceable interest or right in any person or entity other than the City.

(b) Notwithstanding anything to the contrary contained in this Declaration, the City will look solely to the fee estate and interest of HHC Declarant in the Subject Property, on an in rem basis only, for the collection of any money judgment recovered against HHC Declarant, and no other property of HHC Declarant shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration, and HHC Declarant shall have no personal liability under this Declaration. For the purposes of this Section 6.02, "HHC Declarant" shall mean "HHC Declarant" as defined in the Preamble of this Declaration, as well as any principals, disclosed or undisclosed, partners, affiliates, officers, employees, shareholders or directors of HHC Declarant.

(c) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon HHC Declarant only for the period during which such party is the holder of a fee interest in or is a Party-in-Interest of the Subject Property and only to the extent of such fee interest or the interest rendering such party a Party-in-Interest. At such time as HHC Declarant or any successor-in-interest thereto has no further fee interest in the Subject Property or portion thereof, and is no longer a Party-in-Interest of the Subject Property, or portion thereof, such party's obligations and liability with respect to this Declaration shall wholly cease and terminate as to the portion conveyed from and after the conveyance of such party's interest and such party's successor-in-interest in the Subject Property, or portion thereof, by acceptance of such conveyance automatically shall be deemed to assume such party's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

(d) Notwithstanding the foregoing, nothing herein shall be deemed to preclude, qualify, limit or prevent any of the City's governmental rights, powers or remedies, including, without limitation, with respect to the satisfaction of the remedies of the City under any laws, statutes, codes or ordinances.

Section 6.03 Certain Remedies.

(a) HHC Declarant hereby agrees that failure to comply with conditions or restrictions in this Declaration shall constitute a violation of the Zoning Resolution, and such failure to comply may constitute the basis for denial or revocation of Building Permit(s) or certificate(s) of occupancy.

(b) In any application for an amendment or modification of this Declaration, HHC Declarant shall verify that it has complied with each of the material conditions of the Declaration applicable at the time of such application.

(c) In the event that HHC Declarant has not complied with the material conditions of this Declaration, such non-compliance may constitute grounds for the Commission and/or the City Council, as applicable, to disapprove any application for amendment or modification of the Declaration.

(d) For purposes of this Section 6.03, HHC Declarant shall not be deemed to have failed to comply under any of paragraphs (a), (b) or (c) unless and until HHC Declarant or a Named Mortgagee, as the case may be, has failed to remedy or cure the event or occurrence which is the basis of any allegation of a failure to comply in accordance with the procedure as set forth in Section 6.01 of this Declaration with respect to alleged default(s), including all applicable notice and cure periods afforded HHC Declarant and Named Mortgagee(s) therein.

Section 6.04 Uncontrollable Circumstances.

(a) In the event that, as the result of Uncontrollable Circumstances, HHC Declarant is or believes it will be unable to perform or complete any obligation required to be performed hereunder prior to accepting a Building Permit, TCO or PCO, HHC Declarant shall promptly after it has actual knowledge of such Uncontrollable Circumstances so notify the Chair in writing (such notice, the "**Delay Notice**"), who shall certify the existence of such Uncontrollable Circumstances. Any Delay Notice shall include a description of the Uncontrollable Circumstances, and, if known to HHC Declarant, their cause and estimated impact on performance of the obligation in question. The Chair shall thereafter determine whether the Uncontrollable Circumstances exist, and upon notice to HHC Declarant no later than ten (10) days after its receipt of the Delay Notice, certify whether the Uncontrollable Circumstances exist. Failure to certify within ten (10) days after receipt of the Delay Notice shall be deemed a finding of Uncontrollable Circumstances by the Chair. If the Chair certifies that Uncontrollable Circumstances do not exist, the Chair shall set forth with specificity in the certification the reasons therefor. If the Chair certifies that Uncontrollable Circumstances exist, the Chair shall, either concurrently with such certification or no later than ten (10) days thereafter, grant HHC Declarant appropriate relief, including notifying DOB that a Building Permit, or TCO for the Proposed Development (as applicable) may be issued.

(b) Any delay caused as the result of Uncontrollable Circumstances shall be deemed to continue only as long as the Uncontrollable Circumstances continue. Upon cessation of the Uncontrollable Circumstance causing such delay, HHC Declarant shall promptly recommence the work or implement the measure needed to complete the obligation, in

accordance with any applicable directive of the Chair, unless an alternative is specified and agreed to by the Chair. The Chair may also require that HHC Declarant post a letter of credit ("Completion Letter of Credit") or similar security if acceptable to the Chair, in a form reasonably acceptable to the Chair and naming the City as beneficiary, as appropriate, to secure HHC Declarant's obligation to complete construction of the Proposed Development in accordance with the Approved Drawings or the Environmental Obligations upon cessation of the Uncontrollable Circumstances. Such Completion Letter of Credit or similar security shall be in a sum of no more than 120% of the estimated cost of completing such work, based upon an estimate provided by HHC Declarant and accepted by the City to complete construction of the Proposed Development in accordance with the Approved Drawings or the Environmental Obligations. If HHC Declarant fails to resume performance of such work upon cessation of the Uncontrollable Circumstances, the City may undertake the performance of such work. Upon completion of the construction of the Proposed Development in accordance with the Approved Drawings or the Environmental Obligations, whether by HHC Declarant or the City, the City shall promptly return the aforesaid security (or the undrawn balance thereof) to HHC Declarant.

Section 6.05 Representation. HHC Declarant hereby represents and warrants that (a) 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 enforcement of the obligations and restrictions as set forth herein; and (b) the Parties-in-Interest listed in the Certification of Party-in-Interest are the only known Parties-in-Interest in the Subject Property as of the date hereof.

ARTICLE VII.

MISCELLANEOUS

Section 7.01 Notices.

(a) All notices, demands, requests, consents, approvals, or other communications (each of which is hereinafter referred to as "**Notice**") which may be or are permitted, desirable or required to be given, served or sent hereunder shall be effective only if in writing and (i) mailed to the party for which it is intended by certified or registered mail, return receipt requested, (ii) sent via nationally recognized overnight courier service, or (iii) personally delivered, addressed as follows:

If to HHC Declarant:

250 Seaport District, LLC
c/o The Howard Hughes Corporation
One Galleria Tower
13355 Noel Road, 22nd Floor
Dallas, Texas 75240
Attention: General Counsel

with a copy to:

Adam Meister
The Howard Hughes Corporation
199 Water Street
28th Floor
New York, New York 10038

with a copy to:

Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Attention: David Karnovsky, Esq.

If to SSSLP Declarant:

South Street Seaport Limited Partnership
c/o The Howard Hughes Corporation
One Galleria Tower
13355 Noel Road, 22nd Floor
Dallas, Texas 75240
Attention: General Counsel

If to the City Declarant:

New York City Department of Small Business Services
1 Liberty Plaza
New York, New York 10038
Attention: Andrew Schwartz

If to the City:

New York City Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271
Attention: General Counsel

(b) Any recipient of Notice may from time to time by Notice designate a new or additional related entity or person or address for receipt of Notices.

(c) Notice shall be deemed given five (5) days after mailing, two (2) Business Days after sending by nationally recognized overnight courier service, or upon personal delivery after receipt, except that a Notice providing for change of Notice name or address shall only be effective upon receipt.

(d) A copy of all Notices to HHC Declarant shall be simultaneously given to any mortgagee or ground lessor of all or a portion of the Subject Property of which the City has been given Notice (any such mortgagee or lessor, a “**Named Mortgage**”).

(e) In the event that there is more than one Declarant at any time, any Notice from the City or the Commission shall be provided to all Declarants of whom the Commission has notice.

Section 7.02 Certificates. The City will at any time and from time to time upon not less than fifteen (15) days’ prior notice by HHC Declarant or a Named Mortgagee execute, acknowledge and deliver to HHC Declarant or such Named Mortgagee, as the case may be, a statement in writing certifying (a) that this Declaration is unmodified and in full force and effect (or if there have been modifications or supplements that the same is in full force and effect, as modified or supplemented, and stating the modifications and supplements), (b) whether or not to the best knowledge of the signer of such certificate HHC Declarant is in default in the performance of any obligation contained in this Declaration, and, if so, specifying each such default of which the signer may have knowledge, and (c) as to such further matters as HHC Declarant or such Named Mortgagee may reasonably request.

Section 7.03 Conveyance. Nothing contained herein shall be construed as requiring the consent of the DCP, the City, any agency thereof or any other person or entity to any sale, transfer, conveyance, mortgage, lease or assignment of any interest in the Subject Property.

Section 7.04 Successors of HHC Declarant. References in this Declaration to “HHC Declarant” shall be deemed to include any successor to or assign of a HHC Declarant as fee owner of the Subject Property. Notwithstanding anything to the contrary contained in this Declaration, no holder of a mortgage or other lien in the Subject Property shall be deemed to be HHC Declarant for any purpose, unless and until such holder obtains either a fee interest in the Subject Property or any portion thereof or a lessee’s estate in a ground lease of all or substantially all the Subject Property, and provided further that the holder of any such mortgage or lien shall not be liable for any obligations of HHC Declarant as the “HHC Declarant” hereunder unless such holder commences to develop the Subject Property in accordance or has acquired its interest from a party who has done so.

Section 7.05 Parties-in-Interest. HHC Declarant shall cause any individual, business organization or other entity which, between the date hereof and the effective and recording date and time of this Declaration, becomes a Party-in-Interest in the Subject Property or portion thereof to subordinate its interest in the Subject Property to this Declaration. Any and all mortgages or other liens encumbering the Subject Property after the recording date of this Declaration shall be subject and subordinate hereto as provided herein. Notwithstanding anything to the contrary contained in this Declaration, if a portion of the Subject Property is held in condominium ownership, the board of managers of the condominium association shall be deemed to be the sole Party-in-Interest with respect to the premises held in condominium ownership, and the owner of any unit in such condominium, the holder of a lien encumbering any such condominium unit, and the holder of any other occupancy or other interest in such condominium unit shall not be deemed to be a Party-in-Interest.

Section 7.06 Governing 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.

Section 7.07 Severability. In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severed and the remainder of this Declaration shall continue to be of full force and effect.

Section 7.08 Applications. HHC Declarant shall include a copy of this Declaration as part of any application pertaining to the Subject Property submitted to the DOB or any other interested governmental agency or department having jurisdiction over the Subject Property.

Section 7.09 Incorporation by Reference. Any and all exhibits, appendices and attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

[SIGNATURE LINES ON FOLLOWING PAGE]

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

250 SEAPORT DISTRICT, LLC

By: _____
Name: _____
Title: _____

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

On the ___ day of _____ in the year 202_, before me, the undersigned, a Notary Public in and for said State, 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 executed the same in his capacity(ies), and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

**SOUTH STREET SEAPORT LIMITED
PARTNERSHIP**

By: _____
Name: _____
Title: _____

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

On the ___ day of _____ in the year 202_, before me, the undersigned, a Notary Public in and for said State, 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 executed the same in his capacity(ies), and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

SCHEDULE OF EXHIBITS

<u>EXHIBIT A</u>	Metes and Bounds Description of the Subject Property
<u>EXHIBIT B</u>	Metes and Bounds Description of Pier 17 Property
<u>EXHIBIT C</u>	Certification of Parties-in-Interest
<u>EXHIBIT D</u>	Waivers and Subordinations
<u>EXHIBIT E</u>	Approved Drawings

EXHIBIT A

Metes and Bounds Description of the Subject Property

ALL that certain plot piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Beekman Street with the westerly side of Water Street;

RUNNING THENCE northerly along the westerly side of Water Street 333 feet $\frac{5}{8}$ of an inch to the corner formed by the intersection of the westerly side of Water Street and the southerly side of Peck Slip;

THENCE Westerly along the southerly side of Peck Slip, 189 feet $8\frac{7}{8}$ inches to the corner formed by the intersection of the southerly side of Peck Slip and the easterly side of Pearl Street as widened and as shown on map prepared by the Borough President's Office, dated March 21, 1957 and adopted by the Board of Estimate on June 13, 1957;

THENCE Southerly along the easterly side of Pearl Street as widened as aforesaid 324 feet $2\frac{7}{8}$ inches to the corner formed by the intersection of the easterly side of Pearl Street and the northerly side of Beekman Street; and

THENCE Easterly along the northerly side of Beekman Street 108 feet 3 inches to the corner formed by the intersection of the northerly side of Beekman Street and the westerly side of Water Street, the point or place of BEGINNING.

EXHIBIT B

Metes and Bounds Description of Pier 17 Property

ALL that certain plot, piece, or parcel of land, situate, lying, and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point having a coordinate of North: 4178.815, East: -6590.561 in the Manhattan Borough Survey System, said point being the Point or Place of Beginning;

1. Thence N20°40'25"E, a distance of 55.25 feet (55'-3") to a point;
2. Thence N23°51'52"E, a distance of 356.30 feet (356'-3 5/8") to a point;
3. Thence S65°37'46"E, a distance of 269.34 feet (269'-4 1/8") to a point;
4. Thence N24°22'14"E, a distance of 46.17 feet (46'-2") to a point;
5. Thence S69°02'30"E, a distance of 360.75 feet (360'-9") to a point;
6. Thence S20°27'28"W, a distance of 316.67 feet (316'-8") to a point;
7. Thence N68°37'44"W, a distance of 268.67.00 feet (268'-8") to a point;
8. Thence S21°06'50"W, a distance of 34.42 feet (34'-5") to a point;
9. Thence S89°31'01"W, a distance of 130.53 feet (130'-6 3/8") to a point;
10. Thence S19°59'15"W, a distance of 44.04 feet (44'-0 3/8") to a point;
11. Thence N69°06'00"W, a distance of 263.42 feet (263'-5") to a point, said point being the Point or Place of Beginning.

Said premises known as and by the addresses 95 South Street, 95 Marginal Street, and Pier 16, South Street, being a portion of Tax Lot Numbers 8, 10 and all of Tax Lot 11 and part of Marginal Street in Block 73 as shown on the Tax Map of the City of New York, New York County.

EXHIBIT C

Certification of Parties-in-Interest

EXHIBIT D

Waivers and Subordinations

**FORM OF WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION
AND SUBORDINATION OF MORTGAGE**

WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION AND
SUBORDINATION OF MORTGAGE, made [_____] [____], [2021] by [_____] a
[_____] ("Mortgage"), having its principal place of business at [_____].

WITNESSETH:

WHEREAS, Mortgagee is the lawful holder of that certain mortgage, dated [_____] (the "Mortgage") made by [_____] a [_____] ("Mortgagor"), in favor of Mortgagee, in the original principal amount of \$[_____] recorded in the Office of the City Register of the City of New York, Borough of Manhattan at [_____] on [_____] ; and

WHEREAS, the Mortgage encumbers all or a portion of the property (the "Premises") known as Block [_____] Lot [_____] on the Tax Map of the City of New York, Borough of Manhattan, and more particularly described in Schedule A attached hereto and made a part hereof, and any improvements thereon (such improvements and the Premises are collectively referred to herein as the "Subject Property"), which Subject Property is the subject of a Restrictive Declaration dated _____, 2021, (the "Declaration"), made [Mortgagor], and

WHEREAS, Mortgagee represents that the Mortgage is its sole interest in the Subject Property; and

WHEREAS, Mortgagee represents that it has received and read the Declaration; and

WHEREAS, the Declaration, which is intended to be recorded in the Office of said Register simultaneously with the recording hereof, shall subject the Subject Property and the sale, conveyance, transfer, assignment, lease, occupancy, mortgage and encumbrance thereof to certain restrictions, covenants, obligations, easements and agreements contained in the Declaration; and

WHEREAS, Mortgagee agrees, at the request of Mortgagor, to waive its right to execute the Declaration and to subordinate the Mortgage to the Declaration.

NOW, THEREFORE, Mortgagee (i) hereby waives any rights it has to execute, and consents to the execution by Mortgagor of, the Declaration and (ii) hereby agrees that the Mortgage, any liens, operations and effects thereof, and any extensions, renewals, modifications and consolidations of the Mortgage, shall in all respects be subject and subordinate to the terms and provisions of the Declaration.

This Waiver of Execution of Restrictive Declaration and Subordination of Mortgage shall be binding upon Mortgagee and its heirs, legal representatives, successors and assigns.

[Signature Page Follows]

SCHEDULE A

EXHIBIT E

Approved Drawings

SECOND MODIFICATION TO FIRST AMENDED AND RESTATED DECLARATION

Made by:

CITY OF NEW YORK

and

SOUTH STREET SEAPORT LIMITED PARTNERSHIP

Affecting

NEW YORK COUNTY
BLOCK 73
LOT 11
P/O LOT 8 AND LOT 10

Record and Return to:
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Attention: David Karnovsky, Esq.

SECOND MODIFICATION TO FIRST AMENDED AND RESTATED DECLARATION

THIS SECOND MODIFICATION TO FIRST AMENDED AND RESTATED DECLARATION (“Declaration”) is made as of the ____ day of _____, 2021, by the **CITY OF NEW YORK** (the “**City**”), a municipal corporation of the State of New York, having an address at City Hall, New York, New York 10007 (the “**Landlord Declarant**”) and **SOUTH STREET SEAPORT LIMITED PARTNERSHIP (“SSSLP”)**, a Maryland limited partnership, with an address at 199 Water Street, 28th Floor, New York, New York 10038 (the “**Tenant Declarant**,” and together with the Landlord Declarant, the “**Declarants**”).

WITNESSETH:

WHEREAS, the City is the fee owner of certain real property located in the South Street Seaport Area of the Borough of Manhattan, County of New York, City and State of New York, known as Block 73, Lot 11, and parts of Lots 8 and 10 on the Tax Map for said borough, and part of the adjacent marginal street, which real property is more particularly described as **Exhibit A** annexed hereto and made a part hereof (together, the “**Subject Property**”);

WHEREAS, Landlord Declarant and Tenant Declarant entered into that certain amended and restated lease, dated as of June 27, 2013 with respect to the leasing of certain land and improvements in the South Street Seaport area of Manhattan, including the Subject Property;

WHEREAS, the New York City Planning Commission (“**CPC**”) adopted resolutions on February 6, 2013, under Calendar Numbers 7-14, approving certain applications by Declarants with the New York City Department of City Planning (“**DCP**”) pursuant to Application Numbers 130052 ZMM, 130053 ZSM, 130054 ZSM, 130055 ZSM, 130056 ZAM, 130057 ZAM, 130058 ZCM, 130059 PPM, 130080 ZRM; and the New York City Council adopted resolutions approving the decision of CPC on March 20, 2013, under Resolution Numbers 1692-2013 (L.U. No. 766), 1693-2013 (L.U. No. 767), 1694-2013 (L.U. No. 768), 1695-2013 (L.U. No. 769), 1696-2013 (L.U. No. 770), 1697-2013 (L.U. No. 771), 1698-2013 (L.U. No. 772) (such resolutions of the CPC and New York City Council, the “**2013 Land Use Approvals**”);

WHEREAS, Declarants executed a restrictive declaration dated June 27, 2013, recorded on July 18, 2013 at CRFN 2013000283409 (the “**2013 Restrictive Declaration**”), which set forth certain obligations for the development of the Pier 17 portion of the Subject Property pursuant to the 2013 Land Use Approvals;

WHEREAS, Declarants acknowledged and agreed in the 2013 Restrictive Declaration that the Subject Property would be improved as a “large-scale general development” (the “**LSGD**”) as defined in Section 12-10 of the Zoning Resolution of the City of New York (the “**Zoning Resolution**” or “**ZR**”);

WHEREAS, the Chairperson of the CPC and the CPC adopted resolutions on October 19, 2016, under Calendar Numbers 1-4, approving certain applications filed with DCP pursuant to Application Numbers M130053A ZSM, M130054A ZSM, M130055A ZSM, N170054 ZAM, N170055 ZCM (the “**2016 Modification**”);

WHEREAS, Declarants executed an amendment to the 2013 Restrictive Declaration dated January 11, 2017, recorded on January 27, 2017 at CRFN 2017000036236 (the “**First Amended and Restated Declaration**”), which set forth certain obligations for the development of the Pier 17 portion of the Subject Property pursuant the 2016 Modification;

WHEREAS, Tenant Declarant has submitted an application (Application No. N 210287 ZCM) for certification by the Chair pursuant to Zoning Resolution Section 62-12(c) regarding proposed design changes to the WPAA, namely the placement of two kiosks within the WPAA (the “**2021 Design Change Certification**”, together with the 2013 Land Use Approvals and the 2016 Modification, the “**Land Use Approvals**”);

WHEREAS, Tenant Declarant has also submitted a request to DCP (N 210393 CSM) for a determination that the plans for the WPAA, as modified by the 2021 Design Change Certification, are in substantial compliance with the plans previously approved in connection with Application Nos. 130053(A) ZSM, 130055(A) ZSM, 130056 ZAM, 130057 ZAM, 170054 ZAM, and 170055 ZCM (the “**2021 Substantial Compliance**”);

WHEREAS, the purpose of this Modification (N 210288 LDM) is to amend the 2016 Restrictive Declaration to reflect the 2021 Design Change Certification by incorporating the plans related thereto, and all other provisions of the 2016 Restrictive Declaration are to remain in effect, except as modified by this Modification;

WHEREAS, the Chairperson of the CPC and the CPC adopted resolutions on October 20, 2021, under Calendar Numbers 21-26, approving certain applications by Declarants with DCP pursuant to Application Numbers: C 210438(A) ZSM, N 210439 ZRM; N 210441 ZAM; M 210442 LDM; N 210443 LDM; N 210445 ZAM; N 210446 ZCM and 130053B ZSM (the “**2021 Actions**”);

WHEREAS, pursuant to the certificate(s) annexed hereto as **Exhibit B** (“**Certification of Parties-in-Interest**”), [Title Company] has certified that as of [date], [Declarants are the sole “parties-in-interest”] (as defined in subdivision (c) of the definition of the term “zoning lot” in Section 12-10 of the Zoning Resolution) (each, a “**Party-in-Interest**”; multiple being “**Parties-in-Interest**”), to the Subject Property;

WHEREAS, all Parties-in-Interest have executed this Declaration or waived their right to execute and subordinated their interest in the Subject Property to the Declaration pursuant to the instruments annexed hereto as **Exhibit C**;

WHEREAS, in accordance with the 2021 Actions, Declarants wish to expand the LSGD to include: (a) certain real property located in the South Street Seaport Area of the Borough of Manhattan, County of New York, City and State of New York, known as Block 98, Lot 1 on the Tax Map for said borough; and (b) portions of the demapped streets known as Fulton Street between South Street and Water Street, Front Street between John Street and Beekman Street (which includes a portion of Block 74, Lot 20), and Water Street between Fulton Street and Beekman Street (together, the “**Additional Property**”); and

NOW, THEREFORE, Declarants do hereby declare and agree that the First Amended and Restated Declaration shall be modified as set forth herein.

1. All capitalized terms used herein and not otherwise set forth or defined herein shall have the meaning ascribed to them in the First Amended and Restated Declaration, as modified by the Modification to the First Amended and Restated Declaration.
2. Section 1 shall be deleted in its entirety and replaced with the following:

“Landlord Declarant and Tenant Declarant hereby declare and agree that, following the date of this Declaration, the Subject Property and the Additional Property shall be treated as a large-scale general development and shall be developed or enlarged as a single unit in accordance with the Restrictive Declaration, entered into by _____ and the Landlord Declarant, dated _____.

The “**Additional Property**” shall comprise of certain real property located in the South Street Seaport Area of the Borough of Manhattan, County of New York, City and State of New York, known as Block 98, Lot 1 on the Tax Map for said borough, which real property is more particularly described as **Exhibit D** annexed hereto, and made a part hereof, and portions of the demapped streets known as Fulton Street between South Street and Water Street, Front Street between John Street and Beekman Street, and Water Street between Fulton Street and Beekman Street (including a portion of Block 74, Lot 20), as shown on drawing number Z-002 attached hereto at **Exhibit E.**”

3. Section 2(a), 2(b), 2(c), and 2(d) shall be deleted in its entirety and replaced with the following:
 - (a) The following plans prepared by Mancini Duffy in connection with: C 210438(A) ZSM, N 210439 ZRM; N 210441 ZAM; M 210442 LDM; N 210443 LDM; N 210445 ZAM; N 210446 ZCM and 130053B ZSM:

DWG No.	Title	Revised Date
G-002	Survey	5/12/21
Z-001	LSGD Zoning Analysis	10/15/21
Z-002	LSGD Zoning Site Plan	10/15/21
Z-101	Zoning Calculations	5/12/21
Z-102	Seaward and Upland Area Diagram	5/12/21
Z-103	Platform and Pier Diagram	5/12/21
Z-104A	Site Plan	5/12/21
Z-105A	Height and Setback Compliance Sections	5/12/21
Z-106A	Height and Setback Compliance Sections	5/12/21
Z-108	Length of Building East/West	5/12/21
L-100	Shore Public Walkway + Visual Corridor Diagram	5/12/21
L-101	Upland Connection Diagram	5/12/21
L-102	WPAA on Pier - Seaward Edge Diagram	5/12/21

L-103	WPAA on Pier - Landward Portion Diagram	5/12/21
L-104	WPAA on Pier - Other Edges Diagram	5/12/21
L-300	Waterfront Public Access	5/12/21
L-303	Zoning Chart	5/12/21
L-304	Zoning Chart	5/12/21
L-400	Seating Plan	5/12/21
L-401	Furnishing Plan	5/12/21
L-402	Hardscape Material Plan	5/12/21
L-403	Landscape Lighting Layout	5/12/21
L-404	Planting Plan	5/12/21
L-500	Site Sections	5/12/21
L-600	Seating Details	5/12/21
L-601	Seating Details	5/12/21
L-602	Seating Details Gliders and Seat Steps	5/12/21
L-603	Guardrail Detail	5/12/21
L-603A	Marine Details	5/12/21
L-604	Railing + Furnishing Details	5/12/21
L-605	Paving Details	5/12/21
L-606	Paving Details	5/12/21
L-607	Paving Details	5/12/21
L-608A	Kiosk 1 - Plans & Axon	5/12/21
L-608B	Kiosk 2 - Plans & Axon	5/12/21
L-608C	Kiosk 1 - Elevations	5/12/21
L-608D	Kiosk 2 - Elevations	5/12/21
L-609	Guard Booth & Bollard Details	5/12/21

4. **Exhibit C** to the First Amended and Restated Declaration is hereby deleted in its entirety and shall be replaced with **Exhibit E** attached hereto.

5. Except as modified herein or in the Modification to the First Amended and Restated Declaration, dated _____, and recorded at CRFN _____, the First Amended and Restated Declaration remains unmodified, in full force and effect and binding upon the parties hereto. This Declaration or its signature pages may be executed in any number of original counterparts. A facsimile or other electronic image of a signature will have the same legal effect for the purposes of establishing the execution of this Declaration as an originally drawn signature.

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

THE CITY OF NEW YORK

By: _____
Name:
Title:

Approved as to Form:

Acting Corporation Counsel

SOUTH STREET SEAPORT LIMITED
PARTNERSHIP

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 written 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

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 written 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

DESCRIPTION OF SUBJECT PROPERTY

ALL that certain plot, piece, or parcel of land, situate, lying, and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point having a coordinate of North: 4178.815, East: -6590.561 in the Manhattan Borough Survey System, said point being the Point or Place of Beginning;

1. Thence N20°40'25"E, a distance of 55.25 feet (55'-3") to a point;
2. Thence N23°51'52"E, a distance of 356.30 feet (356'-3 5/8") to a point;
3. Thence S65°37'46"E, a distance of 269.34 feet (269'-4 1/8") to a point;
4. Thence N24°22'14"E, a distance of 46.17 feet (46'-2") to a point;
5. Thence S69°02'30"E, a distance of 360.75 feet (360'-9") to a point;
6. Thence S20°27'28"W, a distance of 316.67 feet (316'-8") to a point;
7. Thence N68°37'44"W, a distance of 268.67.00 feet (268'-8") to a point;
8. Thence S21°06'50"W, a distance of 34.42 feet (34'-5") to a point;
9. Thence S89°31'01"W, a distance of 130.53 feet (130'-6 3/8") to a point;
10. Thence S19°59'15"W, a distance of 44.04 feet (44'-0 3/8") to a point;
11. Thence N69°06'00"W, a distance of 263.42 feet (263'-5") to a point, said point being the Point or Place of Beginning.

Said premises known as and by the addresses 95 South Street, 95 Marginal Street, and Pier 16, South Street, being a portion of Tax Lot Numbers 8, 10 and all of Tax Lot 11 and part of Marginal Street in Block 73 as shown on the Tax Map of the City of New York, New York County.

EXHIBIT B

PARTIES-IN-INTEREST CERTIFICATION

(See separate attachment)

EXHIBIT C

WAIVERS AND SUBORDINATIONS

**FORM OF WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION
AND SUBORDINATION OF MORTGAGE**

WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION AND
SUBORDINATION OF MORTGAGE, made [_____] [____], [2021] by [_____] a
[_____] (“Mortgage”), having its principal place of business at [_____].

WITNESSETH:

WHEREAS, Mortgagee is the lawful holder of that certain mortgage, dated
[_____] (the “Mortgage”) made by [_____] a [_____] (“Mortgagor”), in favor
of Mortgagee, in the original principal amount of \$[_____] recorded in the Office of the
City Register of the City of New York, Borough of Manhattan at [_____] on
[_____]; and

WHEREAS, the Mortgage encumbers all or a portion of the property (the “Premises”)
known as Block [_____] Lot [_____] on the Tax Map of the City of New York, Borough of
Manhattan, and more particularly described in Schedule A attached hereto and made a part
hereof, and any improvements thereon (such improvements and the Premises are collectively
referred to herein as the “Subject Property”), which Subject Property is the subject of a
Restrictive Declaration dated June __, 2021, (the “Declaration”), made [Mortgagor], and

WHEREAS, Mortgagee represents that the Mortgage is its sole interest in the Subject
Property; and

WHEREAS, Mortgagee represents that it has received and read the Declaration; and

WHEREAS, the Declaration, which is intended to be recorded in the Office of said
Register simultaneously with the recording hereof, shall subject the Subject Property and the
sale, conveyance, transfer, assignment, lease, occupancy, mortgage and encumbrance thereof to
certain restrictions, covenants, obligations, easements and agreements contained in the
Declaration; and

WHEREAS, Mortgagee agrees, at the request of Mortgagor, to waive its right to execute
the Declaration and to subordinate the Mortgage to the Declaration.

NOW, THEREFORE, Mortgagee (i) hereby waives any rights it has to execute, and
consents to the execution by Mortgagor of, the Declaration and (ii) hereby agrees that the
Mortgage, any liens, operations and effects thereof, and any extensions, renewals, modifications
and consolidations of the Mortgage, shall in all respects be subject and subordinate to the terms
and provisions of the Declaration.

This Waiver of Execution of Restrictive Declaration and Subordination of Mortgage shall
be binding upon Mortgagee and its heirs, legal representatives, successors and assigns.

SCHEDULE A

EXHIBIT D

DESCRIPTION OF MANHATTAN BLOCK 98, LOT 1

ALL that certain plot piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Beekman Street with the westerly side of Water Street;

RUNNING THENCE northerly along the westerly side of Water Street 333 feet $\frac{5}{8}$ of an inch to the corner formed by the intersection of the westerly side of Water Street and the southerly side of Peck Slip;

THENCE Westerly along the southerly side of Peck Slip, 189 feet $8\frac{7}{8}$ inches to the corner formed by the intersection of the southerly side of Peck Slip and the easterly side of Pearl Street as widened and as shown on map prepared by the Borough President's Office, dated March 21, 1957 and adopted by the Board of Estimate on June 13, 1957;

THENCE Southerly along the easterly side of Pearl Street as widened as aforesaid 324 feet $2\frac{7}{8}$ inches to the corner formed by the intersection of the easterly side of Pearl Street and the northerly side of Beekman Street; and

THENCE Easterly along the northerly side of Beekman Street 108 feet 3 inches to the corner formed by the intersection of the northerly side of Beekman Street and the westerly side of Water Street, the point or place of BEGINNING.

EXHIBIT E

APPROVED DRAWINGS

(See separate attachment)