

Certification under ZR Section 62-811 for Zoning Lot 5a regarding waterfront public access and visual corridors

**62-811
Waterfront public access and visual corridors**

No excavation or building permit shall be issued for any #development# on a waterfront #block#, or any other #block# included in a Waterfront Access plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

...

13 JUL 31 3:54 PM

(b) a site plan has been submitted showing compliance with the provisions of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS);

(c) a site plan has been submitted showing compliance with the provisions of 62-90; or

...

Waterfront Public Access Areas. The applicant is requesting City Planning Commission authorizations pursuant to Section 62-822 (Modification of waterfront public access area and visual corridor requirements) for Zoning Lot 5a to allow for modification of the location and minimum dimensions of certain of the waterfront public access areas, and to allow for modification of certain of the design and other requirements applicable to the waterfront. The findings associated with the requested modifications are discussed in the Statement of Findings for the requested authorizations.

With the exception of those elements, and as documented in Drawings L-101.00 through L-104.00 and shown in Drawings L-110.00 through L-303.00 for Zoning Lot 5a included in the Application, the waterfront public access areas will comply with the requirements of Sections 62-50 and 62-60, as modified by Section 62-90, for waterfront public access areas. Overall, Zoning Lot 5a will contain approximately 54,626 square feet of waterfront public access area; this is approximately 7,693 square feet more than the amount required under the Zoning Resolution. The waterfront public access area will include an upland connection within the flexible zone indicated on Map BK-1b in accordance with ZR Section 62-931(d)(3)(i).

Visual Corridors. As shown in Drawing L-110.00, a 60-foot wide visual corridor will be located on Zoning Lot 5a, roughly at the location of the terminus of Clay Street and perpendicular to Commercial Street, in compliance with the requirements of Sections 62-511 and 62-931(e)(2) (the “Franklin Street Visual Corridor”). While the width of the Franklin Street Visual Corridor will comply with the requirements of 62-512 (Dimensions of visual corridors), the applicant is requesting an authorization under Zoning Resolution Section 62-822(a) to adjust to the lowest level of the visual corridor required under Section 62-512 to allow for the grade to be raised to a maximum elevation of 16 feet at its high point in order to respond to flood protection and storm surge concerns as well as high water table conditions.

A certification pursuant to paragraphs (b) or (c) of this Section shall be granted on condition that an acceptable restrictive declaration is executed and filed pursuant to Section 62-74 (Requirements for Recordation).

A restrictive declaration will be executed prior to certification under Section 62-811 and will be recorded against the subject property pursuant to Section 62-74.

Certification under ZR Section 62-811 for Zoning Lot 5a regarding phasing of waterfront public access areas

**62-811
Waterfront public access and visual corridors**

. . .

For any parcel identified in Waterfront Access Plan BK-1, the Chairperson shall allow for the phased implementation of all required #waterfront public access areas# upon certification to the Commissioner of Buildings that a plan has been submitted that provides for an amount of #waterfront public access area# proportionate to the amount of #floor area# being #developed# in each phase.

The waterfront public access areas to be developed on Zoning Lot 5a is proposed to be developed in four phases, as shown in Drawings L-501.00 through L-504.00. Overall, Zoning Lot 5a generates a requirement for 46,933 square feet of waterfront access area to be located on the development parcel. As proposed, a total of 1,408,085 square feet of floor area and 54,626 square feet of waterfront access area will be provided on Zoning Lot 5a. The proposed phasing will meet this finding as follows, subject to the further finding regarding a phase in which all residences are affordable as discussed below:

- Phase Ia relates to an approximately 14,395 square foot parcel located along Commercial Street at the terminus of Clay Street. This phase would not include any waterfront access area because it is associated with an 81,798 zoning square feet development in which all of the dwelling units are affordable. The Phase Ia development amounts to less than 6% of the floor area to be developed on Zoning Lot 5a and less than 2% of the development that will occur on the Greenpoint Landing Project development parcel. Accordingly, no waterfront access is required with this Phase.
- Phase Ib relates to the remainder of the block that includes Phase Ia located to the south of the Franklin Street Visual Corridor, which together the Phase Ia area is an approximately 85,443 square foot parcel comprised of approximately 36,895 square feet of R6 zoned land and approximately 48,548 square feet of R8 land. The Phase Ia and Phase Ib development will contain 388,997 square feet of floor area, or approximately 27.6% of the floor area proposed to be located on Zoning Lot 5a. Overall, Phase I will include 19,534 square feet of waterfront access area, approximately 41% of the required amount and 36% of the waterfront access area being proposed.
- Phase II relates to an approximately 66,308 square foot parcel located between the Phase Ia and Phase Ib parcel and the southern boundary of Zoning Lot 5a. Phase II will include approximately 509,383 square feet of development, which together with Phase Ia and Ib will comprise approximately 64% of the development proposed for Zoning Lot 5a. Phase II will add an additional 15,802 square feet of waterfront access area to Zoning Lot 5a, for a total of 35,336 square feet. This amounts to 75% of the required waterfront access area, and approximately 65% of the waterfront access area being proposed.
- Phase III relates to an approximately 114,299 square foot parcel located between the Phase Ia and Phase Ib block and the northern boundary of Zoning Lot 5a. Phase III will include approximately 509,705 square feet of development and 19,290 square feet of waterfront access area, which constitutes the remainder of the development and waterfront access area proposed for Zoning Lot 5a. When completed with Phases Ia, Ib and II, 54,626 square feet of waterfront public access area will be provided on Zoning Lot 5a, approximately 7,693 square feet more than required.

Additionally, for any #development# located within 240 feet of a #shoreline#, the initial phase and each subsequent phase shall provide a minimum of 200 linear feet of #shore public walkway# and any adjacent #supplemental public access area# located between such #development# and such #shore public walkway#, one #upland connection# through or adjacent to the entire parcel leading to the #shore public walkway#, and at least one other

Greenpoint Landing

Attachment #11 – Applicant’s Statement of Findings – Zoning Lot 5a

connection from the #shore public walkway# to an adjacent #shore public walkway#, #street# or other #upland connection#.

The phasing plan will meet these requirements as follows:

- As shown in Drawing L-502.00, the Phase Ib construction will provide 238’-3” feet of shore public walkway and will provide a connection to the shore public walkway through the construction of the southern half of the upland connection to be located within the Franklin Street Visual Corridor. In addition to the shore public walkway and the upland connection, the Phase Ib construction will also include completion of a picnic area and additional supplemental open area.
- As shown in Drawing L-503.00, the Phase II construction will provide an additional 243’-5” feet of shore public walkway in two segments: a southern segment connecting the Phase Ib shore public walkway and the Newtown Barge Park area to the south of Zoning Lot 5a; and a northern segment extending from the north side of the Phase Ib shore public walkway. The Phase II segment will also include additional supplemental public access area, including a large lawn area, and will include an additional pedestrian connection between the shore public walkway and Commercial Street at the northern edge of the Phase II parcel. An additional connection back to Commercial Street will be completed in this Phase as well.
- As shown in Drawing L-504.00, the Phase III construction will complete the shore public walkway for Zoning Lot 5a, and will also include construction of the northern half of the upland connection located within the Franklin Street Visual Corridor, and additional supplemental public access area.

When complete, the shore public walkway associated with Zoning Lot 5a will have a linear dimension of approximately 664 feet.

For any #development# located entirely beyond 240 feet of a #shoreline#, the initial phase and each subsequent phase shall also provide a minimum of 100 linear feet of #shore public walkway# and one #upland connection# through or adjacent to the entire parcel leading to the #shore public walkway#.

This finding is not applicable as each Phase (other than Phase Ia, which does not require the construction of any waterfront public access area) includes development within 240 feet of the shoreline.

However, no #waterfront public access area# need be provided for a phase consisting of a #development# in which all #residences# in such phase are affordable #residences# for #lower income households# as defined in Section 23-93, or #moderate income households# as defined in Section 62-352, provided that such exemption shall only apply where 25 percent or less of the total #residential floor area#, including any applicable #floor area# bonuses, on the parcel has been #developed#.

It is anticipated that all of the residences in the Phase Ia building will be affordable for lower income households. As noted above, this building will contain less than 6% of the floor area being proposed for Zoning Lot 5a and less than 2% of the floor area anticipated to be developed on the Greenpoint Landing Project parcel, thus meeting the findings of this provision.

Authorization under ZR Section 62-822(a) for Zoning Lot 5a regarding waterfront public access and visual corridors

62-822

Modification of waterfront public access area and visual corridor requirements

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

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

As noted in the Project Description, the following modifications to the location, area, and minimum dimension requirements are being proposed:

- Raise the level of the waterfront yard from the existing condition, contrary to ZR 62-332;
- Adjust the grades of visual corridors to increase the elevation from existing conditions, contrary to ZR 62-512;
- Allow for wider portions of Supplemental Public Access Area (width to depth ratio greater than 3:1), contrary to ZR 62-571(a)(1);
- Allow for Supplemental Public Access Areas to have portions less than 10 feet in width, contrary to ZR 62-571(b)(1); and
- Allow Supplemental Public Access Area adjacent to the upland connection in the Franklin Street Visual Corridor to be less than 5,000 square feet, contrary to ZR 62-931(d)(3)(ii).

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

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

The proposed modifications to the location of waterfront public access areas and visual corridors will comply with minimum dimensions and required total area in the aggregate. Overall, Zoning Lot 5a will have 54,626 square feet of waterfront public access area, well in excess of the 46,933 square feet required. The shore public walkway will have a 40-foot width throughout as required by zoning, and the Franklin Street Visual Corridor will preserve a 60-foot width along its entire length.

The modifications to the Supplemental Public Access Areas are caused by the unique geometry of the site. While a significant public feature is located at the end of the Franklin Street Visual Corridor that is in excess of 5,000 square feet, much of the area would be defined as upland connection. While the supplemental areas along the shore public walkway generally comply with the minimum dimension of 10 feet, there are minor departures from this requirement in order to allow for social seating alcoves of fixed benches and chairs that would create a social environment along the shore public walkway. The adjustment to the width to depth ratio is necessary to allow for continuous supplemental access area along Zoning Lot 5a, which is a narrow lot and therefore a longer supplemental public access area is provided.

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

The principal modifications being requested relate to the grades of the yards and the visual corridors. Under existing conditions, the shoreline elevations for Zoning Lot 5a generally range from elevation 5.5’ to 8.0’, and the elevations of the adjacent Commercial Street generally range from elevation 8.0’ to 11.0’. FEMA’s recently issued advisory 100-year flood maps have increased the projected 100-year flood elevations to a range between 11.0’ and 12.0’, with the potential for flooding from wave and surge action several feet higher. In addition, most of the Development Site has a high water table, at roughly elevation 4.0’ to 5.0’. In order to provide protection from potential storm conditions both for the project and the upland community, and in order to allow for uses such as parking and mechanical space to be located below grade, the Greenpoint Landing Project generally has a first floor elevation of 16.0’. As part of the flood protection system, it is proposed to change the grade along the Franklin Street Visual Corridor so that it meets the street elevation and shore public walkway elevations at roughly elevations 10.18’ and 11.0’ but with a high point along the Visual Corridor at elevation 16.0’. The changes on grade along the Visual Corridor would be gradual, generally less than 3%, would not interfere with access to the waterfront, and would continue to allow for views to the waterfront. Moreover, the change in grade would allow for a better visual relationship to the adjoining buildings, as the grade change allows for the Franklin Street Visual Corridor (which is also an Upland Connection) to be at a similar grade as the ground floor of the buildings, rather than at a point that is several feet below the first story.

The changes in elevation along the waterfront yard are necessary to implement the system of tiered walkways being proposed and to ensure that there is a least one pathway that is above the 100-year floor plain at all times. Furthermore, the proximity of each waterfront access area to the water or to the upland streets is not being changed, allowing for equivalent use and enjoyment of the waterfront and views.

- (2) In the event the Commission determines that there is no feasible way to provide equal alternative #waterfront public access areas# either on the #zoning lot# or offsite on an adjoining public property or to provide equal alternative #visual corridors#, the Commission may authorize a reduction in minimum dimensions or area, or may waive such requirements, provided that:**
- (i) such #development# would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing #buildings or other structures# or elements having environmental, historic or aesthetic value to the public; and**
 - (ii) that the reduction or waiver of requirements is the minimum necessary.**

No reduction in the overall amount of waterfront public access area is being proposed. Therefore this finding is inapplicable.

Authorization under ZR Section 62-822(b) for Zoning Lot 5a regarding waterfront public access area requirements

62-822

Modification of waterfront public access area and visual corridor requirements

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

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

As noted in the Project Description, the following modifications to design elements under Sections 62-60 and 62-90 are being proposed for Zoning Lot 5a:

- Portions of Supplemental Public Access Area without a dedicated path, contrary to ZR 62-62(a)(2)
- Planting areas amounting to 48% (i.e., less than 50%) of the total shore public walkway area and supplemental public access area, contrary to ZR 62-62(c)(1)
- Screening buffers with widths less than 10 feet, contrary to ZR 62-62(c)(2)(ii)
- Planting in transition zone less than 40% (i.e., 27%), contrary to ZR 62-64(c)(3) to provide a dog run in the transition area
- Wall heights in excess of 21 inches, contrary to ZR 62-651(c)(3), and retaining wall with longest continuous edge within 6” of adjacent grade level less than 40% (i.e., 12%) of perimeter planting area, contrary to ZR 62-655(a)
- Perimeter of lawn within 6” of adjacent grade less than 60% (i.e., 47%), contrary to ZR 62-655(a)(6)
- Vehicular turnaround area paving wider than private driveway material leading to turnaround, contrary to ZR 62-64(b)(3)
- Guardrail and seating details that do not follow the WAP design reference standards, contrary to ZR 62-931(c)
- Height of solid curb on which fence is mounted in excess of 6” (i.e., 12”), contrary to ZR 62-651(c)(2), surrounding a small dog park

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

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

Several of the proposed modifications to Sections 62-60 and 62-90 are a result of modifications proposed pursuant to paragraph (a). In particular, the changes in elevation proposed in the waterfront yards and the Franklin Street Visual Corridor to address flooding and storm surge concerns require modifications to (i) the overall percentage of planted areas, (ii) maximum wall heights, and (iii) guardrail design.

In order to mediate the changes in grade between the existing shoreline, the 100-year flood elevation, and the maximum site and ground floor building elevations being established to address storm surges, the proposal creates a terraced shore public walkway with one walkway at the shoreline and a secondary garden walkway above the 100-year floor plain, with a series of switchbacks and connections joining the two walkways. Because of the variety of pathways throughout the shore public walkway, and the creation of a secondary garden walkway that is raised fully above the 100-year flood elevation, the amount of planting within the shore public walkway and supplemental access areas is 48% of the total area, rather than the 50% required by zoning. Similarly, in order to provide landscaped areas between the two shore public walkway paths and in order to address the change in elevation between the upper shore public walkway and private development landward of the shore public walkway, wall heights in excess of 21” (contrary to ZR 62-651(c)(3)), and more retaining walls higher than 6” above the adjacent

grade level planting area than allowed by zoning (contrary to ZR 62-655(a)) are required to serve as guardrails and facilitate the terraced design. Finally, by straightening the profile of the guardrail, the lower pathway along the shoreline will provide a greater amount of waterfront public access area that will also be less constricted and allow for the use of that pathway to be optimized.

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

The overall package of proposed modifications would result in a design that is functionally equivalent or superior to what would occur if zoning controls were applied in all respects. The changes in elevation of the waterfront yards and the visual corridors provide an innovative approach to addressing flood and storm surge concerns that would not be addressed through strict adherence to the applicable zoning provisions. The changes to the design standards discussed in paragraph (1) above help promote this superior approach to the waterfront and allow for the creation of multiple experiences for the public in the waterfront access area. The shore public walkway would provide a more social experience where the public could enjoy the water while interacting with others using the social seating alcoves. The secondary garden walkway provides a more pedestrian focused experience in a lushly planted environment. In addition:

- a) The elimination of clear path requirements for supplemental public access areas allow for the provision of the two walkways – the shore public walkway and the garden walkway – as well as the introduction of unique waterfront features, such as the public lawn area, the picnic area and the dog run proposed for the Development Site. Paths around these waterfront features would connect them to the two walkways.
- b) Walls with heights in excess of 21” would be located between the waterfront public access areas and the buildings are needed as part of the terrace design system and for soil retention. These walls would provide a continuation of the lush vegetative design of the garden pathway through the addition on the walls of cable trellis with vines and a thick buffer of additional trees and shrubbery, at least 50% of which will be evergreens, planted adjacent to the walls. The walls also allow for the introduction of an additional buffer of private green space which has the result of pushing the residential buildings further away from the water’s edge and the public access areas, resulting in a superior design than one that would locate the residential buildings closer to the water’s edge.
- c) The reduction in the percentage of longest continuous edge of retaining wall within 6” of the adjacent grade of the planting areas allows for the inclusion of curbs and walls to separate the planting areas and the walkway surfaces in accordance with Department of Parks and Recreation requirements to prevent accidental damage to the planting areas and improved maintenance of the planting areas.
- d) The 47% of the perimeter of the lawn within 6” of adjacent grade (rather than 60%) allows for the addition of an 18” tall bench on the upland connection side of the lawn to serve as a barrier in compliance with Department of Parks and Recreation requirements to prevent accidental damage to the lawn.
- e) While the screening buffers are less than ten feet in certain limited locations, all of the private buildings are set away from the shore public walkway substantially more than the ten feet, with an additional private terrace level at approximate elevation 16’ helping to provide the transition to the building grade and more separation between the buildings and the waterfront.
- f) The proposed changes to seating details will respond to the unique terracing system by incorporating the design of the shore public walkway seating into the retaining walls and planting areas.
- g) The proposed higher height for the solid curb upon which a fence surrounding the dog run would be mounted and the reduction in the amount of planting in the transition area from 40% to 27% would enable the inclusion of a dog run on the Development Site. The higher curb height for the fencing is needed to meet the requirements of the Department of Parks and Recreation for a dog run. The lower amount of planting in the transition area is required because the ground surfaces of the dog run cannot be planted due to wear and tear by the dogs. The inclusion of the dog run will provide a

Greenpoint Landing

Attachment #11 – Applicant’s Statement of Findings – Zoning Lot 5a

greater amenity to the community and will prevent deterioration and disruption in use on other waterfront amenities like the lawn.

- h) The widened turnaround within the Upland Connection at the Franklin Street Visual Corridor will allow for emergency access to the adjoining buildings and the shore public walkway with the minimum of impact on the waterfront public access areas and is needed to comply with Department of Parks and Recreation requirements. While the design will have a distinct delineation to make it clear to pedestrians that there is a vehicular turnaround, the access will have flush curbs to facilitate pedestrian flow when vehicles are not present.

Overall the proposed modifications contribute to an inviting, unique, environmentally sensitive waterfront public access area that will provide a superior design.

Certification under ZR Section 62-811 for Zoning Lot 5b-1 regarding waterfront public access and visual corridors

62-811

Waterfront public access and visual corridors

No excavation or building permit shall be issued for any #development# on a waterfront #block#, or any other #block# included in a Waterfront Access plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

. . .

(b) a site plan has been submitted showing compliance with the provisions of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS);

(c) a site plan has been submitted showing compliance with the provisions of 62-90;

Waterfront Public Access Areas. The applicant is requesting City Planning Commission authorizations pursuant to Section 62-822 (Modification of waterfront public access area and visual corridor requirements) for Zoning Lot 5b-1 to allow for modification of the location, area, and minimum dimensions of certain of the waterfront public access areas, and to allow for modification of certain of the design and other requirements applicable to the waterfront public access areas. The findings associated with the requested modifications are discussed in the Statement of Findings for the requested authorizations.

With the exception of the elements for which a modification is being requested under Section 62-822, and as documented in Drawings L-101.00 through L-104.00 and shown in Drawings L-110.00 through L-302.00, the waterfront public access areas will comply with the requirements of Sections 62-50 and 62-60, as modified by Section 62-90, for waterfront public access areas. Overall, Zoning Lot 5b-1 will contain approximately 28,353 square feet of waterfront public access area; this is approximately 16,707 square feet more than the amount required under the Zoning Resolution for Zoning Lot 5b-1. It is expected that the waterfront access areas being provided on Zoning Lot 5b-1 will also satisfy the approximately 2,343 square feet of waterfront access that will be required in the future in connection with the development of Zoning Lot 5b-2.

Visual Corridors. As shown in Drawing L-001.00, a 60-foot wide visual corridor will be located on Zoning Lot 5b-1, extending from the terminus of Dupont Street, in compliance with the requirements of Sections 62-511 and 62-931(e)(3) (the “Dupont Street Visual Corridor”). While the width of the Dupont Street Visual Corridor will comply with the requirements of 62-512 (Dimensions of visual corridors), the applicant is requesting an authorization under Zoning Resolution Section 62-822(a) to adjust to the lowest level of the visual corridor required under Section 62-512 to allow for the grade to be raised to a maximum elevation of 13 feet at its high point in order to respond to flood protection and storm surge concerns as well as high water table conditions.

A certification pursuant to paragraphs (b) or (c) of this Section shall be granted on condition that an acceptable restrictive declaration is executed and filed pursuant to Section 62-74 (Requirements for Recordation).

A restrictive declaration will be executed prior to certification under Section 62-811 and will be recorded against the subject property pursuant to Section 62-74.

Authorization under ZR Section 62-822(a) for Zoning Lot 5b-1 regarding waterfront public access and visual corridors

62-822

Modification of waterfront public access area and visual corridor requirements

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

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

As noted in the Project Description, the following modifications to the location, area, and minimum dimension requirements are being proposed:

- Raise the level of portions of the waterfront yards from the existing condition, contrary to ZR 62-332;
- Adjust the grades of visual corridors to increase the elevation from existing conditions, contrary to ZR 62-512; and
- Allow for wider portions of Supplemental Public Access Area (width to depth ratio greater than 3:1), contrary to ZR 62-571(a)(1).

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

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

The proposed modifications to the location of waterfront public access areas and visual corridors will comply with minimum dimension and required total area in the aggregate. Overall, Zoning Lot 5b-1 will have 28,353 square feet of waterfront public access area, well in excess of the 11,646 square feet required. The shore public walkway will have a 40-foot width throughout as required by zoning, and the Dupont Street extension visual corridor and upland connection will preserve a 60-foot width along its entire length.

The modifications to the supplemental public access areas are caused by the unique geometry of the site and the nature of the supplemental area being provided. By providing the supplemental access area along the shore public walkway as allowed by zoning, the ratio of width to depth cannot be complied with due to the narrowness of the lot. While the supplemental areas along the shore public walkway generally comply with the minimum dimension of 10 feet, there are minor departures from this requirement to allow for social alcove seating of fixed benches and tables.

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

The principal modifications being requested relate to the grades of the yards and the visual corridors. Under existing conditions, the shoreline elevations for Zoning Lot 5b-1 generally range from elevation 5.5’ to 8.0’, and the elevation at the intersection of Commercial Street and Dupont Street at approximately 9.0’. FEMA’s recently issued advisory 100-year flood maps have increased the projected 100-year flood elevation to a range between 11.0’ and 12.0’, and with wave and surge action the potential for flooding is several feet higher. In addition, most of the Development Site has a high water table, at roughly

elevation 4.0’ to 5.0’. In order to provide protection from potential storm conditions both for the project and the upland community, and in order to allow for uses such as parking and mechanical space to be located below grade, the Greenpoint Landing Project generally has a first floor elevation of 16.0’. As part of the flood protection system, it is proposed to increase the grade along the Dupont Street Visual Corridor so that it meets the street elevation and shore public walkway elevations at roughly elevations 8.0’ and 8.5’ with a high point along the visual corridor at elevation 13.0’. The changes on grade along the Dupont Street Visual Corridor would be gradual, generally less than 3%, would not interfere with access to the waterfront, and would continue to allow for views to the waterfront. Moreover, the change in grade would allow for a better visual relationship to the adjoining buildings, as the grade change allows for the Dupont Street Visual Corridor (which is also an Upland Connection) to be at a similar grade as the ground floor of the buildings, rather than at a point that is several feet below the first story.

The changes in elevation along the waterfront yard are necessary to implement the system of tiered walkways being proposed and to ensure that there is a least one pathway that is above the 100-year floor plain at all times. Furthermore, the proximity of each waterfront access area to the water or to the upland streets is not being changed, allowing for equivalent use and enjoyment of the waterfront and views.

- (2) In the event the Commission determines that there is no feasible way to provide equal alternative #waterfront public access areas# either on the #zoning lot# or offsite on an adjoining public property or to provide equal alternative #visual corridors#, the Commission may authorize a reduction in minimum dimensions or area, or may waive such requirements, provided that:**
- (i) such #development# would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing #buildings or other structures# or elements having environmental, historic or aesthetic value to the public; and**
 - (ii) that the reduction or waiver of requirements is the minimum necessary.**

No reduction in the overall amount of waterfront public access area is being proposed. Therefore this finding is inapplicable.

Authorization under ZR Section 62-822(b) for Zoning Lot 5b-1 regarding waterfront public access area requirements

62-822

Modification of waterfront public access area and visual corridor requirements

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

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

As indicated in the Project Description, the following changes to the design requirements of Section 62-60 and 62-90 are requested:

- Portions of supplemental public access area without a dedicated path, contrary to ZR 62-62(a)(2);
- Reduction of required planting areas to 33% of the total shore public walkway area and supplemental public access area, contrary to ZR 62-62(c)(1) of 50%;
- Allowing for screening buffers with widths less than 10 feet, contrary to ZR 62-62(c)(2)(ii);
- Allowing for wall heights in excess of 21 inches, contrary to ZR 62-651(c)(3), and allowing retaining walls with longest continuous edge within 6” of adjacent grade level less than 40% (i.e., 18%) of perimeter planting area, contrary to ZR 62-655(a) and greater than 60% (i.e., 74%) of perimeter planting area is retaining wall, contrary to ZR 62-655(a); and
- Allowing guardrail and seating details that do not follow the WAP design reference standards, contrary to ZR 62-931(c).

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

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

Several of the proposed modifications to Sections 62-60 and 62-90 are a result of modifications proposed pursuant to paragraph (a). In particular, the changes in elevation proposed in the waterfront yards and the Dupont Street extension visual corridor to address flooding and storm surge concerns require modifications to (i) the overall percentage of planted areas, (ii) maximum wall heights, and (iii) guardrail design.

In order to mediate the changes in grade between the existing shoreline, the 100-year flood elevation, and the maximum site and ground floor building elevations being established to address storm surges, the proposal creates a terraced shore public walkway with one walkway at the shoreline and a secondary garden walkway above the 100-year floor plain, with a series of switchbacks and connections joining the two walkways. Because of the variety of pathways throughout the shore public walkway, and the creation of a secondary garden walkway that is raised fully above the 100-year flood elevation, the amount of planting within the shore public walkway and supplemental access areas is 33% of the total area, rather than the 50% required by zoning. Similarly, in order to provide landscaped areas between the two shore public walkway paths and in order to address the change in elevation between the upper shore public walkway and private development landward of the shore public walkway, wall heights in excess of 21” (contrary to ZR 62-651(c)(3)), and more retaining walls higher than 6” above the adjacent grade level planting area than allowed by zoning and 74% rather than 60% of the perimeter planting area is retaining wall (contrary to ZR 62-655(a)) are required as part of the terrace design and soil retention system. Finally, by straightening the profile of the guardrail, the lower pathway along the shoreline will provide a greater amount of waterfront public access area that will also be less constricted and allow for the use of that pathway to be optimized.

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

The overall package of proposed modifications would result in a design that is functionally equivalent or superior to what would occur if zoning controls were applied in all respects. The changes in elevation of the waterfront yards and the visual corridors provide an innovative approach to addressing flood and storm surge concerns that would not be addressed through strict adherence to the applicable zoning provisions. The changes to the design standards discussed in paragraph (1) above help promote this superior approach to the waterfront and allow for the creation of multiple experiences for the public in the waterfront access area. The shore public walkway would provide a more social experience where the public could enjoy the water while interacting with others using the social seating alcoves. The secondary garden walkway provides a more pedestrian focused experience in a lushly planted environment. In addition:

- a) The elimination of clear path requirements for supplemental public access areas allow for the provision of the two walkways – the shore public walkway and the garden walkway to provide the public with two different waterfront experiences.
- b) Walls with heights in excess of 21” would be located between the waterfront public access areas and the buildings are needed as part of the terrace design system and for soil retention. These walls would provide a continuation of the lush vegetative design of the garden pathway through the addition on the walls of cable trellis with vines and a thick buffer of additional trees and shrubbery, at least 50% of which will be evergreens, planted adjacent to the walls. The walls also allow for the introduction of an additional buffer of private green space which has the result of pushing the residential buildings further away from the water’s edge and the public access areas, resulting in a superior design than one that would locate the residential buildings closer to the water’s edge.
- c) The reduction in the percentage of longest continuous edge of retaining wall within 6” of the adjacent grade of the planting areas allows for the inclusion of curbs and walls to separate the planting areas and the walkway surfaces in accordance with Department of Parks and Recreation requirements to prevent accidental damage to the planting areas and improved maintenance of the planting areas.
- d) While the screening buffers are less than 10 feet in certain locations, all of the private buildings are set away from the shore public walkway substantially more than the 10 feet required, with an additional private terrace level at approximate elevation 16’ helping to provide the transition to the building grade. Therefore, the intent of the buffer is achieved by the design.
- e) The proposed changes to seating details will respond to the unique terracing system by incorporating the design of the shore public walkway seating into the retaining walls and planting areas.

Overall the proposed modifications contribute to an inviting, unique, environmentally sensitive waterfront public access area that will provide a superior design.

Certification under ZR Section 62-811 for Zoning Lot 5d regarding waterfront public access and visual corridors

62-811

Waterfront public access and visual corridors

No excavation or building permit shall be issued for any #development# on a waterfront #block#, or any other #block# included in a Waterfront Access plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

(a) There is no waterfront public access area or visual corridor requirement for the zoning lot containing such development due to the following:

(1) the development is exempt pursuant to Sections 62-52 (Applicability of Waterfront Public Access Area requirements) or 62-51 (Applicability of Visual Corridor requirements); or

(2) the waterfront public access area or visual corridor requirement has been waived pursuant to Section 62-90 (WATERFRONT ACCESS PLANS);

Waterfront Public Access Areas. Parcel 5d of Waterfront Access Plan BK-1 (Zoning Lot 5d) is located on the east side of Commercial Street between Eagle Street and Dupont Street, and does not include any shoreline. Under Section 62-52 of the Zoning Resolution (Applicability of Waterfront Public Access Area Requirements), waterfront public access is required, with certain exceptions, on zoning lots having a lot area of at least 10,000 square feet and a shoreline of at least 100 feet. Because Zoning Lot 5d does not have any shoreline, waterfront access areas are not required.

It should be noted that under Section 62-931(d) (Waterfront Access Plan BK-1: Greenpoint-Williamsburg), the lot area of Parcel 5d will be included with the lot area of Parcel 5c for purposes of determining the amount of supplemental public access area required on Parcel 5c.

Visual Corridors. Under Section 62-51 of the Zoning Resolution (Applicability of Visual Corridor Requirements), visual corridors are required seaward of the first upland street. Because Zoning Lot 5d is landward of West Street, no visual corridor is required for Zoning Lot 5d.