Discussion of Conditions
ZR 74-966 Special Permit to Increase Floor Area in Industrial Business Incentive Areas
20 Berry Street (Block 2283, Lots 25, 28, 31, 33, 35, 38, 41 and 43)
Borough of Brooklyn
February 7, 2024

74-965
Conditions

In Industrial Business Incentive Areas, applications for #floor area# increases pursuant to Section 74-963 (Permitted floor area increase) and modifications pursuant to Section 74-964 (Modifications in conjunction with a floor area increase), are subject to the following conditions:

(a) Minimum amount of #required industrial uses#
#Required industrial uses# shall occupy a minimum of 5,000 square feet of horizontally contiguous #floor area# of 5,000 square feet in Industrial Business Area 1, and 2,500 square feet in Industrial Business Incentive Area 2, and shall be served by loading areas and freight elevators with sufficient capacity.

The Development Site is located in Industrial Business Area 1. The Applicant is proposing a 10-story mixed commercial and industrial building (the "Proposed Building"). All of the Required Industrial Uses, totaling 32,000 zoning square feet ("zsf"), will be located on the second floor (23,786 zsf) and third floor (8,215 zsf) of the Proposed Building. This complies with the requirement for a minimum horizontally contiguous area of 5,000 zsf for such uses. It is anticipated that the second and third floors will be broken down into multiple smaller spaces for tenants averaging from 5,000 to 12,000 zsf.

There will be two enclosed loading berths and a loading platform within the Proposed Building. Both loading berths will be 12'-0" wide and 14'-0" tall; one will be 50'-0" deep and the other will be 33'-0" deep. These loading berths will be sufficient to handle the combined loading requirements of the manufacturing operations and other proposed uses. The types of trucks anticipated to make deliveries to the Proposed Building are single-unit box trucks which are typically 30'-0" long and vans which are typically 18'-0" long.

The loading berths will be accessed by a curb cut along North 13th Street. The curb cut will be 47'-6" wide excluding splays and 52'-6" wide including splays and will be approximately 148' from the intersection with Berry Street. This curb cut will also serve the vehicular ingress/egress for the parking in the cellar levels.

The loading area will have two Class A freight elevators, both of which will provide direct access to the Required Industrial Uses. One freight elevator will run between the cellar and the second floor, and the other elevator will run between the ground floor and the 10th floor. The capacity of these freight elevators is approximately 6,000 lbs. each and will be sufficient to meet the needs of the industrial uses on the second and third floors.

(b) Minimum sidewalk width
In all Industrial Business Incentive Areas, all #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times.

Currently, the Development Site has a 15'-4" sidewalk along North 12th Street, a 12'-5" wide sidewalk along Berry Street, and a 12'-10" wide sidewalk along North 13th Street. The Proposed Building will set back 2'-7" from the street line along Berry Street and 2'-2" from the street line along North 13th Street, providing a 15'-0" clear sidewalk around all three sides of the Proposed Development. The areas of sidewalk widening will be incorporated into the Builder's Pavement Plan, be level with the rest of the sidewalk beyond the street line and any adjoining public sidewalks, and be accessible to the public at all times.

(c) Yards

In all Industrial Business Incentive Areas, the #rear yard# regulations set forth in Section 43-20 (YARD REGULATIONS), inclusive, shall not apply to any #development# or #enlargement# on a #through lot# or the #through lot# portion of a #zoning lot#.

The Development Site occupies the eastern half of the block and is comprised of two corner lot portions and a through lot portion. No rear yard is required on corner lot portions or portions of zoning lots within 100'-0" of intersecting bounding streets. There are no rear yard requirements for the through lot portion pursuant to this Section. The Proposed Building will not provide any yards; however, there will be publicly accessible open space as discussed below. The open space will divide the Proposed Building into two portions: the 10-story "L-shaped" majority of the building (the "Main Building") and the two-story free-standing retail pavilion (the "Corner Building").

(d) Height and Setback

In Industrial Business Incentive Area 1, the #street wall# location requirements and height and setback regulations of this paragraph shall apply to any #development# or #enlargement#. For the purposes of applying the provisions of this paragraph, any sidewalk widening line provided pursuant to the minimum sidewalk width requirement of paragraph (b) shall be considered the #street line#. All heights shall be measured from the #base plane#.

(1) The #street wall# of any building shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a publicly accessible open space provided pursuant to paragraph (f) of this Section.

The Proposed Building will set back 2'-7" from the street line along Berry Street and 2'-2" along North 13th Street to provide 15'-0" clear sidewalks on all street frontages. These setback lines will serve as street lines for the purposes of height and setback and street wall requirements. The Proposed Building's North 12th Street façade will be located at the street line for 149'-11" (76%) up to a height of 54'-6" for the Main Building and 48'-0" for the Corner Building. The North 13th Street façade will be located at the modified street line for 197'-5" (100%) up to a height of 54'-6" before setback (Main Building only); however, there will be ground floor recesses to accommodate public open areas that reduce the aggregate street wall at the ground floor to 142'-4" (72%). Along the Berry Street façade (the short end of the block), the Proposed Building's façade will be located at the modified street line for 129'-9" (65.6%) up to a height of 54'-6" before setback for the Main Building and up to a height of 40'-0" for the Corner Building; however, there will be ground floor recesses to accommodate public open areas that reduce the aggregate street wall at the ground floor to 69'-11" (35%). This is permitted because the Berry Street frontage is the only street frontage with publicly accessible open area pursuant to paragraph (f) of this Section (the "Public Plaza Area").

(2) The height of a #building or other structure#, or portion thereof, located within 10 feet of a #wide street# or within 15 feet of a #narrow street#, shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section 43-42 shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. Where a publicly accessible open space is provided pursuant to paragraph (f) of this Section, such maximum #building# height may be increased to 135 feet.

All of the bounding streets are narrow streets. Along all three street frontages, the Main Building will rise to a height of 54'-6" before providing a 15'-0" setback. Above these setbacks, the Main Building will rise to a maximum height of 135'-0" (excluding the bulkhead), which is permitted for developments providing

publicly accessible open space. The Corner Building will rise to 48'-0" and, therefore, setbacks are not required.

(3) Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a publicly accessible open space provided pursuant to paragraph (f) of this Section, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum building height.

Along Berry Street (the short end of the block), the Proposed Building façade will set back from the street line for 68'-1" (34.41%) to allow for a Public Plaza Area, leaving 129'-9" (65.6%) of the Berry Street façade located at the street line. However, there will be ground floor recesses of the Public Plaza Area that reduce the ground floor width at the street line to 69'-11" (35%). This is permitted because the Berry Street frontage is the street frontage with a Public Plaza Area. The Main Building will rise to a height of 54'-6" before providing a 15'-0" setback and the Corner Building will rise to a height of 48'.

(e) Ground floor design

In all Industrial Business Incentive Areas the ground floor level #street walls#, and ground floor level walls fronting on a publicly accessible open space of a #development# or horizontal #enlargement# provided pursuant to paragraph (f) of this Section, shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements). The ground floor transparency requirements of this paragraph (e) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, provided that any portion of the #ground floor level street wall# without transparency shall be subject to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds), and any #street wall# exceeding the particular thresholds set forth in such Section shall provide visual mitigation elements in accordance with the provisions of paragraph (a) or (b)(1) of Section 37-362 (Mitigation elements).

The Proposed Building will have 149'-11" of ground floor frontage on North 12th Street, 69'-11" of frontage on Berry Street, 142'-4" of frontage on North 13th Street, approximately 114'-9" of frontage along the edges of the Public Plaza Area, and approximately 359'-8" of frontage along the edges of non-bonused open areas (the "Non-Bonused Open Area"). Most of the ground floor uses abutting such walls will be commercial retail. The ground floor ceiling will be 16'-4" above adjoining grade. From 2' to the level of the ground floor ceiling, the street walls will be comprised of transparent glazing of 65%, 82%, 58%, 36% (average) and 36% (average), respectively. Approximately 49'-0" of the North 13th Street frontage will be exempt from this requirement because it abuts the parking, loading, and service entrances for the Proposed Building. Other façade areas will be exempt because they will open onto the Non-Bonused Open Area. All other portions that will not have transparent glazing will comply with the surface treatment mitigation requirements listed in ZR 37-362(a), including surface texture (sawtooth brick texture projecting at least 1 inch from remaining wall surface); these portions of the Public Plaza Area and the Non-Bonused Open Area are a total of 59'-3" and 28'-3" in width, respectively.

(f) Publicly accessible open space

In Industrial Business Incentive Area 1, a publicly accessible open space shall be provided where the additional #building# height provision of paragraph (d)(2) of this Section is used. Such publicly accessible open space shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and a minimum of at least 2,000 square feet in area. In addition, such publicly accessible open space shall comply with the provisions set forth in Section 37-70 (Public Plazas), inclusive, except that certification requirements of Section 37-73 (Kiosks and Open Air Cafes) and 37-78 (Compliance) shall not apply.

The Proposed Development will include publicly accessible open space, as described below, and the Proposed Building will rise to a maximum building height of 135'-0" as permitted in paragraph (d)(2) above. The publicly accessible open area will be comprised of two parts: the Public Plaza Area and the Non-Bonused Open Area. The Public Plaza Area will be 4,800 square feet, equal to 12% of the Development Site, and will comply with ZR 37-70 (Public Plazas) unless otherwise noted. Waivers may be approved by the City Planning Commission in conjunction with the floor area increase under this special

permit. The Non-Bonused Open Area will be accessible to the public and will be designed to achieve compliance with Section 37-70 (Public Plazas) to the extent possible, even though such compliance is not mandatory.

Area dimensions
The proposed Public Plaza Area is 4,800 square feet, greater than the minimum requirement of 2,000 square feet, and is therefore compliant.

Locational restrictions
The underlying plaza regulations do not permit new publicly accessible open areas within 175'-0" of existing publicly accessible open areas or public parks. The Development Site is directly across from McCarren Park (35 acres), a public park that is 60'-0" away across Berry Street. The Applicant is seeking a waiver of Section 37-713 (Locational restrictions) pursuant to Section 74-96 to permit the Public Plaza Area to be located within 175'-0" of a public park.

Restrictions on orientation
The underlying plaza regulations do not permit a publicly accessible open space with only one street frontage to be "north-facing." In addition, the regulations do not permit a "west-facing" or "east-facing" plaza when a zoning lot has "south-facing" street frontage in excess of 40'-0". The Development Site has approximately 200 linear feet ("lf") of frontage in the north, east, and south directions. The proposed Public Plaza Area will be located in the middle of the Development Site and front on Berry Street. It will, therefore, be "east-facing." The Applicant is seeking a waiver of Section 37-714 (Restrictions on orientation) pursuant to Section 74-96 to permit this "east-facing" Public Plaza Area.

Requirements for major portions of public plazas
The underlying plaza regulations set forth design criteria for major portions of public plazas. The Proposed Development's Public Plaza Area will be 68'-1" in width and 68'-6" to 72'-8" in depth. It will therefore be greater than 40'-0" in depth and have a width of less than three times the depth, in compliance with the dimensional restrictions for a major plaza portion. All points of the Public Plaza Area will be visible from the street it fronts (Berry Street) and are therefore compliant.

Requirements for minor portions of public plazas
Not applicable. The Public Plaza Area will not have a minor portion.

Regulations for through block public plazas
Not applicable. The Public Plaza Area will function as an "interior plaza."

Paving
The underlying plaza regulations require that the plaza paving shall be non-skid and of durable material. The proposed Public Plaza Area will have two main pavement types: a light-colored pavement at the areas of general circulation; and a dark colored pavement at all other walkable and seating areas. All paving will be of concrete brick paver material or shotcrete paver material and will be non-skid and durable, and therefore compliant.

Sidewalk frontage
The underlying plaza regulations require that, within 15'-0" of the street line, the plaza must be free of obstructions for at least 50% of such area. In addition, unobstructed access must be at least 5'-0" in width with at least one access path at least 8'-0" in width. Limited obstructions are permitted. 37'-1" (54.47%) of the Public Plaza Area frontage along Berry Street will be unobstructed and all access paths within this open area will be at least 8'-0" in width, and are therefore compliant.

Level of plaza
The underlying plaza regulations require that the level of a plaza be the same elevation as the adjoining sidewalk, or within 2'-0" above the average curb level of the zoning lot. The average curb level of the Berry Street sidewalk is 16' NAVD88. The lowest elevation of the Public Plaza Area will be 15.65' NAVD88 and the highest will be 16.95' NAVD88. The Public Plaza Area will be generally flat with a minor slope (no more than 2.5%) and is therefore compliant.

Circulation paths
The underlying plaza regulations require a circulation path of at least 8'-0" to extend into a plaza area for at least 80% of its depth. The proposed Public Plaza Area will provide an unobstructed 8'-0" wide circulation path with a depth of 72'-8", the full depth of the Public Plaza Area, and is therefore compliant.

Subway entrances
Not applicable.

Steps
Not applicable.

Permitted obstructions
The underlying plaza regulations permit certain obstructions, including but not limited to water features, sculptures/art work, seating, trees, planters, planting beds, lawns, arbors or trellises, litter receptacles, bicycle racks, tables and other outdoor furniture, lights, public telephones, public restrooms, temporary exhibitions, awnings and canopies, signs, play equipment, kiosks and open air cafes, and drinking fountains. For plazas of less than 10,000 square feet, up to 40% of the plaza may be obstructed. The proposed Public Plaza Area will be 4,800 square feet in size and will include permitted obstructions consisting of seating, trees, planters, planting beds, rock gardens, litter receptacles, bicycle racks, moveable tables and chairs, lights, signs, a drinking fountain, and an awning. The aggregate obstructed area will be 1,868.46 square feet, equal to 38.93% of the Public Plaza Area, and is therefore compliant.

Hours of access
The underlying plaza regulations require that plazas be accessible to the public 24 hours a day, seven days a week. The proposed Public Plaza Area will be open to the public 24 hours a day, seven days a week and is therefore compliant. In addition, the Non-Bonused Open Space and the sidewalk widening along North 13th Street and Berry Street will also be open to the public 24 hours a day, seven days a week.

Standards of accessibility for persons with disabilities
The underlying plaza regulations require that plazas comply with the applicable provisions of the Americans with Disabilities Act ("ADA"). The proposed Public Plaza Area is predominantly level, or close to level, with the adjoining sidewalk, with slight pitches of grade to permit adequate drainage. The slopes of the paving material will be less than 2.5% and, therefore, comply with the applicable ADA regulations.

Kiosks and Open Air Cafes
No kiosks or open air cafes are proposed. Therefore, this provision is not applicable.

Seating
The underlying plaza regulations require at least one lf of seating for every 30 square feet of plaza area. At least one lf of seating shall be provided within 15' of the street line for each two lf of plaza street frontage, with at least 50% of such seating having backs. At least half of the required seating with backs shall face the street.

The Public Plaza Area totals 4,800 square feet and has 68'-1" of frontage. This requires 160 lf of seating, of which at least 34 lf shall be located within 15' of the street line, at least 17 lf shall be provided with backs, and 8.5 lf with backs shall face the street.

The proposed Public Plaza Area will provide 188.3 lf of seating, with 40.42 lf located within 15' of Berry Street. A total of 19.67 lf of such seating will have backs and 9.83 lf of such seating with backs will face Berry Street. Therefore, the proposed seating is compliant.

Planting and trees
The underlying plaza regulations require at least 20% of a plaza to be comprised of planting beds with a minimum dimension of 2'-0" and a minimum depth of 1'-6" (for ground cover) or 3'-0" (for

shrubs). All plazas under 6,000 square feet shall provide at least four trees with a minimum caliper of 4", half of which shall be flush-to-grade. Each tree shall be planted in at least 200 cubic feet ("cf") of soil with a depth of at least 3'-6". All planting areas shall be irrigated.

The Public Plaza Area will contain 961 square feet of planted area, equal to 20.02% of such Public Plaza Area. Eight trees (four required and four additional) of 4" caliper will be planted, with two of the required trees planted flush-to-grade and six trees located in raised planting beds. All soil volume and depth requirements will be met. Therefore, the proposed plantings and trees are compliant.

Lighting and electrical power

The underlying plaza regulations require at least two foot-candles of illumination on all walkable and seating areas of a plaza, 0.5 foot-candles in all other locations, and 1,200 watts of power for every 4,000 square feet of plaza area. The Public Plaza Area will provide a minimum of 2.0 foot-candles of illumination in all circulation and seating areas. All other areas will have at least 0.5 foot-candles of illumination. In addition, a total of 1,461 watts will be provided in equally dispersed, exterior grade electrical outlets. Therefore, the proposed lighting and electrical power are compliant.

Litter receptacles

The underlying plaza regulations require at least one litter receptacle for every 1,500 square feet of plaza area. The Public Plaza Area of 4,800 square feet requires four trash receptacles and four trash receptacles will be provided. Therefore, the proposed trash receptacles are compliant.

Bicycle parking

The underlying plaza regulations require at least two bicycle parking spaces for every plaza under 10,000 square feet. The proposed Public Plaza Area will provide two bicycle parking spaces and is therefore compliant.

Drinking fountains

The underlying plaza regulations require at least one drinking fountain per plaza. The Public Plaza Area will provide a drinking fountain and is therefore compliant.

Public space signage and signage

Industrial Business Incentive Areas have specific requirements regarding signage that modify the general signage requirements for plazas. Therefore, this section is inapplicable. See paragraph (g) below.

In addition, entry and information plaques are required. Entry plaques must be located at every plaza entrance and per every 40 lf of street frontage, and one information plaque is required. The Public Plaza Area will have three entry plaques and one information plaque. There will be one entry plaque along Berry St., one along the entrance from the western Non-Bonused Open Area and one along the entrance from the eastern Non-Bonused Open Area. The information plaque is next to the entry plaque on Berry St. Therefore, the proposed signage is compliant.

Additional amenities

The underlying plaza regulations require plazas over 5,000 square feet to provide amenities in addition to those required above. The proposed Public Plaza Area will be only 4,800 square feet; therefore, additional amenities are not required.

Ground Floor Level Uses

At least 50% of the total frontage of walls fronting on a plaza shall be allocated to ground floor retail establishments. Such uses shall be directly accessible from the plaza, or a street frontage shared by the establishment and the plaza, and have a minimum depth of 15 feet. 100% of the plaza walls are dedicated to retail uses that are at least 15' in depth and are accessible from the plaza or a street frontage shared by the establishment and the plaza. These retail frontages are therefore compliant.

Public entrances

A public entrance to the principal use of the building shall be located within 10 feet of the major portion of the public plaza. Building entrances or lobbies shall not occupy less than 20 feet of frontage on the public plaza. The Applicant is seeking a waiver of Section 37-76(b) (Public entrances) pursuant to Section 74-96 to allow the entrance to the principal use of the building to be located more than 10 feet from the Public Plaza Area and to allow the building entrance and lobby to occupy less than 20 feet of the frontage of the Public Plaza Area. The proposed lobby is located 57 feet from the Public Plaza Area, and is proposed along the Non-Bonused Open Area. This modification will allow retail uses to front on the plaza and thus encourage public use of the plaza.

Transparency

The transparency requirements of Section 37-76(c) are not applicable because the area requirements of Section 74-965(e) are more stringent. The Public Plaza Area will provide the required transparent glazing for all applicable ground floor walls facing the Public Plaza Area and is therefore compliant.

Maintenance

The underlying plaza regulations provide that the building owner shall be responsible for the maintenance of plazas, including but not limited to the location of permitted obstructions, litter control, management of pigeons and rodents, required lighting levels, and the care and replacement of furnishings and vegetation within the zoning lot. The building owner will comply with these requirements, with a maintenance protocol to be included in a restrictive declaration.

(g) Signs

In all Industrial Business Incentive Areas, the following shall apply:

(1) #Signs# shall be subject to the regulations applicable in C6-4 Districts as set forth in Section 32-60 (Sign Regulations), inclusive. Information #signs# provided pursuant to paragraph (g)(2) of this Section shall not count towards the maximum permitted #surface area# regulations of Section 32-64 (Surface Area and Illumination Provisions), inclusive.

All signage will comply with C6-4 District signage regulations.

(2) An information #sign# shall be provided for all #buildings# subject to the #use# restrictions of this special permit. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building#. The #sign# shall be placed so that it is directly visible, without any obstructions, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the following statement in lettering no less than one-half of an inch in height, "This building is subject to Industrial Business Incentive Area regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include the internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (b) of Section 74-967 (Compliance, recordation and reporting requirements) is available to the public.

The Proposed Development will provide an information sign at the primary entrance to the Main Building, which fronts on the Non-Bonused Open Area closest to North 13th Street. Such sign will be mounted on the exterior building wall directly adjacent to such entrance, to the east. The sign will be directly visible to persons entering the building and will be at 4 feet above the adjoining grade. Such sign will be no less than 12 inches by 12 inches in size, fully opaque, non-reflective, and constructed of permanent, highly durable materials. The sign will contain the name and address of the building, the required statement listed above, and the internet URL where the information required in paragraph (b) of Section 74-967 is available to the public.