197 Berry St. Rezoning
Project Description (LR Item 3)

197 Berry Street
Brooklyn, New York

August 31, 2023

1. Introduction

The applicant, Bensing 250 LLC (the "Applicant"), is seeking approval of a zoning map amendment to facilitate a reduction in size of an accessory parking garage located within the existing building (the "Existing Building") at 197 Berry Street (Block 2351, Lots 1001-1088, f/k/a Lot 1) in Community District 1 of Brooklyn (the "Development Site"). The Development Site is a single zoning lot and is currently located in an M1-2/R6B district and in Special Mixed Use District (MX-8). The proposed zoning map amendment would rezone the southern half of the Development Site's block (the "Project Area"), which contains a substantial portion of the Development Site, from the existing M1-2/R6B(MX-8) district to an M1-4/R6B(MX-8) district. The proposed rezoning would not change the use or bulk regulations applicable to the Development Site.

The Existing Building, which was developed in 2010, is a three- to five-story mixed-use building with three cellar levels. It contains Use Group 2 residential uses, Use Group 6 retail uses, a Use Group 9 physical culture establishment, and a below-grade accessory parking garage. The proposed rezoning would eliminate the accessory parking requirement applicable to the commercial uses in the Existing Building, allowing the garage to be reduced in size from 142 required parking spaces to 42 required parking spaces. The Applicant intends to convert the portion of the garage containing the 100 eliminated spaces to a below-grade Use Group 16 self-service storage establishment, which is an allowable use under both the regulations of the existing M1-2/R6B(MX-8) and the regulations of the proposed M1-4/R6B(MX-8) district.

2. Background

A. The Greenpoint-Williamsburg Rezoning

The Williamsburg neighborhood within which the Project Area is located first developed more than 100 years ago, during a period of great industrial growth in Brooklyn, when the East River waterfront was dominated by factories, oil refineries, and shipyards. The upland neighborhoods adjoining the waterfront provided housing for workers, establishing a pattern of a mix of residential and industrial uses in these areas that still exists today. Over the years, the neighborhood grew and adapted to changing economic conditions, with new generations of businesses, entrepreneurs, artisans, and residents populating the area. Beginning in the 1990s, Williamsburg gained wide recognition as an accommodating place to live and work and as a burgeoning cultural center.

In 2005, the City Planning Commission ("CPC") and City Council approved a Department of City Planning-sponsored zoning map amendment and zoning text amendment, known collectively as the Greenpoint-Williamsburg Rezoning, which rezoned a two-mile-long portion of Brooklyn's East River waterfront and adjoining upland areas from primarily manufacturing and outdated mixed-use districts to residential and updated mixed-use districts (C 050111(A) ZMK and N 050110(A) ZRK). The rezoned area comprised 184 blocks in the Williamsburg and Greenpoint neighborhoods of Brooklyn, including the Development Site. The Greenpoint-Williamsburg Rezoning was advanced partly in response to the Greenpoint and Williamsburg Waterfront 197-a plans, which were sponsored by Brooklyn Community Board 1 and officially adopted in 2002 after over a decade of collaboration with the Department of City Planning.

One of the primary objectives of the Greenpoint-Williamsburg Rezoning was to promote a mix of light industrial, commercial, and residential uses in the upland portion of the rezoned area. To that end, portions of then-existing M3-1, M1-1, M1-2, C8-1, C8-2, R6, and R6/C1-3 districts and the Franklin Street and Northside Special Mixed Use Districts were replaced with residential districts, commercial overlay districts, and an expanded Special Mixed Use District. The Special Mixed Use District (MX-8) was intended to facilitate the development of new housing, the revitalization of vacant and underutilized land, and the continued development of mixed-use buildings. It was mapped with underlying contextual residential districts, each paired with a manufacturing district, to ensure that building envelopes would remain appropriate to the surrounding area. The zoning text amendment adopted as part of the Greenpoint-Williamsburg Rezoning also included special Inclusionary Housing regulations, applicable to the Development Site and other portions of the rezoned area, that were designed to promote affordable housing in the rezoned area.

The specific impact of the Greenpoint-Williamsburg Rezoning on the Development Site and Project Area was to rezone them from an M1-2 district to today's M1-2/R6B(MX-8) district, and to make the Inclusionary Housing bonus available to residential development. The Existing Building, which is described in greater detail below, was developed pursuant to the regulations of the rezoned M1-2/R6B(MX-8) district, and its mix of uses and contextual envelope reflect the planning policies underlying the action.

The Development Site was made subject to an (E) designation (E-138), relating to underground gasoline storage tank testing protocol, in connection with the Greenpoint-Williamsburg Rezoning. The New York City Office of Environmental Remediation issued a notice of satisfaction on October 16, 2009 (OER Project No. 10EHAZ055K), in connection with the development of the Existing Building, indicating that the requirements of the (E) designation had been satisfied.

B. BSA Special Permit

The Development Site is the subject of a special permit by the Board of Standards and Appeals ("BSA"), granted on July 10, 2012, under Cal. No. 20-12-BZ, which allowed a

physical culture establishment on the first floor and subcellar of the Existing Building. The physical culture establishment remains an existing use in the building today.

On December 9, 2021, a text amendment to the Zoning Resolution was adopted which eliminated the special permit requirement for physical culture and health establishments and replaced the defined term of "physical culture or health establishment" with a new term, "health and fitness establishment" (N 210382 ZRY). As a result of the text amendment, health and fitness establishments are now allowed on an as-of-right basis in commercial and manufacturing districts throughout the City. Pursuant to Section 12-10 of the Zoning Resolution, physical culture or health establishments existing on December 9, 2021, that were allowed pursuant to a BSA special permit—such as the physical culture establishment in the Existing Building—may continue under the terms and conditions of the special permit or, as an alternative, may continue pursuant to the applicable provisions for health and fitness establishments. *See* ZR § 12-10 (definition of "health and fitness establishments").

3. Description of the Surrounding Area

The Development Site is located in the Williamsburg neighborhood of Brooklyn, in Community District 1, on the block bounded by Berry Street to the west, North 3rd Street to the south, Bedford Avenue to the east, and North 4th Street to the north. Williamsburg is a mixed-use low- to mid-rise neighborhood, with industrial uses and residential development along the waterfront and residences and retail businesses upland.

The predominant land uses within a 600-foot radius of the Development Site are residential and mixed-use commercial and residential, with limited instances of industrial and institutional uses. The residential and mixed-use buildings consist of one- and two-family walkups, multifamily walkups, and multifamily elevator buildings, some with ground-floor retail. One- and two-family buildings and multi-family walkup buildings are typically located along Metropolitan Avenue and to the north of North 4th Street. These buildings generally occupy small, regular lots. Larger multi-unit buildings occupy larger lots, located mostly to the west of Berry Street and to the east of Bedford Avenue. Two of these larger buildings are located on the block directly to the west of the Project Area, across Berry Street. The building at 103 North 3rd Street (Block 2350, Lot 26) is a six-story multi-family elevator building containing 40 dwelling units and ground-floor retail. The building at 85 North 3rd Street (Block 2350, Lots 1001-1072, f/k/a Lot 1) is a six-story multi-family walkup building containing 63 dwelling units and ground-floor retail. The surrounding area also includes two buildings containing affordable housing pursuant to the Inclusionary Housing Program: the building at 658 Driggs Avenue (Block 2366, Lots 1001-1003, f/k/a Lot 21), which contains 3 affordable units, and the building at 94 North 3rd Street (Block 2358, Lots 1301-1305, f/k/a Lot 6), which contains 15 affordable units.

The industrial uses in the surrounding area include a two-story, approximately 44,255-square-foot warehouse building at 100 Metropolitan Avenue (Block 2364, Lot 1) and a four-story factory building at 185 Wythe Avenue (Block 2342, Lot 1). There are two institutional uses to the south of the Project Area, clustered on Metropolitan Avenue between Berry Street and Bedford Street. They consist of Our Lady of Consolation

Church, located at 172 Metropolitan Avenue (Block 2365, Lot 11), and Human Services – Heartshare, a social services organization located at 175 Metropolitan Avenue (Block 2359, Lot 24).

The streets surrounding the Project Area vary in width, with Metropolitan Avenue standing out as a major east-west arterial. Metropolitan Avenue is an 80-foot-wide, two-way street. Bedford Avenue, Berry Street, and North 5th Street are all 60-foot-wide, one-way streets, and North 3rd Street is a 50-foot-wide one-way street. Berry Street contains one moving lane, two parking lanes, and a conventional bike lane. However, it is currently operated as part of the City's Open Streets program, which closes streets to through-traffic daily from 8am to 8pm and allows only local vehicle access for limited use.

The area surrounding the Project Area is well serviced by transit. Options include bus service by the B62 and Q59 lines along Bedford Avenue and along Grand Street. The L subway line has a station at Bedford Avenue and North 7th Street, three blocks from the Project Area. Multiple bikeways serve the surrounding area as well.

There is ample on-street and off-street parking within the surrounding area. As discussed in the Environmental Assessment Statement ("EAS") submitted with this application, studies conducted in March 2020 found (i) within a ¼-mile radius of the Project Area's block, a residual supply of 65 and 216 on-street spaces in the midday and overnight periods, respectively, and (ii) within a 1/3-mile radius of the Project Area's block, a residual supply of 377 and 193 off-street spaces in the midday and overnight periods, respectively. *See* EAS p. A-4.

The Project Area is located in an M1-2/R6B(MX-8) zoning district, which encompasses the Project Area's block and the two blocks directly to the east and northeast. The area to the west of Berry Street, extending to Kent Avenue, is located in an M1-2/R6A(MX-8) district, and another M1-2/R6A(MX-8) district is located to the southeast of the Project Area. The balance of the surrounding area is mapped in contextual residential districts, with an R6B district located to the immediate north of the Project Area and R6A and R6B districts located to the south. Other zoning designations also apply within the surrounding area: the area to the north, west, and east is an Inclusionary Housing designated area, and the surrounding area is generally designated as a Transit Zone.

The regulations of the M1-2/R6B(MX-8) district allow residential uses in Use Groups 1 and 2; community facility uses in Use Groups 3 and 4; commercial uses in Use Groups 6 through 14 and 16, subject to specified limitations; and manufacturing uses in Use Group 17. The basic maximum floor area ratio ("FAR") in the M1-2/R6B(MX-8) district and Inclusionary Housing designated area is 2.0 for commercial and manufacturing uses and 2.0 for residential uses. The residential FAR may be increased to up to 2.2 FAR with the provision of affordable floor area in accordance with the regulations of the Inclusionary Housing Program.

The height and set regulations of the M1-2/R6B(MX-8) district allow, for residential uses, a minimum base height of 30 feet, a maximum base height of 40 feet, and a maximum building height of 50 feet. For buildings containing a "qualifying ground floor" (as defined in Section 12-10 of the Zoning Resolution), the maximum base height is increased to 45 feet and the maximum building height is increased to 55 feet. For commercial, manufacturing, and community facility uses, the applicable height and setback regulations allow a maximum front wall height of 60 feet or 4 stories, whichever is less, and establish a sky exposure plane with a slope of 2.7 to 1 along narrows streets and 5.6 to 1 along wide streets.

The M1-2/R6B(MX-8) district regulations establish accessory off-street parking requirements and accessory off-street loading requirements on a use-by-use basis. For purposes of the accessory off-street parking regulations, the Project Area is within the Transit Zone, as shown in Appendix I of the Zoning Resolution. Accessory parking spaces are required for residential uses in the amount of 50 percent of the total number of residences, except no parking spaces are required for income-restricted housing units. Most general retail or service uses require 1 space per 300 square feet of floor area. Accessory off-street loading berths are required for new retail or service uses in the following amounts: none for the first 8,000 square feet of floor area; one for the next 17,000 square feet of floor area; one for the next 15,000 square feet of floor area; one for the next 20,000 square feet of floor area; one for the next 40,000 square feet of floor area; and one for each additional 150,000 square feet of floor area or fraction thereof. For purposes of calculating the required number of accessory parking spaces and loading berths, space in the cellar of a building that is used for retailing must be included as floor area. ZR § 12-10 (definition of "floor area").

The regulations of the M1-2/R6A(MX-8) are generally the same as those of the M1-2/R6B(MX-8) district, but they allow greater bulk for residential uses. The basic maximum residential FAR is 2.7, bonusable to up to 3.6 with the provision of affordable floor area. Residential buildings are subject to a maximum base height of 60 feet (or 65 feet with a qualifying ground floor) and a maximum building height of 70 feet (or 75 feet with a qualifying ground floor). The R6A and R6B districts in the surrounding area are subject to the same residential bulk regulations as their paired-district counterparts in the Special Mixed Use District, but they do not allow commercial or manufacturing uses.

4. Description of Project Area

The Project Area comprises the southern portion of the block bounded by Berry Street, North 3rd Street, Bedford Avenue, and North 4th Street in Community District 1 of Brooklyn. It extends from Berry Street to the center line of the block, which is approximately 111 feet from the street line, and comprises a total area of approximately 44,400 square feet.

The Project Area contains all of the Development Site except for an approximately 2,206-square-foot, 11-foot-wide portion fronting on Berry Street. The existing conditions on the Development Site are described in greater detail below.

The Project Area also contains a small portion of the property to the north of the Development Site, which is known by street address 193 Berry Street and designated as Lot 6 in Block 2351 ("Lot 6") and which is not controlled by the Applicant. Lot 6 occupies the balance of the Development Site's block and, as shown on the Tax Map, has frontages of 100 feet on Berry Street, 400 feet on North 4th Street, and 137 feet on Bedford Avenue. The portion of Lot 6 located within the Project Area is an approximately 26-foot-wide, 5,181-square-foot area fronting on Bedford Avenue. It comprises approximately 11 percent of Lot 6's total lot area of 47,399 square feet.

Lot 6 is improved with a two-story commercial building containing 92,740 square feet of floor area (1.96 FAR). The building was originally constructed in 1973 as a one-story building with a partial second floor and was enlarged in 2014 with a 30,004-square-foot second-story addition and subcellar addition. The Lot 6 building contains multiple Use Group 6 retail establishments, including a large supermarket, with accessory offices and storage; a physical culture establishment; and a 107-space below-grade accessory parking garage that is operated primarily for the benefit of supermarket visitors. The portion of Lot 6 that is within the Project Area contains part of the physical culture establishment and part of the below-grade parking garage.

5. Description of Development Site

The Development Site is a single zoning lot located on the block bounded by Berry street, North 3rd Street, Bedford Avenue, and North 4th Street in Community District 1 of Brooklyn. As shown on the Tax Map, it has frontages of 122 feet on Berry Street (a narrow street), 400.08 feet on North 3rd Street (a narrow street), and 85 feet on Bedford Street (a narrow street).

The Development Site has a lot area of approximately 41,419 square feet. It is improved with the Existing Building, which was constructed in 2010. The Existing Building contains five above-grade floors and three cellar levels and approximately 82,293 square feet of floor area (2.0 FAR). It is used for Use Group 2 residential uses on the first through fifth floors, with accessory residential uses on the cellar level; Use Group 6 retail uses on the first and second floors and on the first subcellar level; a Use Group 9 physical culture establishment on the first subcellar level; and an accessory parking garage on the second subcellar level. The residential uses in the Existing Building include 84 dwelling units. The parking garage is designed for 142 required accessory parking spaces, consisting of 100 spaces accessory to commercial uses on the Development Site and 42 spaces accessory to residential uses on the Development Site.

The garage in the Existing Building is attended, with current hours of operation of 7 am to 11:30 pm, and is accessed from Berry Street. The Existing Building's frontage on Berry Street contains an approximately 80-foot-deep by 26-foot-wide internal entry area on the ground floor where visitors may drop off their cars with an attendant. Adjacent to this entry area is an accessory off-street loading berth serving the retail uses in the Existing Building. The garage entry area is capable of accommodating five queued cars, if and when necessary. The rear of the entry area contains two car elevators that attendants use to bring cars to and from the subcellar parking area. The garage

contains a total of approximately 28,000 gross square feet, consisting of approximately 2,000 square feet on the ground floor and approximately 26,000 square feet on the second subcellar level.

6. Description of the Proposed Development

The Applicant proposes to reduce the capacity of the accessory parking garage in the Existing Building from 142 parking spaces to 42 parking spaces. The reduction in capacity would allow a portion of the subcellar that is currently dedicated to the garage, totaling approximately 18,000 gross square feet, to be changed to a conforming use. The reduced-size, 42-space parking garage would remain in operation as a required accessory parking facility for residents of the Development Site.

The Applicant's current proposal is that the eliminated parking space on the subcellar level be converted to a Use Group 16 self-service storage establishment, which is an allowable use under both the regulations of the existing M1-2/R6B(MX-8) district and the regulations of the proposed M1-4/R6B(MX-8) district. The proposed self-service storage facility would be operated for short-term use by local residents. The facility would contain approximately 300 closet-size storage units. It is expected that a majority of the units would have a footprint no larger than 6 feet by 6 feet, and that no units would exceed a footprint of 50 square feet. Under the Applicant's current proposal, the breakdown of units in the storage facility would be approximately 13 units sized 4 feet by 4 feet, approximately 85 units sized 4 feet by 5 feet, approximately 65 units sized 4 feet by 6 feet, approximately 65 units sized 4 feet by 7 feet, approximately 51 units sized 4 feet by 9 feet, approximately 11 units sized 4 feet by 12 feet, and approximately 10 units with varied sizes from 4 feet by 6 feet to 5 feet by 10 feet.

The Existing Building's existing 80-foot-by-26-foot entry area would be altered to accommodate entry areas for both the reduced-size parking garage and the self-service storage facility. The designated entry area for the parking garage would be large enough to continue to accommodate five queued cars, if and when necessary. At least one of the existing car elevators would continue to serve the garage, and a passenger elevator would be provided for the proposed storage facility. Carts would be made available to customers to carry items into the passenger elevator and to the below-grade storage area.

The proposed self-service storage facility is not expected to have any adverse impacts on vehicular traffic or on the use of Berry Street as an open street, as discussed in the EAS submitted with this application. Given the small sizes of the proposed storage units and their expected short-time use, it is likely that most users of the proposed self-service storage facility would store relatively small items and travel to the storage facility by foot. Users who choose to drive would be expected to use on-street parking and walk to the storage facility's entrance on Berry Street. *See* EAS p. A-5.

The proposed self-service storage facility is also expected to meet a need of local residents. In a high-density, mixed-use neighborhood, many residents need additional storage space to supplement storage space within their apartments. As described in

the EAS, the only existing storage facilities in the surrounding area are a small facility for storage of travelers' luggage and a "Local Locker Storage" facility, which operates in small spaces, offers approximately 25 storage units per location, and typically operates with a wait list due to its full occupancy. *See* EAS p. A-4. The proposed self-storage facility would satisfy this demand.

7. Action Necessary to Facilitate the Project

The Applicant proposes an amendment to Zoning Section Map 12c to rezone the southern portion of the Development Site's block, extending from Berry Street to the center line of the block, from an M1-2/R6B(MX-8) district to an M1-4/R6B(MX-8) district. The proposed rezoning would facilitate a reduction in the size of the Development Site's existing accessory parking garage, allowing a portion of the garage to be converted to a conforming use.

The proposed rezoning would result in a change in the accessory off-street parking requirement applicable to the existing commercial uses on the Development Site. (Based on the location of the proposed district boundary, the Applicant would be allowed to apply the accessory parking regulations of the proposed M1-4/R6B(MX-8) district to the entire Development Site pursuant to the provisions of Article VII, Chapter 7 (Special Provisions for Zoning Lots Divided by District Boundaries) of the Zoning Resolution.) Under the existing M1-2/R6B(MX-8) district designation, general retail and service uses require 1 accessory parking space per 300 square feet of floor area (inclusive of cellar space used for retailing). Under the proposed M1-4/R6B(MX-8) district designation, these uses would not be subject to an accessory parking requirement. With the change in the accessory parking requirement, the Applicant would be able to reduce the size of the existing parking garage to accommodate 42 parking spaces, rather than the 142 spaces that are required under existing regulations.

The proposed rezoning would not affect the use or bulk regulations applicable to the Project Area. As shown in the zoning comparison table submitted with this application, the Project Area would continue to be subject to the use regulations, maximum FARs, height and setback regulations, and other bulk regulations described in Section 4 (Description of Project Area) above.

The proposed rezoning would bring the accessory parking requirement in the Project Area more in line with existing parking patterns. The accessory parking garage in the Existing Building is significantly underutilized. Approximately 80 spaces on average, out of a total of 142 required spaces, are utilized at any given time, including an average of just 3 to 7 spaces leased by the building's residents in any given month. The monthly spaces are leased at rates that are well below those of competing garages in order to maintain this utilization rate, and the garage operates at a significant loss.[1] The low

[1] The Applicant conducted a survey of 12 parking garages within the area bounded by North 8th Street to the north, the East River to the west, South 3rd Street to the south, and Roebling Street to the east. The average net monthly rate at these garages was $354, as compared to an average net monthly rate of $201 in the Existing Building's garage.

utilization rate is attributable to a number of factors that weigh in favor of a reduced accessory parking requirement. First, the surrounding area contains an ample supply of on- and off-street parking facilities, as described above. Second, the Development Site and surrounding area are well serviced by public transit, as described above, reducing demand for parking within the Existing Building. Third, the garage's two car elevators are the only means by which cars can be brought to or retrieved from the below-grade parking area, and they can each accommodate only one car at a time, resulting in significant wait times for customers; this operational feature further reduces demand.

The proposed rezoning is also consistent with other land use policies that have been implemented in the surrounding area. The area has been designated as a Transit Zone, reflecting an existing policy determination that the accessory parking requirements may be reduced or eliminated in appropriate circumstances without an adverse land use impact. In addition, Berry Street has been operated by the New York City Department of Transportation as an Open Street since 2020, and it is expected to remain an Open Street under the City's recently adopted permanent Open Streets Program. The restriction of vehicular access to Berry Street under this program is consistent with the proposed reduction in accessory parking. Last, the proposed rezoning would not impact the policies underlying the Greenpoint-Williamsburg Rezoning, as it would retain the Project Area's Special Mixed Use District designation, the underlying contextual residential zoning district, and all applicable use and bulk regulations. The Existing Building, which contains a mix of uses and was developed pursuant to the regulations of the Greenpoint-Williamsburg Rezoning, would remain in connection with the proposed action.

8. Conclusion

The proposed rezoning would facilitate a reduction in the garage's capacity and the conversion of a portion of the garage to a conforming use, such as the Use Group 16 self-service storage facility proposed by the Applicant. The self-service storage facility would meet an existing need of local residents, without resulting in any traffic impacts or other adverse environmental impacts. The proposed rezoning would not affect any of the use or bulk regulations applicable to the Project Area and is consistent with historical land use actions affecting the surrounding area.