240 Nassau Street (Amended)
Brooklyn Community District 2
October 2026

Discussion of Conditions & Findings in Support of Special Permit Pursuant to ZR § 74-752

ZR § 74-752 [Educational Construction Fund projects in certain areas]

In C6-9 Districts within the #Special Downtown Brooklyn District# and in C6-12 Districts within Brooklyn Community District 2 outside of the #Special Downtown Brooklyn District#, for #developments#, #enlargements# or #conversions# that include one or more #schools# on a tract of land owned by the New York City Educational Construction Fund, the City Planning Commission may permit the modifications set forth in paragraph (a) of this Section. For the purposes of this Section, a tract of land owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school.

The New York City Educational Construction Fund ("ECF") and 240 Nassau Street Holdings, LLC (collectively, the "Applicants") request, among other actions, a special permit pursuant to Section 74-752 [Educational Construction Fund projects in certain areas] of the Zoning Resolution of the City of New York ("ZR") for modifications of certain Mandatory Inclusionary Housing ("MIH") and affordable housing, bulk, and loading requirements. The proposed special permit and associated zoning map and text amendments would facilitate the redevelopment of an approximately 79,807 square foot site (Brooklyn Block 110, Lot 25 and Block 111, Lot 1) (the "Development Site") in Downtown Brooklyn, Community District 2. A new approximately 1,436,526 square foot mixed-use development would be constructed at the Development Site with approximately 1,502 dwelling units ("DUs"), of which 20 percent (302 DUs) would be permanently affordable, a new 96,000 square foot school (121,000 gsf), local retail, cultural and community facility space, and approximately 37,050 square feet of new open space, of which 20,896 square feet would be Public Access Area ("PAA") (the "Proposed Development").

The proposed modifications described below facilitate the financing and site plan for the Proposed Development. The construction of Building B would include financing by tax-exempt bonds issued by ECF, which would own the school located in Building B and the residential component of Building A. Revenues derived from a 99-year ground lease of the residential component of Building A would be used to service the bond debt. The residential floor area in Building A would be market-rate residential units to provide a component of the ECF standalone financing of the school construction. With respect to the site plan, the configuration of the buildings has been designed to maximize the PAA and restore whole-block connectivity to Golconda Playground. The existing three-story school encompasses the entire block front along Navy Street between Nassau Street and Concord Street. The proposed site plan reintroduces visual and physical connections to Golconda Playground from the midblocks of Nassau Street at the north of the Development Site and Navy Street at the east. Establishing connectivity at the midblocks would be achieved by situating Building A and Building B at the northwestern and northeastern edges of the Development Site, respectively, and Buildings C and D along the southern edge of the site. Building B is proposed to be rotated from Nassau Street and Navy Street to accommodate the school's programmatic floor plate while maintaining a 40-foot separation from Building A and a minimum 24-foot separation from Building C. Building B's street wall along Nassau Street is oriented at a slight angle to the street line, resulting in a progressively deeper setback as the building extends away from the corner. The angled orientation of Building B would create a widened sidewalk at the Nassau Street entrance for school drop-off and pick-up, an at-grade play and staging area at the rear, and improved entries from the midblock public space to the PAA and the interior of the site. The resulting arrangement improves access through the block and allows the school and residential buildings to function as a coordinated whole-block site plan.

(a) Modifications

The Commission may modify:

(1) applicable ground floor #use# regulations;

No modifications to the applicable ground floor use regulations are sought for the Proposed Development.

(2) in a #Mandatory Inclusionary Housing area#, the affordable housing requirements of Section 27-10 (Administration of Affordable Housing);

Within an MIH Area, the MIH regulations set forth at ZR § 27-10 would apply to the Proposed Development, requiring that a portion of any residential floor area developed at the Development Site be permanently affordable and providing for further requirements with regard to the provision of such permanently affordable housing, including provisions regarding issuance of building permits and certificates of occupancy, and requirements for the distribution and bedroom mix of affordable housing units.

ZR § 27-131(a)(3)(i)

Pursuant to ZR § 27-131, depending on the MIH Option selected, between 20 percent and 30 percent of the total residential floor area within a development must be provided as permanently affordable housing units. MIH Option 1 requires 25 percent of the residential floor area to be affordable at a weighted average of 60 percent of the area median income ("AMI") with 10 percent at 40 percent AMI. To facilitate development of the proposed new school at the Development Site, a modification of ZR § 27-131(a)(3)(i) is necessary. The Applicants propose to map the Development Site with a modified version of MIH Option 1 that would require 20 percent of residential floor area to be affordable at a weighted average of 60 percent AMI (302 affordable DUs), with 8 percent of floor area at 40 percent AMI. In the event the Applicants and NYCHA participate in the Transfer of Assistance ("TOA") program under the U.S. Department of Housing and Urban Development's ("HUD") Rental Assistance Demonstration ("RAD") program (or a comparable affordable housing program), this modified MIH Option 1 would permit a further reduction in the MIH Option 1 requirement from 25 to 15 percent across the Development Site with 6 percent provided at 40 percent AMI. To allow for the financing of the school construction by ECF, a reduced affordable housing percentage would be required in connection with the proposed residential use within Building A. Instead of 25 percent of the residential floor area being set aside for affordable housing at an average of 60 percent AMI, 10 percent of the residential floor area of Building A would be designated as affordable at an average of 60 percent AMI. The balance of the affordable housing for the MIH Area would be constructed within Building C, such that in total, the amount of affordable floor area provided across the Development Site would be at least 15 percent of the total residential floor area on the Development Site, at a weighted average of 60 percent AMI with at least 6 percent at 40 percent AMI. The proposed modification of ZR § 27-131(a)(3)(i) would allow for these percentages to satisfy the affordable housing requirement of ZR § 27-131(a)(1).

ZR § 27-151(a) and (b)

Pursuant to ZR § 27-151(a), issuance of building permits is contingent on recordation of the MIH restrictive declaration, which is done simultaneously with closing on construction financing. Pursuant to ZR § 27-151(b), obtaining a certificate of occupancy is contingent on issuance of a completion notice by the NYC Department of Housing Preservation and Development ("HPD"). The proposed waiver of the provisions contained in ZR § 27-151(a) and (b) would allow for flexibility with timing for the delivery of the affordable housing on the Development Site.

ZR § 27-16(b) and (c)

Pursuant to ZR § 27-16(b), affordable housing units must be distributed throughout at least 65 percent of the stories of a development with not more than two-thirds of the units on any story being affordable housing units. Pursuant to ZR § 27-16(c), for the bedroom mix of affordable housing units, at least 50 percent of the units must be two-bedrooms or larger, and at least 75 percent of the units must be one-bedroom or larger, or the bedroom mix between affordable and

standard units must be proportional. The proposed waiver of ZR § 27-16 would allow for flexibility in distributing the affordable housing units in Buildings A and C.

(3) other #bulk# regulations, except that the maximum permitted #floor area ratio# may not be increased; and

The Proposed Development would comply with the maximum permitted floor area ratio of 18.0 for the proposed C6-12 (R12 equivalent) zoning district pursuant to ZR § 23-22. Certain modifications of bulk regulations for rear yard, base height, setback, street wall location, distance between buildings, and tower regulations are necessary to facilitate the configuration of the site plan for the Proposed Development, as described below. The proposed modifications would not have a significant adverse impact on the surrounding built context, adjacent parkland, or open space. The proposed modifications to rear yard, base height, setback, and tower regulations would allow an efficient residential floor plate and unit layout for Buildings A, C, and D and a design that meets the school program requirements for Building B. The proposed modifications to street wall location and distance between buildings allow the configuration of buildings and open space in the site plan, which reintroduces connectivity at the midblocks of Nassau and Navy Streets to Golconda Playground. The programmatic and dimensional criteria driving Building B's floor plate, stacking, and height are described below. The proposed modifications allow massing of the buildings that reflects a disciplined architectural strategy predicated on restraint. Rather than relying on articulated formal gestures or modulated massing, the proposed buildings establish their character through controlled proportional systems and the regular repetition of facade elements. A limited material palette, combined with detailing calibrated to register texture, light, and shadow, produces a coherent, legible, and durable expression that relates harmoniously to the surrounding area. This systematic and contextually calibrated approach to bulk ensures that the requested modifications result in a better site plan for the school while producing minimal adverse effects on the scale, street wall, and essential character of the surrounding area. By prioritizing the public realm and the pedestrian experience at the ground floor, the design reinforces the integration of the school and residential program within the established context of Downtown Brooklyn.

The program for the new school (Building B), developed in accordance with the New York City School Construction Authority ("NYCSCA") standards and taking into account feedback from the Superintendent's Deliberate Dialogues community engagement process, includes a double-height gymnasium and an auditorium. The NYCSCA standard classroom module is 27 feet 6 inches by 28 feet 6 inches. With an 8-foot corridor and typical wall assemblies, a double-loaded classroom floor plate would be approximately 69 feet wide, and each classroom floor would have a floor-to-floor height of approximately 15 feet. The gymnasium would be approximately 61 feet deep (including bleachers and a room divider) and approximately 90 feet long, and the auditorium would be approximately 58 feet 9 inches wide and 92 feet 8 inches long. The gymnasium and auditorium cannot fit on the same floor. In addition, pursuant to NYCSCA standards governing uses below the design flood elevation, MEP systems and certain habitable spaces would be located above grade rather than in the cellar, increasing the amount of floor area that must be accommodated above grade. As a result, the school program would be stacked vertically, resulting in an 11-story school building, including nine classroom floors and mechanical mezzanines, a programmed basement, and a rooftop play area within the bulkhead zone. This configuration would accommodate the required school program on the Development Site while preserving the overall site plan and the PAA.

<u>Rear Yard Requirements</u>

Pursuant to ZR § 23-342, in a C6-12 zoning district, buildings or portions of buildings at or below a height of 75 feet are required to have a residential rear yard with a depth of 20 feet at every rear lot line, and a 30 foot rear yard for portions above 75 feet.

As shown on the Proposed Plans, on sheet Z-005, a portion of Building A below a height of 75 feet does not provide a residential rear yard with a depth of 20 feet at the rear lot line abutting Golconda Playground. In addition, a portion of Building A above a height of 75 feet does not provide a 30 foot rear yard. Instead, Building A would have a 15 foot rear yard below a height of 85 feet and a 20 foot rear yard above a height of 85 feet.

Maximum Base Height

Pursuant to ZR § 23-433, in a C6-12 zoning district, the maximum base height is 155 feet for zoning lots containing qualifying affordable housing or qualifying senior housing. Pursuant to ZR § 33-432, in a C6-12 zoning district, for community facility uses, the maximum street wall height is 85 feet or six stories, whichever is less, a setback with a depth of at least 15 feet is required from any street wall fronting on a wide street.

As shown on the Proposed Plans, on sheet Z-005, portions of Buildings A, C, and D would exceed the maximum base height of 155 feet and Building B would exceed the maximum street wall height of 85 feet. The north façade of Building A would rise without setback to 718 feet (738 feet with bulkhead). The east and south façades of Building C would rise without setback to 820 feet (840 feet with bulkhead). The south façade of Building D would rise without setback to 235 feet (265 feet with bulkhead). Building B would rise to a building height of 186 feet, with a bulkhead zone extending up to 210 feet. The bulkhead zone accommodates the rooftop play area, with approximately 24 feet of clear height, and mechanical equipment.

Standard Setback Regulations

Pursuant to ZR § 23-433, in a C6-12 zoning district, above the maximum base height of 155 feet for zoning lots containing qualifying affordable housing or qualifying senior housing, a setback with a depth of at least 10 feet is required from any street wall fronting on a wide street, and a setback with a depth of at least 15 feet is required from any street wall fronting on a narrow street. Pursuant to ZR § 33-432, in a C6-12 zoning district, above 85 feet or six stories, whichever is less, a setback with a depth of at least 15 feet is required from any street wall fronting on a wide street.

As shown on the Proposed Plans, on sheet Z-005, portions of Buildings A and D would not provide the required setbacks of 10 feet, Building C would not provide the required setback of 10 feet and Building B would not provide the required community facility setback of 15 feet above 85 feet. The western wall of Building A would only set back 7 feet from Golconda Playground (including façade projections),[1] which is treated as a wide street, and the northern wall along Nassau Street would not set back, although the southern wall of Building A would provide a 20 foot setback from Golconda Playground, which complies with the 10 feet required. Building C would not set back from either Navy Street or Concord Street. Building D is not set back from Concord Street, but would provide a 15 foot setback from Golconda Playground, which complies with the 10 feet required. Building B would not provide the required setback along Navy Street, and its Nassau Street street wall, which is oriented at a slight angle to the street line, would not provide the full required setback above 85 feet. As shown on sheet Z-012, Building B would also penetrate the 5.6 to 1 sky exposure plane along Nassau Street and Navy Street; the requested setback modification would address both conditions. For Building B, the modification is necessary because the school's approximately 69-foot double-loaded classroom floor plate and the gymnasium and auditorium dimensions cannot be accommodated by stepping the building back without losing required program area, compromising circulation, or reducing the above-grade area needed for MEP systems and habitable space that cannot be located in the cellar.

Street Wall Location

Pursuant to ZR § 35-631(c), for street walls on buildings on a zoning lot that has a lot area of at least 40,000 square feet or occupies an entire block, at least 70 percent of the aggregate width of street walls are required to be located within 15 feet of the street line and extend to at least the minimum base height or the height of the building, whichever is less.

As shown on the Proposed Plans, less than 70 percent of the aggregate width of certain street walls of Buildings A, C, and D are located within 15 feet of the street line.

For Building A, the aggregate width of street walls located within 15 feet of the street line at Nassau Street would be 68 percent (155.4'/227.7'), 0 percent (0.0'/217.0') at Golconda Playground

[1] Pursuant to ZR § 23-443 [Special provisions for zoning lots adjoining public parks], "[i]n all districts, where a building adjoining a public park utilizes the provisions of Section 23-381, such public park shall be considered a wide street for the purpose of applying the regulations set forth in Sections 23-42 and 23-43 to any building or other structure on a zoning lot adjoining such public park." The Applicants are engaged in ongoing coordination with NYC Department of Parks and Recreation to obtain a determination pursuant to Section 23-381.

(Central) and 15.4 percent (15.0'/97.5') at Golconda Playground (North). For Building C, the aggregate width of street walls located within 15 feet of the street line at Navy Street would be 53.7 percent (59.5'/110.7') and 67.3 percent (114.0'/169.3') at Concord Street. For Building D, the aggregate width of street walls located within 15 feet of the street line at Golconda Playground (South) would be 0 percent (0.0'/88.0'). The proposed modification to reduce the aggregate width of street walls supports the goal of increasing connectivity through the site at the midblocks of Nassau and Navy Streets to Golconda Playground.

Distance Between Buildings/Building Segments

Pursuant to ZR § 23-371(c)(2) and 23-371(c)(1), the minimum distance between a building containing multi-family residences and any other separate building on the same zoning lot that is not connected at any level is 40 feet for portions of buildings lower than 125 feet. Portions higher than 125 feet must be at least 80 feet apart. However, the minimum distance for portions higher than 125 feet may be reduced to 40 feet if such portions of buildings, in aggregate, do not exceed a lot coverage of 40 percent for lots greater than 20,000 square feet. Abutting buildings on a single zoning lot may be considered a single building. However, if two or more portions of a building are not connected or not abutting at a particular level, these separated portions are required to comply with the distance provision above.

As shown on the Proposed Plans, on sheet Z-005, Buildings A and B would not provide the required minimum distance of 80 feet above a height of 125 feet, and Buildings B and C would not provide the required minimum distance of 40 feet for portions below 125 feet or 80 feet for portions above 125 feet. The distance between Buildings A and B would be 40 feet below and above a height of 125 feet, while the distance between Buildings B and C would be a minimum of 24 feet below and above a height of 125 feet. The requested modifications would therefore permit the 80-foot requirement above 125 feet to be reduced to 40 feet for Buildings A and B and the 40-foot requirement below 125 feet and 80-foot requirement above 125 feet to be reduced to a minimum of 24 feet for Buildings B and C. The reduced separations are necessary to preserve the school's double-loaded classroom floor plate, gymnasium and auditorium stacking, and required circulation and service areas on the Development Site, while maintaining open separations that support the PAA, the midblock connections, and the interior of the site.

Tower Regulations

Pursuant to ZR § 23-435, above the maximum base height specified in an R12 district (C6-12 has an R12 residential district equivalent), a tower with a maximum lot coverage of 65 percent shall be permitted up to a height of 300 feet and 50 percent shall be permitted above a height of 300 feet.

As shown on the Proposed Plans, on sheet Z-002, the total lot coverage is 78.9 percent between the maximum base height of 155 feet and 300 feet, which is greater than the required maximum of 65 percent. The proposed modification would allow an efficient residential floor plate and unit layout for Buildings A, C, and D and would allow the Building B school to stack its programmatic space. Because the classroom, gymnasium, and auditorium dimensions cannot be efficiently arranged side-by-side within the building envelope, reducing tower coverage would create inefficiencies or prevent the required program from being accommodated. The requested coverage therefore reflects the school's functional stacking and programmatic needs and supports a 186-foot roof, with the rooftop play area and mechanical equipment located within the bulkhead zone extending up to 210 feet.

(4) #accessory# off-street parking and loading berth requirements.

Pursuant to ZR § 36-62 [Required Accessory Off-street Loading Berths], one loading berth is required to be provided for between 25,001 and 40,000 square feet of commercial floor area for Use Group VI retail uses.

As shown on the Proposed Plans, the Proposed Development would have a total of approximately 27,526 square feet of retail floor area within Buildings A, B, and C, resulting in a requirement of one loading berth. However, to facilitate the site plan for the Proposed Development, the required loading berth would not be provided. Instead, on-street loading would be provided in coordination with the NYC Department of Transportation. Buildings A, C, and D have adequate curb length to

support on-street loading and each building would have a separate service entrance located away from primary program entrances to facilitate uninhibited pedestrian access. Additionally, bump outs along Nassau Street would be provided at Building B to establish an area for school bus loading.

The following findings must be met for the City Planning Commission to issue the requested special permit pursuant to ZR § 74-752.

(b) Findings

To grant a special permit pursuant to this Section, the Commission shall find that:

(1) such modifications will facilitate the construction of one or more #schools# on the #zoning lot#;

The proposed modifications would facilitate the construction of a new 96,000 square foot (121,000 gsf) school at the Development Site.

(2) such ground floor #use# modifications will improve the layout and design of the #school# or #schools#, shall not have an adverse effect on the #uses# located within any portion of the #zoning lot# and will not impair the essential character of the surrounding area;

No modifications to the applicable ground floor use regulations are sought for the Proposed Development.

(3) such modifications to the affordable housing requirements in a #Mandatory Inclusionary Housing area# will facilitate significant public infrastructure or public facilities, including one or more #schools#, addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#;

This modification would reduce the overall MIH Option 1 requirement from 25 to 20 percent across the Development Site, enabling the ECF standalone school construction financing. In the event that the Applicants and NYCHA participate in the TOA program, the requirement would be further reduced to 15 percent. The modification to the MIH program would be appropriate because it would facilitate the development of a new public school, without the use of City capital funding, in an area with an identified need. The proposed state-of-the-art school facilities for pre-Kindergarten through 8th grade would create a better learning environment by providing modern educational facilities and additional public school capacity at the primary and intermediate school level in Community School District 13.

The proposed modifications to the affordable housing requirements in a MIH Area would facilitate a significant public facility, a new 96,000 square foot (121,000 gsf) school at the Development Site. The new school addresses a community need for an updated school. This need was not created by the Proposed Development - the existing public school building at 50 Navy Street that houses P.S. 287 (grades pre-Kindergarten through 5) and Community Roots Charter School (grades 6 through 8) is outmoded and in need of replacement. The aging building was built in 1953 and its electrical, ventilation, and acoustical systems are insufficient to serve the needs of the current and future school populations. Overall, the building lacks the appropriate facilities to provide a modern learning environment.

(4) such #bulk# modifications will result in a better site plan for the #school# or #schools# and will have minimal adverse effects on the surrounding area;

The proposed bulk modifications, which include rear yard, maximum base height, minimum setback, street wall location, distance between buildings, and tower regulations, would result in a better site plan for the proposed school and would have minimal adverse effects on the surrounding area. As described above, the school's classroom and corridor dimensions, gymnasium and auditorium dimensions, and flood-resiliency requirements require the school program to be stacked vertically within an approximately 69-foot classroom floor plate, resulting in a building height of 186 feet with a bulkhead zone extending up to 210 feet containing the rooftop play area and mechanical equipment. The proposed modifications allow the school to be constructed as a stand-alone building rotated from Nassau Street and Navy Street, with a 40-foot separation from

Building A and a minimum 24-foot separation from Building C. The rotation would create a widened sidewalk at the Nassau Street entrance for drop-off and pick-up, an at-grade play and staging area at the rear, and improved entries to the PAA and the interior of the site. Residential density is concentrated elsewhere on the site in higher buildings with smaller footprints so that more open space can be provided within the Development Site, improving connectivity from the school and new buildings to Golconda Playground. Each waiver thus facilitates a building form that responds to the school's program while maximizing at-grade open space and active, inviting ground-floor uses. The proposed site plan results in increased circulation and provides for passive use of the PAA, while also providing an opportunity for local retail space accessible from this PAA located within the Development Site in addition to bounding streets.

Additionally, adverse effects on the surrounding area would be minimal. As analyzed in the Environmental Impact Statement, there are no unmitigated significant adverse impacts. Instead, the Proposed Development would benefit the surrounding area with a new school, housing, local retail, community facility space, public space, and enhanced connectivity to Golconda Playground.

(5) such parking and loading modifications will improve the layout and design of the school and will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area.

The proposed loading modification, which would allow a reduction from one required loading berth to none, would improve the layout and design of the school by removing the need for curb cuts along any of the streets bounding the Development Site. Pedestrian safety and mobility would be improved by eliminating potential conflicts between pedestrians and vehicles accessing the loading at the Development Site via a curb cut. Additionally, the proposed loading modification would not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement. While the commercial floor area in the aggregate exceeds the threshold for the loading berth requirement, the proposed Use Group VI retail use would be situated across the site plan in three of the four buildings, including in the proposed school building, rather than concentrated in a single building. Moreover, the proposed commercial floor area only minimally exceeds the threshold for the loading berth requirement by 2,526 square feet. As a result, effects on traffic or vehicular movement resulting from the modification would likely be negligible. Pedestrian movement would be improved by the elimination of potential vehicular conflicts. Finally, the proposed loading modification would not impair or adversely affect the development of the surrounding area based on the modest amount of retail floor area that would be in excess of the loading berth requirement threshold.