

## **Applicant's Discussion of Findings**

### **Industry City, Brooklyn 32<sup>nd</sup> to 37<sup>th</sup> Streets between Second and Third Avenues 39<sup>th</sup> to 41<sup>st</sup> Streets between Second Avenue and NY Harbor**

**February 19, 2019**

#### **Discussion of Findings for Assemblage B – All Properties Excluding the Lot 20 Portion of Parcel 21**

##### **129-21(b): Findings**

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

- (1) Any modifications will aid in achieving the general purposes and intent of the Special District*

The Special District sets forth six general purposes and goals, which the modifications will aid in achieving:

1. *To facilitate and guide compatible businesses and organizations to foster a sustainable business environment by allowing a range of industrial, commercial and community facility uses.* The modifications will permit a broader range of uses within the District such that the co-location and ecological benefits required of a modern mix of commercial, manufacturing and industrial uses may be achieved. By permitting academic, hotel and retail uses to locate in close proximity to the modern mix of industrial, manufacturing, studio and office uses, the synergies required to foster a sustainable business environment can be achieved. New academic and library uses would provide both a venue for innovators and scholars to interface on research, design, training, and education, and provide a feeder of educated and trained employees to serve the modern mix of manufacturing, studio, office and industrial uses on site and elsewhere in the City. New hotels, primarily intended to accommodate the travelers transacting business with the many employers projected to operate at Industry City, will contribute to the success of both budding and established businesses while providing critical conference and meeting room space. New retail uses would include maker retail, which supports the businesses of local manufacturers, as well as neighborhood-serving and destination retail, which would also create an amenity for workers, students, visitors, and local residents. Museums and non-commercial art galleries will provide a cultural amenity to workers as well as the local residential community. Physical Culture Establishments (“PCEs”), i.e gyms, will provide a recreational outlet for the thousands of workers anticipated to locate at Industry City. Without the range of uses permitted by the special permit, this environment would not be able to be sustained.

Furthermore, the limits placed on the size of additional permitted uses (900,000 sf of retail, 625,000 sf of community facility, and 287,619 sf of hotel) will ensure that no one use permitted by the special permit becomes a primary use in the SICD, but rather all of these uses supplement the primary mix of manufacturing, studio, office and industrial uses in the district.

2. *To create a local and regional employment, institutional and retail center within a well-considered site plan.* The modifications will support the development of a manufacturing, studio, office and industrial district that will employ thousands of additional people as compared to development that could be achieved without the modifications.

The Project Area's current zoning does not provide for the range of uses and flexibility for locating new development necessary to support the re-tenanting and

development of Industry City with a high-intensity of employment. The existing zoning of the Project Area restricts the utilization of the site, as it does not support the development of academic or hotel uses, substantially limits the range of permitted retail uses, and precludes the development of purpose-built new space that certain tenants may require. As a result, high-employment commercial and manufacturing uses, as well as supporting retail uses currently comprise less than half of the total portfolio at Industry City; the rest of the complex remains largely underutilized—26 percent is occupied by low-employment storage and warehousing and 25 percent is vacant.

Today's commercial, manufacturing and industrial firms, particularly entrepreneurs and small business owners, require a broad range of uses in close proximity to each other as they identify opportunities for cross-collaboration, inspiration, and business growth. Firms want to be integrated into mixed-use communities with other like-minded makers, with ready access to a workforce with diverse skills and experiences as well as places where business partners can stay and meet while in town. Employees, in turn, need access to research and training opportunities, along with places to eat and buy goods. Use modifications that broaden the permitted uses at Industry City will allow for this collaborative district to grow at Industry City.

In addition, certain firms critical to the success of Industry City as an employment center will need new, purpose-built space to meet their space needs. The existing Industry City complex was built over 100 years ago and is expected to have difficulty in providing the floor-to-ceiling heights, column-free spaces, and mechanical and vertical circulation systems required of certain colleges/universities, hotels, and manufacturers.

The site plan has been developed in consideration of the substantially built-out condition of the district, and only permits substantial new construction in three limited locations. In these three locations, construction would generally be limited to a scale and envelope that considers the existing built context of the District. In all other locations, the site plan memorializes the District's built condition, permitting buildings heights of no more than 25-35 feet higher than existing buildings and requiring setbacks generally above the height of existing building's roofs.

Retail and academic uses would be limited in maximum overall square footage within the special permit area to ensure a balanced mix of uses is developed. Retail uses would be limited to the first or first and second floors of buildings to ensure compatibility of retail with adjacent uses and the local community. The restrictions will direct retail towards the areas where it can be most impactful in activating the streetfront and creating a pedestrian-friendly environment, and away from the uses in the upper floors of buildings which are less well suited to higher levels of transient visitor activity.

Hotel use would be permitted at two discrete locations—Third Avenue and 36<sup>th</sup>/37<sup>th</sup> Streets and at 39<sup>th</sup> Street and First Avenue—along major thoroughfares and in close proximity to transit. Each location would serve a major portion of Industry City (39<sup>th</sup> Street buildings and Finger Buildings) and provide for flexibility to match the location of hotel development to the location of Industry City redevelopment.

Similarly, the bulk modifications will allow for the development of parking garages of sufficient floorplates and in sufficient locations to accommodate project-generated traffic to the entire project. Due to the substantially built-out character of the Project Area, garages will likely need to be located in new buildings, currently anticipated at 32<sup>nd</sup> Street and Second Avenue (in proposed Building 11) and 39<sup>th</sup> Street and First Avenue (in proposed Building 21).

In combination, the Special Permit's floor area, use, location-of-use and bulk regulations would together support a well-considered site plan.

3. *To strengthen connections to the upland neighborhood of Sunset Park.* The proposed use and bulk modifications will support the creation of a vibrant job center that will employ local Sunset Park residents, provide retail uses and eating and drinking establishments for such residents, support events for local residents to attend, and establish pedestrian connections from the Sunset Park community to and through the District. Currently, one third of the approximately 7,000 employees at Industry City live in the surrounding neighborhoods of Brooklyn, and more than 10% live in Sunset Park. In addition, one out of every five Sunset Park residents who also work in Sunset Park work at Industry City. Zoning modifications which support the more than doubling of the number of jobs at Industry City can similarly be expected to more than double the number of employees from Sunset Park and other local neighborhoods.

The actions will also support the continued growth of partnerships such as the Innovation Lab at Industry City, which provides a wide range of workforce development and vocational programs to local residents, with a particular focus on Sunset Park. Services include job placement, training, internships, small business support services and entrepreneurship. The Lab is a unique public-private partnership that includes Industry City, Opportunities for a Better Tomorrow, Brooklyn Workforce Innovations, Center for Family Life, CUNY City Tech, and Southwest Brooklyn Development Corporation. To date, the Lab has provided services to more than 1,600 people, connecting hundreds to jobs at Industry City and elsewhere.

The new academic uses facilitated by the modification—which are anticipated to be comprised predominantly of Colleges and Universities—will allow for the development of closer connections and working relationships between students and firms consisting of the modern mix of manufacturing, studio, office and industrial uses, providing a pathway from education to employment for local residents. By supporting the development of both on-site academic institutions and jobs within firms comprising the modern mix of manufacturing, studio, office and industrial uses, the modifications will lay the groundwork for the continued success of the Innovation Lab.

Furthermore, actions which facilitate retail uses along Third Avenue would provide services within the portion of the District closest to the residential community, and the establishment of height limits would preserve the existing built character of the District as viewed from the community.

Without the requested broadening of permitted use and bulk, Industry City would be faced with substantial additional challenges in sustaining as a job-generator for Sunset Park residents, as the long-term economic challenges associated with converting the half of Industry City space from warehouse and vacant space to job-generating space would be difficult to overcome. There would be little ability to develop new purpose built space, to establish supportive retail space, to develop hotels or to bring in synergistic college and university space.

4. *To support a pedestrian-friendly environment through the creation of an active and inviting public realm, and the pedestrian orientation of ground floor uses.* Currently, the District provides limited opportunities for pedestrian-friendly streetfront engagement: Retail development on the ground-floor of buildings is very limited by what zoning will permit. Most buildings west of First Avenue are vacant and require significant investment to renovate and active ground-floors. And even other buildings (19 and 20 on Zoning Lot 3 within Zoning Envelope F) between First and Second Avenues require substantial upgrades to improve the public realm. Furthermore, vacant and underdeveloped parcels at 32<sup>nd</sup> Street and Second Avenue (on Zoning Lot 1 within Zoning Envelope A) and 39<sup>th</sup> Street and First Avenue (on Zoning Lot 3 within Zoning Envelope F) substantially interrupt the pedestrian orientation of the area.

However the use modifications will permit the development of a more consistent and active streetfront throughout the district by allowing additional retail uses—focused

on buildings' lower floors to maximize pedestrian engagement—broadening the range of users by allowing academic and hotel use, providing the necessary preconditions for the continued re-tenanting and growth of the neighborhood through adaptive re-use and new development, continuing to open building courtyards for public open space use, and increasing the consistency of pedestrian engagement from Third Avenue all the way west to the waterfront.

The development of additional elevated sidewalks along 33<sup>rd</sup> Street and 39<sup>th</sup> Street will bring pedestrians closer to building entrances and separate them from vehicular traffic and loading activities. The continuation of the “Innovation Alley” midblock pedestrian connection all the way to 32<sup>nd</sup> Street will link Buildings 1 through 9 across Zoning Envelopes A through E (it currently links Buildings 1 through 6). The activation of currently vacant and storage buildings will enliven ground floors and improve distribution of pedestrian activity. And the overall development of a strong employment center by more than doubling the worker population to 15,000 workers will activate the public sidewalks throughout the District in locations that minimize conflicts with loading activities. Beyond the finger buildings, loading will be located either behind or within buildings (Buildings 19, 20, 21 within Zoning Envelope F) or on streets that are projected to have much lower pedestrian volumes (First Avenue, 39<sup>th</sup> Street west of First Avenue).

5. *To preserve, protect and enhance the built form and character of the existing industrial and manufacturing district.* As discussed above, the modifications will facilitate the re-tenanting of existing buildings and support the development of new construction in three limited locations: at Third Avenue between 36<sup>th</sup> and 37<sup>th</sup> Streets (the Gateway Parcel), at Second Avenue between 32<sup>nd</sup> and 33<sup>rd</sup> Streets (Parcel 11 on Zoning Lot 1 within Zoning Envelope A), and at First Avenue between 39<sup>th</sup> and 41<sup>st</sup> Streets (Parcel 21 on Zoning Lot 3 within Zoning Envelope F).<sup>1</sup> In most locations, the site plan memorializes the District's built condition, permitting buildings heights of no more than 25-35 feet higher than most existing buildings. In the limited locations where new buildings are anticipated, construction would generally be limited to a scale and envelope that considers the existing built context of the SICD. While the current zoning district regulations place no height limits on buildings, the special permit would establish hard height caps for all development in the SICD, ensuring the built form of the district is retained and respected. The character of the existing industrial/manufacturing district will be retained through the limitation of all uses not currently permitted. Retail will be restricted to a maximum of 14 percent of the maximum permitted floor area (some of which is currently permitted), academic to less than 10 percent, and hotel to 4 percent. In total, approximately three-quarters of the floor area that is projected to exist subsequent to the grant of the special permit will be in uses similar to those currently permitted and existing.

Adequate loading access to buildings will continue to be provided in the form of more than 60 loading docks in total along 41<sup>st</sup> Street, in the central courtyard of Building 19 and 20, along First Avenue, and along the streets between the Finger Buildings.

6. *To promote the most desirable use of land within the district, thus conserving the value of land and buildings, and thereby protecting the City's tax revenues.* Currently, approximately half of the square footage within the District is underutilized or vacant. The proposed use modifications will support the development of a vibrant employment center focused around firms comprising a modern mix of manufacturing, studio, office and industrial uses and permit the re-tenanting of the District with uses that employ thousands of additional workers, better contribute to economic activity, and more substantially improve the value of existing structure and facilitate the construction of new structures. The bulk modifications will allow for limited new development and/or enlargements for users that cannot be accommodated within retrofits to the existing buildings at Industry City, further

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<sup>1</sup> While 36th Street and 37th Street are mapped City streets, 32nd, 33rd, 34th and 35th Streets are only mapped for a short distance west of Third Avenue, and continue through to Second Avenue as unbuilt-upon driveways owned by the applicant. All of these “streets” are approximately 60 feet wide including sidewalks, are generally open to vehicular and pedestrian traffic, and are only for the purposes of this Statement of Findings, termed streets.

increasing the likelihood of maximizing users and jobs within the district. Without the modifications, the value of land and buildings and the City tax revenues would be likely to grow at a much slower pace, if at all.

(2) *For use modifications the Commission shall find that:*

(i) *such proposed uses are compatible with existing uses and are appropriate for the location*

The special permit would permit a wider range of uses within Industry City than are permitted by the current M3-1/M1-2 and proposed M2-4/M1-2 district regulations, and would require modification of Section 42-10 to permit:

- Use Group 3A colleges or universities, including professional schools; and libraries, museums or non-commercial art galleries; limited to an aggregate total of 625,000 sf of floor area
- Use Group 5 and 7A transient hotels, limited to two locations and a total of 287,619 sf of floor area
- Retail and service establishments listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B and 14A, limited to an aggregate total of 900,000 sf of floor area, limited as to location, and provided retail floor area in an aggregate amount exceeding 120,000 sf is parked at a ratio of one space per 500 sf of floor area.<sup>2</sup>
- Physical culture or health establishments (i.e. gyms), which shall be considered Use Group 9A uses
- Distilleries to manufacture, store, handle and use Class III materials provided they obtain all appropriate approvals from the Fire Department of New York (“FDNY”)

All of these uses will be compatible with existing uses, as well as each other. Specifically:

1. While a limited range of retail uses are currently permitted in the existing M3-1 and proposed M2-4 districts at Industry City, uses such as furniture stores, carpet stores, department stores, clothing stores, electronics stores and dry goods stores are not permitted, and food stores are limited to 10,000 square feet of floor area per establishment. While proposed uses would include maker retail, which supports the businesses of local manufacturers, uses would also include neighborhood-serving and destination retail not permitted by the underlying zoning. These uses, which would include some or all of the uses outlined above, would create an amenity for workers, students, visitors, and local residents. Retail is naturally co-located with other commercial and light-industrial business, community facilities and hotel uses throughout the city. Furthermore, limiting most retail use to the first and/or second floors within buildings will further protect other uses on higher floors of buildings from the intensity of transient visitor activity that could accompany some retail uses;
2. While zoning currently permits trade and professional schools, it does not permit traditional degree-granting institutions such as colleges or universities. Colleges and universities, and libraries, museums or non-commercial art galleries will provide both a venue for innovators and scholars to interface on research, design, training, and education, and provide a feeder of educated and trained employees for firms comprising the modern mix of manufacturing, studio, office and industrial uses on site and elsewhere in the City;
3. Libraries will support academic uses and serve the ongoing technical needs of firms comprising the modern mix of manufacturing, studio, office and industrial uses, while museums and non-commercial art galleries will provide a cultural amenity to workers as well as the local residential community;
4. Hotels will support existing businesses as they grow, enabling firms to host prospective workers, partners, and visitors. Visitors would be able to stay in hotels on-site and have direct access to the companies they are visiting, as well as to the greater mix of

<sup>2</sup> The following non-retail uses in UG9A and UG10A would be exempted from the aggregate floor area limit and parking requirement: depositories for storage of office records, microfilm or computer tapes, or for data processing; photographic or motion picture production studios; radio or television studios; and art, music, dancing or theatrical studios.

manufacturing, studio, office and industrial uses within the Project Area. Meeting facilities within hotels will offer space for events that foster cross-collaboration among the diverse sectors of businesses operating at Industry City and could provide additional meeting space for a proposed academic partner. Hotels will also be an incentive to attract new firms to locate at Industry City.

5. PCEs will provide a recreational outlet for the thousands of workers anticipated to locate at Industry City
6. Distilleries currently exist at Industry City and are an important manufacturer of products which must retain the ability to locate and grow their businesses at Industry City to the same extent they are permitted to under the existing regulatory framework, while ensuring they operate in a safe manner as overseen by the Fire Department of New York (FDNY).

While the special permit seeks to allow this wider range of uses, as a means of protecting all users of space within the Special Industry City District, certain of the aforementioned uses will be limited in their permitted location within the District, while other uses will be limited as to the performance standards to which they must adhere.

Specifically, the limitation on hotel location to the parcel of land within 100 feet of Third Avenue between 36<sup>th</sup> and 37<sup>th</sup> streets (within Zoning Envelope F on Zoning Lot 3) and the parcel of land within 230 feet of First Avenue between 39<sup>th</sup> and 41<sup>st</sup> Streets will ensure hotel use is limited in size and primarily serves Industry City and does not become a borough-wide or city-wide destination use. These two locations would be appropriate for hotels as they're located along major thoroughfares and in close proximity to transit. Each location would serve a major portion of Industry City (39<sup>th</sup> Street buildings and Finger Buildings) and provide for flexibility to match the location of hotel development to the location of Industry City redevelopment.

Manufacturing uses will be required to adhere to the most stringent M1 performance standards, with the exception of Distilleries, which will be subject to the direct oversight of the FDNY for the manufacture of Class III materials. This will ensure the limitation on noxious effects of such uses.

The Special Permit will further limit retail and service establishments to the first or first and second stories of buildings within the Special District and an overall total of 900,000 square feet of zoning floor area, ensuring these uses play a support role to the primary mix of manufacturing, studio, office and industrial uses in the district, and do not become primary, district-defining uses in and of themselves.<sup>3</sup> With respect to the locational restrictions for retail:

- Certain portions of the Project Area further from the local neighborhood are more appropriate to larger and potentially multi-story destination retail establishments, as they have the potential to draw a greater intensity of pedestrians and visitors from potentially further away. Between 32<sup>nd</sup> and 33<sup>rd</sup> streets from Second to Third avenues (within Zoning Envelope A on Zoning Lot 1), between 33<sup>rd</sup> and 36<sup>th</sup> streets (within Zoning Envelopes B, C and D on Zoning Lot 1) within 130 feet of Second Avenue, and between 39<sup>th</sup> and 41<sup>st</sup> Streets from First to Second avenues (within Zoning Envelope F on Zoning Lot 3): retail establishments will be limited to the first and second floors of buildings with no limitation on size per establishment.<sup>4</sup>
- Situated directly across from the 2-story Costco large-retail establishment, retail uses in Buildings 1 and 2 are appropriate on the first and second floors, but a size limitation is also appropriate given their closer proximity to the local neighborhood. Between 36<sup>th</sup> and 37<sup>th</sup> streets, Second to Third avenues (within Zoning Envelope E on Zoning Lot 2): retail establishments will be limited to the

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<sup>3</sup> The following non-retail uses in UG9A and UG10A would be exempted from the locational restrictions for retail uses: depositories for storage of office records, microfilm or computer tapes, or for data processing; photographic or motion picture production studios; radio or television studios; and art, music, dancing or theatrical studios.

<sup>4</sup> While 36th Street and 37th Street are mapped City streets, 32nd, 33rd, 34th and 35th Streets are only mapped for a short distance west of Third Avenue, and continue through to Second Avenue as unbuilt-upon driveways owned by the applicant. All of these "streets" are approximately 60 feet wide including sidewalks, are generally open to vehicular and pedestrian traffic, and are only for the purposes of this Statement of Findings, termed streets.

first and second floors of buildings and be capped at a maximum of 40,000 square feet of zoning floor area per establishment

- Portions of the Project Area in closer proximity to the local neighborhood, along the mid-block portions of the Finger Buildings, and in closer proximity to the waterfront are more appropriate for somewhat smaller ground-floor retail uses. Between 33<sup>rd</sup> and 36<sup>th</sup> streets beyond 130 feet of Second Avenue (within Zoning Envelopes B, C and D on Zoning Lot 2), and between First Avenue and the Waterfront (within Zoning Envelope G on Zoning Lot 4): retail establishments will be limited to the first floor of buildings and be capped at a maximum of 40,000 square feet of zoning floor area per establishment.

While the contemporary manufacturing activities that are currently and would in the future be projected to located at Industry City typically have few of the adverse secondary effects traditionally associated with heavy manufacturing, the special permit will nonetheless protect sensitive uses such as hotels and academic uses from adverse effects of heavy manufacturers, should they be located at Industry City. Specifically, hotels and academic uses will be prohibited from locating within the same buildings as, or sharing a common wall with, heavier industrial uses, and vice versa. In this way, academic institutions that locate at Industry City can be protected from any adverse effects of heavier industrial uses while being allowed the greatest flexibility in potential future location within the special permit area.

In this manner, the District will be able to properly develop as mixed commercial/industrial area with limited community facility, retail and hotel uses, allowing a wider range of uses but protecting more sensitive users from heavier manufacturing uses and simultaneously limiting the noxiousness of manufacturing uses.

These proposed uses would also be compatible with existing uses at Industry City. In addition to the modern mix of commercial, manufacturing and industrial uses, other existing uses include warehouse/storage uses and vacant space. While much of the warehouse/storage use and vacant space is anticipated to be replaced by higher-intensity commercial, manufacturing and industrial uses, remaining warehouse/storage uses will still be able to co-exist with the anticipated new uses. A substantial number of loading docks will be retained to serve remaining warehouse/storage uses (as well as all other commercial uses in the Proposed Project) and freight elevators will be maintained and rehabilitated to accommodate such users.

Viewed beyond the boundaries of the District, this mix of uses is also appropriate for the location, as Industry City sits at the boundary between a mixed residential/commercial/light-industrial neighborhood to the east across the Gowanus Expressway, and heavier industrial uses to the south, west and north. In addition there are large retail establishments to the north and south, and educational facilities to the east between Third and Fourth avenues. Rather than maintain hard boundaries between uses at the edge of the District (as the Zoning Resolution has traditionally set forth since 1961), the special permit will allow a broader range of uses within the District itself while establishing protections for all sensitive uses. In the recent past, the Zoning Resolution has employed, with increasing frequency, this approach to permitting a controlled mix of uses while protecting sensitive uses. Examples can be found in the numerous Mixed-Use, or “MX” districts, zoned throughout the City.

*(ii) such uses will be located so as to draw a minimum of vehicular traffic to and through local streets;*

Industry City and the District are well-situated with respect to access via arterial highway, truck routes and other major vehicular arteries. The elevated Gowanus Expressway (I-278), runs immediately adjacent to the District with a southbound exit that discharges car and truck traffic to what is essentially the center point of the District at 39<sup>th</sup> Street and Second Avenue. The Gowanus provides access to all parts of the City and beyond without the need to traverse local streets. Underneath the Gowanus is Third Avenue—a major vehicular artery and truck route that is the preferred route of travel from local points south and north and to Gowanus Expressway on-ramps at Prospect Avenue to the north and 62<sup>nd</sup> Street to the south. The presence of Greenwood Cemetery—two avenues east of the District and extending from 20<sup>th</sup> Street to 37<sup>th</sup> Street—prevents easy access from points east. As such, vehicular traffic from points in Brooklyn east of

the District would be funneled primarily through the limited-access Prospect Expressway as well as 20<sup>th</sup> Street and 39<sup>th</sup> Street (both of which are two-way streets).

The District is also well-situated with respect to access to mass transit, which will reduce overall vehicular traffic to and from the District. One avenue east of Industry City, at 36<sup>th</sup> Street and Fourth Avenue is an express stop on D/N/R subway station (to and from which Industry City provides a shuttle bus). Public bus service is provided via the B37 line, which runs along Third Avenue and provides service to/from points north (Atlantic Avenue) and south (Bay Ridge); the B70 line, which terminates at Industry City on 39<sup>th</sup> Street and provides service to Dyker Heights via 39<sup>th</sup> Street and Eighth Avenue; and the B35 line, which runs along 39<sup>th</sup> Street and provides service from Industry City east through the heart of Brooklyn along 39<sup>th</sup> Street and Church Avenue to Brownsville.

The proximity of the District to major vehicular travel routes and mass transit options will allow the proposed uses to draw a minimum of vehicular traffic to and through local streets. Furthermore, the location of retail uses and associated parking facilities within the district will further reduce vehicular traffic through local streets. Larger retail establishments—which have the potential to generate the greatest intensity of vehicular traffic—are anticipated to be located along 39<sup>th</sup> Street between First and Second Avenue, along a major east-west throughfare and either in the same building as, or in close proximity to, a large parking garage (in Building 21 within Zoning Envelope F on Zoning Lot 3) designed to accommodate vehicular traffic to those uses. Similarly, larger first and second floor retail establishments permitted along Second Avenue and along 32<sup>nd</sup> Street would be located either in the same building as, or in close proximity to the proposed parking garage (in Building 11 within Zoning Envelope A on Zoning Lot 1) at Second Avenue and 32<sup>nd</sup> Street.

*(iii) access to public streets from such uses is designed to maximize pedestrian safety and minimize vehicle and pedestrian conflicts;*

Access to public streets from uses within the District would be either direct (in the case of most existing buildings along 39<sup>th</sup> Street and First Avenue and all proposed new buildings) or via grade-separated elevated walkways (in the case of the Finger Buildings between Second and Third avenues and other 39<sup>th</sup> Street buildings).

The anticipated commercial, community facility and manufacturing uses within the Finger Buildings would be accessed primarily from elevated sidewalks that run adjacent to the mix of public and private streets running from Third Avenue to Second Avenue at 33<sup>rd</sup> Street, 34<sup>th</sup> Street, 35<sup>th</sup> Street and 36<sup>th</sup> Street.<sup>5</sup> These elevated sidewalks have access points on both the south and the north sides of these cross-streets at their Third and Second Avenue ends. The elevated sidewalks will extend along the entire Industry-City-owned property along these streets. As such, while vehicular traffic will still be permitted along these streets, pedestrians would be physically separated from through-traffic and truck traffic along these streets and have numerous access points into the Finger Buildings.

Approximately midway between Third Avenue and Second Avenue a pedestrian corridor will run between all of the Finger Buildings, both through the buildings themselves and across the cross-streets that separate buildings. This corridor, termed “Innovation Alley”, will eventually extend from Building 1 at 37<sup>th</sup> Street (within Zoning Envelope E) to Building 9 at 32<sup>nd</sup> Street (within Zoning Envelope A). The portions of this corridor that cross streets will be hatched as a clearly-visible crosswalk with stop signs controlling car and truck traffic using the cross-streets. This midblock crossing is the only formal pedestrian crossing across these streets, allowing for controlled and safe pedestrian travel in a location distant from both Second Avenue and Third Avenue so as to minimize the potential dangers to pedestrians associated with turning vehicles..

The anticipated commercial and community facility uses within the proposed Gateway Building (at Third Avenue between 36<sup>th</sup> and 37<sup>th</sup> Streets within Zoning Envelope A) would have direct access to Third Avenue in an area separate from any loading berths, as is traditionally seen in

<sup>5</sup> While 36<sup>th</sup> Street and 37<sup>th</sup> Street are mapped City streets, 32<sup>nd</sup>, 33<sup>rd</sup>, 34<sup>th</sup> and 35<sup>th</sup> Streets are only mapped for a short distance west of Third Avenue, and continue through to Second Avenue as unbuilt-upon driveways owned by the applicant. All of these “streets” are approximately 60 feet wide including sidewalks, are generally open to vehicular and pedestrian traffic, and are only for the purposes of this Statement of Findings, termed streets.

street-fronting buildings throughout the City. Similarly, uses within the proposed Building 11 (at Second Avenue between 32<sup>nd</sup> and 33<sup>rd</sup> Streets) would also have direct Access to Second Avenue in a location that is not adjacent to loading berths or parking garage entrances. Since the special permit will preclude new building curb cuts from being located along Second Avenue or Third Avenue, these pedestrian entrances onto the avenues will be protected.

The anticipated commercial, community facility and manufacturing uses within Building 19 and 20 (within Zoning Envelope F on Zoning Lot 3) would have direct access from the sidewalk along Second Avenue and access either directly from the sidewalk or from an elevated outdoor walkway adjacent to the sidewalk along 39<sup>th</sup> Street. Loading docks serving building 19 and 20 would be located either along 41<sup>st</sup> Street (where there would be only one pedestrian entrances well west of the docks) or within the building's interior courtyard and accessed via driveways at the western end of Buildings 19 and 20 at 39<sup>th</sup> Street and 41<sup>st</sup> Street. As such pedestrian access to streets and sidewalks would be safely separated from truck access.

The anticipated commercial, manufacturing and hotel uses within proposed Building 21 (within Zoning Envelope F on Zoning Lot 3) would likely be accessed directly from the sidewalk, with pedestrian access likely along 39<sup>th</sup> Street and most vehicular access and loading access along First Avenue and/or 41<sup>st</sup> Street. While a singular curb cut along the south side of 39<sup>th</sup> Street would also provide vehicular access to approximately 40 parking spaces in the rear courtyard of Building 19, vehicular use of this curb cut would be limited and infrequent. While pedestrian access to Building 21 may also be achieved from First Avenue, such an entrance would be located closer to 39<sup>th</sup> Street rather than 41<sup>st</sup> Street, where vehicles are most likely to access the Building 21 garage. Uses within Buildings 22-26 could be in a number of locations, depending on the ultimate configuration and use of those buildings. It is anticipated that uses would be accessed directly from the public sidewalk along 39<sup>th</sup> Street and/or First Avenue. Potential conflicts between pedestrians and vehicles are likely to be minimized for Buildings 22-26 because this group of buildings fronts along the westernmost extension of 39<sup>th</sup> Street, which dead ends at the western end of the building, minimizing vehicular traffic in this area. Due to the need for flexibility in planning for the redevelopment of Buildings 22-26, the special permit would allow for curb cuts in a range of areas, some of which include portions of the building currently anticipated to include pedestrian entrances. In practice, the renovation and retenting of these buildings would be planned in such a way as to substantially separate loading/vehicular access from pedestrian access.

While underlying zoning regulations would permit curb cuts to be located in any location beyond 50 feet from the intersection of two streets, the Special Permit would further limit curb cut locations to maximize pedestrian safety and minimize vehicle and pedestrian conflicts. Specifically, the Special Permit will substantially limit new curb cuts along the three street frontages that are expected to be most heavily travelled by pedestrians: Second Avenue, Third Avenue, and 39<sup>th</sup> Street; while supporting curb cuts along street frontages less heavily travelled by pedestrians: First Avenue, 41<sup>st</sup> Street and 37<sup>th</sup> Street. While there is the potential that some existing curb cuts providing historical loading dock access to Building 24 (within Zoning Envelope G on Zoning Lot 4) may be retained and reused if they are the only viable loading access points to the building, these curb cuts are at the western end of dead-end 39<sup>th</sup> Street, where pedestrian activity is likely to be minimal.

Furthermore, vehicular entrances to the large parking garages at Industry City would most likely be located along streets that are less heavily used by pedestrians. Specifically, the entrance to the anticipated garage within Building 11 (in Zoning Envelope A on Zoning Lot 1) would be located on 32<sup>nd</sup> Street, which is at the northernmost end of the Project Area and least heavily used by pedestrians. The entrance to the anticipated garage within Building 21 (in Zoning Envelope F within Zoning Lot 3) would be located on either First Avenue (between 39<sup>th</sup> and 41<sup>st</sup> Street) and/or 41<sup>st</sup> Street east of First Avenue. Neither of these streets are primary pedestrian streets as they do not link one portion of Industry City with another, nor do they link Industry City with major transit access to or from the area.

Together, the combination of elevated and grade-separated walkways along the Finger Buildings and the separation of pedestrian and vehicular (car and truck) entrances for the 39<sup>th</sup> Street buildings will maximize pedestrian safety and minimize vehicle and pedestrian conflicts within the District.

- (iv) *such use will not impair the essential character or future use or development of the surrounding area; and*

The majority of uses permitted by the Special Permit are currently permitted in some form in zoning districts adjacent to or within the District. These M1 districts are mapped in the location of the proposed hotel at the Gateway Building, up and down the east side of Third Avenue across the street from the Finger Buildings, and on the blocks south of 37<sup>th</sup> Street between Second and Third Avenues. Hotel uses are currently permitted by special permit. Retail uses are currently permitted as-of-right, to a limited extent, in the District, and to a greater extent within the numerous M1 districts described above. While academic uses such as Colleges/Universities are not currently permitted in the area, there are a number of larger primary schools immediately surrounding the District, including Sunset Park High School on Fourth Avenue between 34<sup>th</sup> and 35<sup>th</sup> streets and PS 371 on Fourth Avenue between 36<sup>th</sup> and 37<sup>th</sup> streets.

Within Industry City, the uses proposed are anticipated to work in concert with each other rather than in conflict with each other. It should be noted that the entirety of Industry City is currently in common ownership and, while future ownership changes to some or all of Industry City cannot be ruled out, the applicant is incentivized to ensure a continued compatibility of uses in the Project Area. In addition, tight controls on the location and performance standards of manufacturing uses will ensure they do not have negative effects on sensitive uses.

With respect to the surrounding area, the uses proposed and permitted would be less-intensive than uses currently permitted in the Project Area and are thus unlikely to negatively impact uses in adjacent districts. Proposed uses are likely to be of the same or less-intensive nature than the uses permitted on most of the adjoining land. To the north, west and portions of the south of Industry City, the land will remain zoned M3-1—a heavy-industrial district that would not be negatively impacted by the proposed lighter-industrial, commercial and community facility uses. To the east and other portions of the south of Industry City, the land will remain zoned M1-2 or M1-2D—districts that permit uses very similar to those that would be permitted on the Proposed Project.

- (v) *For uses in Use Group 3A:*

- a. *an adequate separation from air, noise, traffic and other adverse effects is achieved to minimize the potential conflicts from surrounding industrial uses. For schools, such separation shall be achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot;*

The regulations that will be applied to Use Group 3A uses will protect those uses from adverse effects of other uses and activities. Specifically, pursuant to the regulations of the Special District, UG3A academic uses will not be located in the same building as, or share a common wall with, a use that: 1) has a New York City or New York State environmental rating of “A,” “B,” or “C” under Section 24-153 of the New York City Administrative Code for any process equipment requiring a New York City Department of Environmental Protection operating certificate or New York State Department of Environmental Conservation state facility permit; 2) is required, under the City Right-to-Know Law, to file a Risk Management Plan for Extremely Hazardous Substances; or 3) is listed in UG 18. The reverse will also apply: uses meeting the above criteria will not be permitted to locate in the same building as, or share a common wall with, UG3A academic uses.

Furthermore, with respect to adjacent properties outside the Project Area, the properties immediately surrounding the district are either vacant, parking, or light-industrial in nature and would not produce adverse effects on the District. In addition, future use of these properties is unlikely to introduce conflicts from the perspective of air, noise and/or traffic: The immediately-adjointing property to the north is used for parking in conjunction with the Liberty View mixed-use development. As Liberty View is approved via BSA Variance and is completely built-out it is unlikely to be developed with more intensive uses. SBMT, to the west, will be operated by a joint venture that includes an entity of the Applicant. While some additional air and noise effects would accompany the activation of SBMT, these uses would not be likely to create significant

adverse air quality or noise impacts, as shown in the Environmental Impact Statement. The Gowanus Expressway to the east is the predominant generator of potential adverse effect to the east, and its effects have been assessed, and noise attenuation standards established, as part of the Environmental Impact Statement. To the south, uses include a large-retail establishment (Costco) and other light-industrial uses. These light-industrial properties are mostly on smaller lots and would generate noise, air quality and traffic effects on a small-scale. Immediately to the east of potential UG3A uses in proposed Building 21 is Lot 20, which is currently in use to manufacture plastic bags in the cellar and has mechanical and computing equipment on its upper floors. The adjacent uses in Building 21 would be located above two floors of retail use and three parking levels—well above the existing three-story Lot 20 building and any adverse effects therefrom. As a result of the findings of the Environmental Impact Statement, all of these effects, but for certain traffic impacts, would be fully mitigated. With respect to potential unmitigated traffic impacts, these are not likely to have a disproportionate effect on the permitted UG 3A uses, as such uses exist throughout the City in densely-built high-traffic locations without ill effect.

As a result of the assessment of potential impacts of noise on Use Group 3A uses, noise reduction measures would be required in the form of sufficient window-wall noise attenuation to moderate effects of surrounding noise.

The requirement for noise separation for school use is not applicable as no school use is proposed in the special permit.

- b. in selecting the site for such uses due consideration has been given to the proximity and adequacy of mass transit facilities;*

The District is well-situated with respect to access to mass transit. One avenue east of Industry City, at 36<sup>th</sup> Street and Fourth Avenue, is an express stop on D/N/R subway station (to and from which Industry City provides a shuttle bus). The D, N and R subway lines provide direct links between Sunset Park and all of Southwest and Southern Brooklyn, Downtown Brooklyn, Lower Manhattan and Midtown, the Central Bronx and wide swaths of Queens. With a single subway transfer at either Atlantic Ave./Barclays, 14<sup>th</sup> Street/Union Square or Times Square, the District is accessible to the entirety of the rest of the NYC Subway System. Closer to the District, public bus routes connect to Central Brooklyn and Southwest Brooklyn as well via the B37 line, which provides service to/from points north (Atlantic Avenue) and south (Bay Ridge); the B70 line, which terminates at Industry City on 39<sup>th</sup> Street and provides service to Dyker Heights; and B35 line, which provides service through the heart of Brooklyn along 39<sup>th</sup> Street and Church Avenue to Brownsville.

- c. for schools, the movement of traffic through the street on which the school is located can be controlled so as to protect children going to and from the school. The Commission shall refer the application to the Department of Transportation for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the of the proposed site; and*

Not applicable. No school use is proposed in the special permit

- (vi) for transient hotels in Use Group 5 or 7A:*

- a. An adequate separation from air, noise, traffic and other adverse effects is achieved to minimize the potential conflicts from surrounding industrial uses; and*

The regulations that will be applied to Use Group 5 uses will protect those uses from adverse effects of other uses and activities. Specifically, pursuant to the regulations of the Special District, UG5 or 7A hotel uses will not be located in the same building as, or share a common wall with, a use that: 1) has a New York City or New York State environmental rating of “A,” “B,” or “C” under Section 24-153 of the New York City Administrative Code for any process equipment requiring a New York City Department of Environmental Protection operating certificate or New York State Department of Environmental Conservation state facility permit; 2)

is required, under the City Right-to-Know Law, to file a Risk Management Plan for Extremely Hazardous Substances; or 3) is listed in UG 18. The reverse will also apply: uses meeting the above criteria will not be permitted to locate in the same building as, or share a common wall with, UG5 or 7A hotel uses.

Furthermore, with respect to adjacent properties outside the Project Area, the properties immediately surrounding the proposed hotels are either parking, or light-industrial uses and would not produce adverse effects on the District. In addition, future use of these properties is unlikely to introduce conflicts from the perspective of air, noise and/or traffic: The Gowanus Expressway immediately to the east of the proposed Hotel at the Gateway Building (within Zoning Envelope E on Zoning Lot 2) is the predominant generator of potential adverse effect to the east, and its effects have been assessed as part of the Environmental Impact Statement, with a finding that windows in new hotel construction would include a minimum window/wall attenuation to avoid adverse noise effects. To the south, uses include the accessory parking lot for a large-retail establishment (Costco) (south of the Gateway Building hotel) and other light-industrial uses (south of the Building 21 hotel within Zoning Envelope F on Zoning Lot 3). The parking lot is not expected to conflict with adjacent hotel uses. And the adjacent light-industrial properties are mostly on smaller lots and would generate noise, air quality and traffic effects on a small-scale. Immediately to the east of the hotel is Lot 20, which is currently in use to manufacture plastic bags in the cellar and has mechanical and computing equipment on its upper floors. The adjacent hotel in Building 21 would be located above two floors of retail use and three parking levels—well above the existing three-story Lot 20 building and any adverse effects therefrom. While the Environmental Impact Statement identified potential unmitigated traffic impacts, these are not likely to have a disproportionate effect on the permitted UG 5/7A uses as such uses exist throughout the City in densely-built high-traffic locations without ill effect.

As a result of the assessment of potential impacts of noise on Use Group 5/7A uses, noise reduction measures would be required in the form of sufficient window-wall noise attenuation to moderate effects of surrounding noise.

- b. such use is appropriate to the needs of business in the Special Industry City District and will not impair the essential character or the future use or development of the surrounding area; and*

Hotels are an important component of a vibrant center of manufacturing and commerce, and can ensure the success of both newly-formed and established businesses. The two hotels that would be permitted by the Special Permit would accommodate the many travelers transacting business with the hundreds of employers projected to operate at Industry City. The hotels will also provide critical conference and meeting room space.

As demonstrated through discussions with its existing tenants as well as stakeholders from innovation districts across the country, demand for hotel and meeting space is very high among tenants and users they hope to attract to Industry City. The two hotels at Industry City would support existing businesses as they grow, enabling firms to host prospective workers, partners, and visitors. For example, visitors would be able to stay in hotels on-site and have direct access to the companies they are visiting, as well as to other uses within the Project Area. Meeting facilities within the hotel will offer space for events that foster cross-collaboration among the diverse sectors of the modern mix of manufacturing, studio, office and industrial uses and could provide additional meeting space for a proposed academic partner. Hotels will also be an incentive to attract new firms to locate at Industry City. Nearby hotels in the Sunset Park neighborhood would not be able to provide the necessary connections to the District due to their inability to provide the on-site capabilities that an Industry City hotel could provide. Specifically, existing hotels in Sunset Park lack the business and meeting amenities needed by the the modern mix of manufacturing, studio, office and industrial. Of the seven hotels located within a one mile radius of Industry City, all but one are limited-service establishments and none have meeting or conference facilities. The closest hotels with business conference facilities are two miles away in Park Slope/Boerum Hill, requiring a 20 minute trip on public transit. The two hotels at Industry City will not compete with existing hotel offerings in the neighborhood, but rather, will fill a gap in the market for mid and upscale select-service hotels with meeting facilities.

Each of the hotels that would be permitted by the Special Permit would be located so as not to impair the character of, or the future use or development of, the surrounding area. Both the hotel at the Gateway Building and the hotel at Building 21 would be located on thoroughfares that are wide streets and provide easy access/egress to and from the neighborhood without the need to traverse local streets. Both hotels would be constructed within contextual buildings built to heights similar to existing buildings in the district. The hotels would represent a very small fraction of the total development capacity in the District. Taken together they would comprise approximately 287,600 zoning square feet, which is only four percent of square footage anticipated to be built in the District. Rather than impairing the character or future use or development of the surrounding area, the hotels would support the character and use of neighboring properties by providing a much-needed place for visitors to the hundreds of business in the neighborhood to stay overnight.

*(4) For bulk modifications, the Commission shall find that:*

- (i) The proposed modifications facilitate a good site plan that enhances the streetscape and promotes a harmonious relationship in scale and design with existing buildings and the essential character within the Special Industry City District;*

The special permit seeks to modify the underlying bulk regulations of Zoning Resolution sections 43-10 (Floor Area Regulations), 43-20 (Yard Regulations) and 43-40 (Height and Setback Regulations). In addition, the special permit would impose additional regulations over and above those set forth in 44-43 (Location of Access to the Street) pertaining to curb cuts..

Almost 80 percent of the floor area that would be permitted to be developed in the special permit area currently exists within 17 buildings that were constructed a century ago. These existing buildings rise from the streetline or close to the streetline, without setback, to their full heights of approximately 85 feet (most Finger buildings within Zoning Envelopes A through E), 115 feet (Buildings 20 and 22-26 within Zoning Envelope G), 140 feet (Building 19 within Zoning Envelope F) and 170 feet (Building 10 within Zoning Envelope A). Currently, neither the current M3-1 zoning district nor the proposed M2-4 zoning district impose height limits on development at Industry City.

Rather than impose height limitations, both the existing (M3-1 and M1-2) and proposed (M2-4 and M1-2) zoning districts require graduated setbacks as buildings rise higher. The special permit, however, would establish building height limits that memorialize the existing built form of the area while permitting limited additional height for rooftop additions (after required setbacks from the building facade) and what is envisioned to be up to three new buildings of heights similar to the existing buildings. Furthermore, while the existing zoning districts place no development limitations within the privately-owned prolongations of 32<sup>nd</sup>, 33<sup>rd</sup>, 34<sup>th</sup> and 35<sup>th</sup> Streets, the special permit would prohibit development in these areas. The special permit would also waive certain required yards and allow floor area to be transferred without limitation between and among zoning lots within the Large Scale Development without regard to zoning lot boundaries.

With respect to new buildings, the Gateway Building, at the southeast corner of the Finger Buildings portion of Industry City within Zoning Envelope E, and Building 11, at its northwest corner within Zoning Envelope A, would each be permitted to rise to a maximum height of up to 170 feet. This height matches the height of Building 10 at the northeast corner of the Finger Buildings portion of Industry City. At these heights, the new Gateway Building and Building 11 would form anchor points at two additional corners of the Finger Buildings portion of Industry City without exceeding the height of existing Building 10. Building 21 (along 39<sup>th</sup> Street between Building 19/20 and First Avenue within Zoning Envelope F) would be permitted to rise to a maximum height of 150 feet, which is similar to the height of portions of existing adjacent Building 19, also within Zoning Envelope F, which rises to 140'. While it would be higher than the existing 3-story building on adjacent Lot 20, this lot could be developed with a building as tall as, or taller than, 150 feet under the proposed M2-4 zoning district in any case.

To facilitate these proposed new buildings, height, setback and yard relief will be required, to some extent, to facilitate all proposed Zoning Envelopes. Specifically, the front setbacks

typically required within the M1-2 district for the Gateway Building at a height of 60 feet, and within the M2-4 district for Building 11 (Zoning Envelope A) and Building 21 (Zoning Envelope F) at a height of 85 feet, as well as the sky-exposure-plane regulations above, would be waived to allow buildings to rise from the streetline without setback to heights of 170 feet (Gateway, Building 11) and 120 feet (Building 21). At its maximum permitted 170-foot height, the proposed Gateway Building would require approximately 40 feet of setback relief along 36<sup>th</sup> Street and 20 feet along Third Avenue. The proposed Building 11 would require approximately 15 feet of setback relief along Second Avenue between 85 feet and its maximum permitted 170-foot height. Along 41<sup>st</sup> Street, the proposed Building 21 would require approximately 20 feet of setback relief for its base between 85 feet and 120 feet, and an additional 4 feet of relief above its base along 41<sup>st</sup> Street to its maximum permitted height of 150 feet. Along 39<sup>th</sup> Street and First Avenue, the proposed Building 21 would require approximately 15 feet of setback relief for its base between 85 feet and 120 feet, and no further relief above 120 feet.

With respect to the portions of the District currently occupied by existing buildings, the special permit would also establish height limits that are between 25 and 35 feet higher than existing building heights in order to facilitate the limited rooftop enlargements of those buildings. Existing Finger Buildings that rise to heights of approximately 85 feet (within Zoning Envelopes A through E) would be permitted to rise an additional 25 feet (to 110 feet) provided they set back a minimum of 10 feet from wide streets and 15 feet from narrow streets and the prolongation thereof. Existing 39<sup>th</sup> Street buildings that rise to heights of approximately 115 feet (within Zoning Envelopes F and G) would be permitted to rise an additional 35 feet (to 150 feet) provided they set back a minimum of 20 feet from all streets at a height of 120 feet.

To facilitate enlargements of existing buildings, height, setback and yard relief will be required. Specifically, the front setbacks at heights of 85 feet typically required within the M2-4 district would be waived to allow 39<sup>th</sup> Street buildings to rise from the streetline without setback to maximum heights of 120 feet (before required 20-foot setbacks). Above the maximum front wall height, the topmost portion of a potential enlargement would require a minor (approximately 4-foot) additional waiver of sky-exposure plane regulations along 41<sup>st</sup> Street (as it is a narrow street with a 2.7-to-1 sky exposure plane), but no additional waivers along First Avenue, Second Avenue or 39<sup>th</sup> Streets. Since the majority of the Finger Buildings street frontage rises to a height of 85 feet (within Zoning Envelopes A through E), they would generally require waivers of maximum front wall heights only for the small portions of the buildings containing mechanical bulkheads that extend above 85 feet at the streetline. Above 85 feet, proposed setbacks would be 10 feet (on wide streets) or 15 feet (on narrow streets), rather than the required 15- and 20-foot setbacks, respectively, thus relief from initial setbacks are required.

In addition, areas of rear-yard relief would be required to facilitate development in locations of buildings 1, 3, 21 and 26. Specifically, Buildings 1 and 3 (within Zoning Envelopes E and D, respectively) would require 20-foot yard relief to facilitate existing development and potential enlargements adjacent to their boundaries with parcels immediately east along Third Avenue that are not included in the Large Scale Development. Building 21 within Zoning Envelope F would require 20-foot yard relief for its portions which adjacent Lot 20. Building 26 within Zoning Envelope F would require 20-foot yard relief for the base of the building up to a height of 120 feet along its western waterfront frontage and portions of its southern frontage adjacent to properties to the south on Block 715, Lot 1 outside the Project Area. The majority of this yard relief will memorialize existing conditions and allow for limited building enlargements above.

Upon rezoning to an M2-4 district with a maximum FAR of 5.0 and the combination of a number of individual tax lots into larger zoning lots, three of the four proposed zoning lots (zoning lots 1, 2 and 3) would be built to an FAR of less than 5.0 (Zoning Lot 4, comprising Buildings 22-26 west of First Avenue, would be built to an FAR of almost 6.0). However, with respect to new developments or enlargements, it is exceedingly difficult to predict the needs of businesses far into the future, and thus to predict exactly on which zoning lot development may occur.

Given the underlying regulations of Section 43-10 sets forth a maximum permitted floor area for each individual zoning lot, as a means of ensuring the ability to develop suitable space as and where needed in the future, this special permit application seeks to modify the provisions of 43-10 to allow the maximum permitted floor area to be transferred between and among zoning lots

within the Special District without regard to zoning lot lines. As such, while the overall FAR will still be limited to 5 FAR in the special permit area, one or more zoning lots may be built to an FAR of greater than 5.

This movement of floor area without regard to zoning lot boundaries will facilitate a good site plan by allowing for development in areas that are currently developed to less than what the full proposed height and setback envelope would permit, rather than merely on zoning lots that have not used their full allocation of FAR. For example, development of a new Building 21 would result in Zoning Envelope F exceeding a maximum of 5 FAR, however a good site plan would support substantial development in this area as it would be harmonious with the large adjacent Buildings 19 and 20. Furthermore, while zoning envelopes A through D would be built to an FAR of less than 5 subsequent to the construction of Building 11, a good site plan would nonetheless not support a larger Building 11 in this area, as it would not be harmonious with the scale of Building 10. As such, the movement of floor area between and among zoning lots would assist in the development of the special permit area to a bulk that is harmonious with existing buildings and in character with the area.

In summary, by establishing building height limits where none currently exist and granting relief from yard regulations, the special permit will reinforce the existing built form of the District and affirm its built character. By allowing limited new construction of similar form to existing buildings and allowing for the transfer of floor area without regard to zoning lot boundaries, the special permit would facilitate a more consistent streetwall, and further enhance the streetscape within the District.

*(ii) such modifications will not unduly obstruct the access of light and air to adjoining properties or public streets; and*

The Special District would comprise approximately 30 acres of land which occupies most or all of seven large city blocks. There are very few properties that adjoin the District but are not included within the District. Furthermore, much of the District is separated from nearby properties by wide streets. As discussed above, the special permit would impose height restrictions where none currently exist, while permitting the construction of new buildings to heights that relate to the heights of existing buildings.

With respect to the portion of the District in the vicinity of the Finger Buildings, it encompasses all property within the blocks bounded by 32<sup>nd</sup> Street, 37<sup>th</sup> Street, Second Avenue and Third Avenue, with the exception of two tax lots at the NW corner of Third Avenue and 37<sup>th</sup> Street, and two tax lots at the NW corner of Third Avenue and 36<sup>th</sup> Street. While the special permit would permit the construction of the Gateway Building adjacent to the outparcels at Third and 37<sup>th</sup>, these outparcels would still have ample access to light and air from their two open street frontages along Third Avenue and 37<sup>th</sup> Street. With respect to the outparcels at the corner of Third Avenue and 36<sup>th</sup> Street, they too would continue to front on two streets and be separated from the Gateway Building by the 60-foot-wide 36<sup>th</sup> Street.

With respect to properties east of the Finger Buildings, they would continue to be separated from the District by Third Avenue and the elevated Gowanus Expressway, which form wide barriers between the District and the rest of Sunset Park to the east. West of the Finger Buildings is the large—and largely unbuilt-upon—South Brooklyn Marine Terminal (“SBMT”), a heavy-industrial property which is separated from the District by Second Avenue and which does not and would not contain uses that rely upon open light or views. Furthermore the development contemplated for the Finger Buildings across Second Avenue from SBMT would be limited to modest rooftop enlargements and a single new 170-foot-tall building at 32<sup>nd</sup> Street. South of the Finger Buildings is Costco—which has very few windows overall and almost no windows facing north—and its associated parking lot. Costco would be unaffected by the modest rooftop enlargement that could be constructed atop the adjacent Finger Building, or by the Gateway Building which could be constructed across the street from a portion of its parking lot. North of the Finger Buildings is a block containing another large parking lot and a vacant one-story warehouse building unlikely to be affected by adjacent development.

With respect to the 39<sup>th</sup> Street portion of the District extending from Second Avenue to the Waterfront and 39<sup>th</sup> Street to 41<sup>st</sup> Street, this portion encompasses the vast majority of these two

superblocks and there is only one immediately adjoining property not included: Lot 20, which is situated along 39<sup>th</sup> Street between existing Building 19 and 20 and proposed Building 21. Lot 20 contains a 3-story building primarily housing a plastic bag manufacturer. The Bulk relief would facilitate new construction within Zoning Envelope F on Zoning Lot 3 immediately west and south of Lot 20, and would permit a modest enlargement to the roof of the existing Building 19 and 20 immediately east of Lot 20. The building on Lot 20 contains no functioning windows facing south and very few functioning windows facing west, and thus would not be adversely affected by the construction of new buildings in those directions. To the east, a potential enlargement to Building 19-20 would have minimal effects on Lot 20, as it would represent only a small increase in the height of a building that is already 115 feet high adjacent to Lot 20 and up to 140 feet high further east.

Aside from Lot 20, the closest properties are across Second Avenue to the east, and across 41<sup>st</sup> Street to the south. Across Second Avenue are predominantly industrial and automotive uses that are unlikely to be affected by any limited rooftop addition to Buildings 19 and 20. Similarly, across 41<sup>st</sup> Street between Second and First Avenues are also industrial and automotive uses that are unlikely to be affected by any limited rooftop addition to Buildings 19 and 20 or the construction of new Building 21.

Due to the 20-foot setbacks required of any rooftop enlargements and the low height of the existing buildings across 41<sup>st</sup> Street, enlargements would not be visible from these buildings. And while a new Building 21 would be visible from across 41<sup>st</sup> Street, the massing of such a building would not depart significantly from that of the existing Building 19/20, which currently occupies approximately two-thirds of the northern frontage of the block and does not unduly impact adjacent uses across the street. 41<sup>st</sup> Street is largely a service street and would likely remain so subsequent to development of the District. Across 41<sup>st</sup> Street from First Avenue to the waterfront is portion of Bush Terminal comprising a six-story industrial building, which connected to Building 26 by a one-story building. This structure, which is anticipated to be redeveloped with its own mix of manufacturing, studio, office and industrial uses as part of the first phase of the Made in NY Campus project, is unlikely to be affected by any limited rooftop enlargement of Building 26.

With respect to adjoining public streets, the special permit would impose overall height limits on development in the Large Scale Development area, which would broadly protect the access of light and air to surrounding streets. While the special permit would also permit certain limited encroachments above maximum base heights and within required sky-exposure-planes, these encroachments would result in buildings of similar mass and relation to the street as existing buildings. The Gateway Building would affect Third Avenue (which is itself largely shaded by the overhead Gowanus Expressway) in a manner no greater than Building 10 currently does within Zoning Envelope A. Building 11, also within Zoning Envelope A, would similarly require relief from front setback and sky-exposure-plane regulations, however it fronts on Second Avenue—a wide street that is fully open on its western frontage. Building 21 in Zoning Envelope F would largely echo the mass and built form of adjacent buildings 19 and 20 to the east in the same Zoning Envelope F, and 22/23 and 26 to the west in Zoning Envelope G. It too is bounded by wide streets to the north and west, and a fully open area across 39<sup>th</sup> Street to the north. The only narrow street bounding Building 21 is 41<sup>st</sup> Street to the south, which is itself bounded by low buildings on its south side and which would not be cast into additional shadow by Building 21. Other than the proposed new buildings, the special permit would only permit enlargements to existing buildings that are set back from existing building roofs and that modestly (by a maximum of 4 feet on 41<sup>st</sup> Street) encroach upon required sky-exposure-plane regulations.

In summary, the modification of bulk regulations would permit certain limited new construction but would also impose building height limitations that do not currently exist, thereby protecting the limited number of adjacent properties and streets and not unduly obstructing the access of light and air to those adjoining properties or streets.

- (iii) *The distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets*

The District currently presents a fairly uniform streetscape, with mid-sized-to-tall industrial buildings that are located at or near the street line and rise from the street generally without setback to their maximum roof heights. In certain locations within the District, however, this uniform streetscape is broken-up with the presence of shorter and smaller structures that disrupt the uniformity of the District's early 20<sup>th</sup> century industrial character.

The bulk modifications permitted by the special permit would allow for the construction of three new buildings in areas that currently disrupt the District's uniform streetscape. As discussed above, these new buildings could rise from the street line at locations and to heights similar to existing adjacent buildings. Most new buildings and enlargements would not be permitted to exceed the height of most existing buildings by more than between 25 and 35 feet. As such, these modest increases in height over existing conditions would not obstruct light and air access to adjoining buildings. While the proposed new Gateway Building and Building 11 would rise to heights of approximately 85 feet higher than existing adjacent buildings, both of these buildings would be located at the end of blocks, along wide avenues, and at the corners of the district. As such, existing adjacent buildings would still have ample access to light and air in these locations as well.

The special permit's allowance to distribute floor area among blocks without regard to zoning district boundaries may result in some blocks containing more floor area than would otherwise be permitted absent the special permit. However, due to height limitations, there would be a practical limit on how much floor area could be developed on each block. Specifically, there are four zoning lots that are envisioned to comprise the special permit area, which are anticipated to be developed at the following densities:

- (1) Zoning Lot 1 would comprise approximately 682,734 square feet of land extending from 32<sup>nd</sup> Street to 36<sup>th</sup> Street between Second Avenue and Third Avenue, and is anticipated to be developed with approximately 2,929,000 square feet of floor area, or 4.3 FAR.
- (2) Zoning Lot 2 would comprise approximately 135,580 square feet of land extending from 36<sup>th</sup> Street to 37<sup>th</sup> Street between Second Avenue and Third Avenue, and is anticipated to be developed with approximately 709,000 square feet of floor area, or 5.2 FAR.
- (3) Zoning Lot 3 would comprise approximately 300,815 square feet of land extending from 39<sup>th</sup> Street to 41<sup>st</sup> Street between First Avenue and Second Avenue, and is anticipated to be developed with approximately 1,801,000 square feet of floor area, or 5.9 FAR.
- (4) Zoning Lot 4 would comprise approximately 184,045 square feet of land extending from 39<sup>th</sup> Street to 41<sup>st</sup> Street between First Avenue and the waterfront, and is anticipated to be developed with approximately 1,024,000 square feet of floor area, or 5.6 FAR.

As compared to the maximum 5 FAR otherwise permitted on any single zoning lot in the proposed M2-4 zoning district, none of the four zoning lots is anticipated to be developed to an FAR of more than approximately 5.9 FAR. Furthermore, Zoning Lot 1, which is more than twice as large as any of the other zoning lots, is anticipated to be substantially underbuilt at approximately 4.3 FAR. As such, the bulk in any one block would not be unduly increased nor would the mass of resulting buildings unduly impact light and air to other buildings on the block.