



IN THE MATTER OF an application submitted by RXR 42-11 9th Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50, in connection with a proposed twenty-story commercial building within an Industrial Business Incentive Area specified on the maps in Section 74-968 (Maps of Industrial Business Incentive Areas), on property located at 42-11 9th Street (Block 461, Lot 16), in an M1-4 District. Borough of Queens, Community District 2.

This application was filed by RXR 42-11 9th Holdings LLC on April 6, 2020 for a special permit pursuant to Zoning Resolution (ZR) Section 74-96. The requested special permit, in conjunction with the related application for a zoning text amendment (N 200304 ZRQ), would facilitate the construction of an approximately 320,000-square-foot mixed-use development with office, retail, and industrial uses at 42-11 Ninth Street in Long Island City, Queens, Community District 2.

RELATED ACTION

In addition to the special permit (C 200303 ZSQ) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

N 200304 ZRQ Zoning text amendment to ZR Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas).

BACKGROUND

The applicant requests a special permit and a zoning text amendment to facilitate the construction of a new 21-story, 321,347-square-foot mixed-use development at 42-11 Ninth Street in the Long Island City (LIC) neighborhood of Queens Community District 2.

The development site, coterminous with the project area, consists of Block 461, Lot 16, bounded by Queens Plaza South to the north, Ninth Street to the west, and 10th Street to the east. In 1995, the surrounding area was rezoned from an M1-3 district to an M1-4 district as part of the LIC Framework Implementation (C 950403 ZMQ). The rezoning was intended to reflect the scale of existing buildings, the majority of which were built to a floor area ratio (FAR) of 2.0 or less, and prevent higher-density commercial development in the areas designated for industrial use.

The development site is located within the LIC Industrial Business Zone (IBZ), established in 2006 to designate the area for industrial and manufacturing uses. In addition to providing direct business assistance to existing manufacturing firms and relocation tax credits for businesses that relocate within the IBZ, the City of New York has committed to preclude any zoning actions within the IBZ that would result in residential development. The LIC IBZ is serviced by the neighborhood development organization LIC Partnership. LIC Partnership's services include assisting businesses to obtain financing, tax credits and abatements, as well as other financial incentives and workforce training opportunities.

In 2016, the City Council adopted a zoning text amendment (N 160126 ZRK) that designated a full block (Block 2282, Lot 1) in the Williamsburg neighborhood of Brooklyn as an Industrial Business Incentive Area (IBIA) and created two new special permits available to developments or enlargements within this area. The first IBIA special permit allows for a higher maximum FAR and modification to underlying height and setback requirements when required industrial and other incentivized uses are included. This special permit is intended to facilitate new office and retail development by linking development, including an FAR bonus, to a requirement to include industrial uses. A development may increase the amount of maximum allowable floor area by 3.5 square feet for every one square foot of "Required Industrial Use" up to a maximum FAR that is equivalent to the permitted community facility FAR, provided that the additional floor area beyond the base maximum FAR is occupied only by "Required Industrial Uses" and "Incentive Uses." The special permit also allows for the modification or waiving of parking and loading requirements.

As outlined in ZR Section 74-961, Incentive Uses are all permitted uses in the underlying zoning district, excluding hotels, retail, eating and drinking establishments, and other entertainment and hospitality uses. Required Industrial Uses are a set of light industrial and manufacturing uses that are compatible with commercial uses. This includes a range of uses including the manufacturing of clothing and medical supplies, printing and breweries, and more.

Over the past several decades, LIC has transitioned from a traditional industrial neighborhood to one of the most diverse economies in the country. The area has seen significant residential development in recent years. The area has also seen development in uses that include large commercial office buildings, and life science-oriented and institutional developments. Despite the recent influx of development, LIC has maintained a substantial core of industrial uses that continue to anchor the neighborhood.

The development site is a corner through lot with 200 feet of frontage on Queens Plaza South, 240 feet of frontage on Ninth Street, and 254 feet of frontage on 10th Street. Ninth and 10th streets are both classified as narrow streets (60 feet wide) and Queens Plaza South is a wide street (80 feet wide). The development site comprises approximately 49,438 square feet and is currently occupied by a one-story industrial building, with a partial second story occupied by Titan Machine Corporation, an elevator machining and repair company. The building has a height of 30 feet and a total floor area of 45,536 square feet (1.09 FAR). The partial second story consists of approximately 3,500 square feet and contains office space. The development site is located within an M1-4 zoning district. The southern portion of Block 461 contains several low-rise buildings with industrial uses in the midblock, a three-story commercial building, and three one- and two-family residential buildings with frontage on 43rd Avenue.

The area within 600 feet of the development site, encompassing a portion of western LIC, is characterized by a mix of light industrial and commercial uses in a mix of low-scale and mid-density buildings. The block immediately east of the development site is occupied by 10 low-rise warehouse and industrial buildings. Development one block east, between 11th and 12th streets, includes an 11-story hotel and a two-story office. The block immediately west of the

development site includes several commercial buildings, including a banquet hall and a nine-story hotel fronting on Queens Plaza South between 9th Street and Vernon Avenue. Two lots (Block 477, Lots 13 and 15) consisting of two and a half acres a vacant land occupy the space south of Queens Plaza South, between the East River and Vernon Boulevard. Immediately south of this vacant land is a New York Power Authority facility (Block 477, Lot 24). The area bounded by the Ed Koch Queensboro Bridge, Vernon Avenue, 43rd Avenue and the East River is located within an M1-5/R10 zoning district within the Special Mixed-Use District (MX-9), which permits residential and community facility uses up to a FAR of 10.0 and certain commercial and manufacturing uses up to a FAR of 5.0. However, pursuant to the restrictive declaration associated with the application that facilitated the MX district, the effective maximum FAR within this area is 7.9. North of the Ed Koch Queensboro Bridge, within an existing R6 zoning district, is the New York City Housing Authority Queensbridge Houses, the largest public housing campus in the United States. Twenty-six six-story buildings, consisting of 3,161 dwelling units, occupy this campus and are surrounded by open space and recreational facilities.

The area is well served by open space. Queensbridge Park, a 20-acre park fronting the East River is located northwest of the project area, immediately west and south of the Queensbridge Houses. The Queensbridge Park Greenway is a dedicated pedestrian and bicycle pathway that connects the southern portion of Queensbridge Park to an existing two-way protected bicycle lane located along Queens Plaza North. Queensbridge Baby Park is located parallel to the Greenway and the Ed Koch Queensboro Bridge.

The surrounding area is also well served by public transit. The Queensboro Plaza subway station, providing service to the 7, N and W subway lines, is located less than one-half mile east of the project area at Queens Plaza and 27th Street. The Court Square-23rd Street Station, located at 44th Drive, with access to the E and M subway lines, is located less than one-half mile southeast of the project area. The 21st Street-Queensbridge station, located at 41st Avenue, with access to the F subway line, is located approximately one-quarter mile northeast of the project area. Additionally, the Q102 bus route runs north and south along Vernon Boulevard, connecting LIC to Roosevelt Island via the Roosevelt Island Bridge, and the Q103 bus route

runs along Vernon Avenue, connecting Hunters Point and Astoria. The Q32, Q60 and Q101 all traverse the Queensborough Bridge, connecting Manhattan and Jackson Heights, South Jamaica, and Astoria, respectively. There are four Citi Bike stations within a quarter-mile of the project area. The LIC stop on NYC Ferry's Astoria route is located approximately one-half mile southwest at the northern portion of Gantry Plaza State Park.

The proposed actions would facilitate the development of a new 21-story, 321,347-square-foot, 6.5 FAR commercial, industrial and retail development with 98,876 square feet of permitted uses (2.0 FAR), 168,089 square feet of Incentive Uses (3.4 FAR), and 54,382 square feet of Required Industrial Uses (1.1 FAR).

The proposed building consists of a two-story podium with a 19-story tower above. The proposed building is designed to accommodate a variety of light industrial and manufacturing uses on the first, second, and third floor. The first floor would be used primarily for Required Industrial Uses, but would also contain approximately 2,900 square feet of ground floor retail at the corner of 10th Street and Queens Plaza South. A main building lobby primarily serving non-industrial tenants would front 10th Street, and another lobby intended for industrial tenants would front Ninth Street. The entire second and third floors would be used for Required Industrial Uses. Floors four through 21 would contain office uses, and potentially an eating and drinking establishment, both of which are classified as Incentive Uses. Although there is no parking required by zoning, 67 permitted accessory parking spaces would be located in the cellar. The building would contain 43 required bicycle parking spaces, accessed from an entrance on 10th Street. A loading area on the ground floor would include five loading berths. There would be two curb cuts on Ninth Street at the southern boundary of the project area to provide access to the loading berths and parking entrance. Landscaped open space would be located along 10th Street with a minimum depth of 15 feet. The applicant would also provide sidewalk widening along Queens Plaza South, satisfying the requirement that adjacent sidewalks be built to a minimum width of 15 feet. The maximum building envelope height and maximum bulkhead envelope height would be 330 and 370 feet, respectively, facilitating the proposed building height and bulkhead height of 312 and 332 feet, respectively.

Twenty-foot floor to ceiling heights are intended to provide the necessary clearance for special mechanical equipment required by some light manufacturing firms, and the column grid spacing is designed to provide flexibility for industrial floor plates. The existing industrial occupant, and development partner, Titan Machine Corporation, would relocate to a new facility. The second and third floors would be accessible by two freight elevators with direct access to the five loading berths on the ground floor. The third and tenth floors would have access to outdoor terraces, available to all building tenants.

To facilitate the proposed development, the applicant requests a zoning text amendment and a special permit.

Zoning Text Amendment (N 200304 ZRQ)

The Industrial Business Incentive Area special permit, pursuant to ZR Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), was established in 2016 to encourage light industrial and manufacturing uses in Brooklyn Community District 1. Under the special permit, the CPC may increase the maximum permitted FAR for developments or enlargements within an Industrial Business Incentive Area (“Industrial Business Incentive Area 1”), provided that such increase in floor area is occupied by Required Industrial Uses and incentive uses, and that certain conditions are met. In conjunction with the floor area increase, the CPC may also modify other bulk regulations and provisions for publicly-accessible open spaces, as well as parking and loading requirements for such developments or enlargements.

To facilitate the creation of a new mixed-use building, including industrial, retail and office space, the applicant proposes to amend ZR Section 74-96 to establish the development site as a new Industrial Business Incentive Area (“Industrial Business Incentive Area 2”) in Queens Community District 2. To meet the needs of industrial and office tenants, provisions are being proposed within Industrial Business Incentive Area 2. The ZR would be updated to allow developments in M1-4 zoning districts to obtain a floor area increase with a maximum FAR of 6.5. Above the base maximum commercial and manufacturing FAR of 2.0, an owner in a M1-4 zoning district would be permitted to increase the maximum allowable floor area by 3.5 square

feet for every 1 square foot of Required Industrial Uses up to the maximum, provided that the additional floor area beyond the base maximum FAR of 2.0 is occupied by Required Industrial Uses and Incentive Uses. The CPC would continue to be allowed to modify height and setback regulations and yard provisions. Floor area dedicated to Required Industrial Uses would be required to occupy a minimum of 2,500 square feet of horizontally contiguous floor area. Required conditions that apply to existing Industrial Business Incentive Areas, including minimum sidewalk width, yards, ground floor design, and signs would also apply.

The proposed zoning text amendment would also reorganize the existing provisions within ZR Section 74-96 to accommodate the proposed set of provisions applicable to M1-4 zoning districts and consolidate the existing two separate special permits, currently Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas) and Section 74-963 (Parking and loading modifications in Industrial Business Incentive Areas), to conform to a more typical and streamlined structure of similar special permits available in Article 7, Chapter 4 (Special Permits by the City Planning Commission).

Special Permit (C 200303 ZSQ)

The applicant seeks a special permit (C 200303 ZSQ) pursuant to proposed ZR Section 74-963 (Permitted floor area increase) to increase the maximum floor area ratio for specific industrial, manufacturing, and commercial uses set forth in ZR Section 43-12. The special permit would increase the total allowable floor area by 222,471 square feet (approximately 4.5 FAR) for eligible industrial and commercial uses. This would include 64,270 square feet, or 1.3 FAR, of Required Industrial Uses and 158,201 square feet, or 3.2 FAR, of Incentive Uses, pursuant to the proposed ZR Section 74-963 and its related conditions and findings. The applicant also proposes to develop 98,876 square feet, or 2.0 FAR, of uses permitted in the underlying M1-4 zoning district. The amount, type, and location of these uses, among other conditions, would be included in site and floor plans, recorded against the tax lot, and for the life of the building would be reviewed as a precondition of the issuance of any building permit or certificate of occupancy. In total, the applicant proposes the construction of a 321,347-square-foot (6.5 FAR) office, light industrial, and retail development pursuant to the conditions and findings of the special permit.

As part of the special permit, the applicant also requests to modify the loading berth requirements of ZR Section 44-52 (Required Accessory Off-street Loading Berths) pursuant to the proposed ZR Section 74-964 (Modifications in conjunction with a floor area increase). This would reduce loading berth requirements from seven to five and reduce the minimum dimensions of the loading berth from 50 feet to 33 feet. The modification to off-street loading berth rules can only be applied for in conjunction with the special permit pursuant to ZR Section 74-963.

ENVIRONMENTAL REVIEW

This application (C 200303 ZSQ), in conjunction with the application for the related action (N 200304 ZRQ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 20DCP078Q.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on September 14, 2020. The Negative Declaration includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-562). The requirements of the (E) designation are described in the Environmental Assessment Statement and Negative Declaration

UNIFORM LAND USE REVIEW

This application (C 200303 ZSQ) was certified as complete by the Department of City Planning on September 14, 2020 and duly referred to Queens Community Board 2 and the Queens Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 200304 ZRQ), which was referred for information and review in according with the procedures for non-ULURP matters.

Community Board Public Hearing

Queens Community Board 2 held a public hearing on this application (C 200303 ZSQ) on October 1, 2020, and on that date, by a vote of 32 in favor, two opposed, and two abstaining, adopted a resolution recommending approval of the application with the following conditions:

“The developer will set aside 10 percent of the industrial space at a rental rate of fifteen dollars per square foot;

Annual rent increases would be capped at three percent per year for ten years and the lease would include a right to renew for an additional ten years with the same terms.”

Borough President Recommendation

The Queens Borough President held a public hearing on the application (C 200303 ZSQ) on November 12, 2020, and on November 20 2020, issued a recommendation to approve the application with the condition that the applicant pay prevailing wage to construction and non-construction-related employees, and to consider Community Board 2’s request to set aside 10 percent of the industrial space at below-market rate.

City Planning Commission Public Hearing

On November 18, 2020 (Calendar No. 3), the City Planning Commission scheduled December 2, 2020, for a public hearing on this application (C 200303 ZSQ), in conjunction with the hearing for the related application for a zoning text amendment (N 200304 ZRQ). The hearing was duly held on December 2, 2020 (Calendar No. 8). Four speakers testified in favor of the application and none in opposition.

Three members of the applicant team testified in favor of the application. The development partner and current industrial occupant of the property described the company’s history and rationale for partnering with the applicant, including the ability to maintain, grow and preserve industrial activity within the area surrounding the development site. A representative of the applicant team provided background on the applicant’s experience developing mixed-use

buildings with significant industrial tenancy. The project manager of the proposed development described the requested special permit and zoning text amendment, and explained the goals and objectives of the proposed development, including job creation across the commercial office and industrial sectors, while locating them near transit and in walking distance of nearby housing.

Additional speakers in favor of the application included a representative of the Center for an Urban Future and a representative of the Queens Economic Development Corporation. They cited the creation of both industrial and office-related jobs as reasons for support of the project.

There were no other speakers, and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM

This application (C 200303 ZSQ) and its related action (N 200304 ZRQ), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016 pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 18-143.

This action was determined to be consistent with the policies of the WRP.

CONSIDERATION

The Commission believes that this application for a special permit (C 200303 ZSQ), in conjunction with the related application for a zoning text amendment (N 200304 ZRQ), is appropriate.

These actions will facilitate development of a mixed-use building with office, retail, and industrial uses. The development will be the fourth modern commercial office and light industrial building within an IBIA using the provisions outlined in ZR Section 74-96. The

Commission believes that the development site is an appropriate site for the IBIA, given the industrial character of the surrounding area, its location within an IBZ, and the trend of conversions of industrial and warehouse buildings to commercial office use without the creation of either new industrial space or ground-up office construction. The special permit will facilitate the creation of new industrial and office space, enhancing the mixed-use character of the area and increasing employment opportunities.

The proposed special permit to increase the maximum floor area ratio for specific industrial, manufacturing, and commercial uses set forth in ZR Section 43-12 (Maximum Floor Area Ratio) is appropriate. The Commission notes that the proposed total FAR will represent the same amount (6.5) allowed today for community facility uses.

The Required Industrial Uses will be located on the first through third floors and have direct access to two dedicated freight elevators and five off-street loading berths. The Commission notes that the industrial uses on the first three floors exceeds the proposed minimum horizontally contiguous industrial space.

The Commission notes that the building has been designed to meet the needs of a variety of light industrial tenants. Twenty-foot floor-to-floor heights on the first through third floors are intended to provide the necessary clearance for special mechanical equipment required by light manufacturing firms, and the column grid spacing is designed to provide the flexibility needed for modern industrial floor plates. The second and third story industrial uses would be accessible by dedicated freight elevators. The Commission acknowledges that the building also meets the goals of quality ground floor design, with the proposed retail component and office lobby located along 10th Street and the industrial lobby, loading and vehicular access located along 9th Street. The Commission notes that focusing the non-industrial uses along 10th Street enhances the pedestrian experience. Additionally, the Commission notes the improvement to the public realm with the inclusion of an approximately 5,000-square-foot public open space along the 10th Street frontage.

Regarding the recommendation by Community Board 2 and the Borough President to set aside 10 percent of industrial space at below market rents, the Commission believes rent regulation is beyond the scope of CPC consideration.

The Commission notes that the loading requirements of the M1-4 zoning district exceed the needs of modern commercial and light industrial users, limiting the construction of new industrial and commercial buildings. Further, the requested reduction in the loading requirements will not create or exacerbate serious traffic congestion, and will not inhibit vehicular and pedestrian movement. The loading berths are sufficient to handle the combined loading requirements of the manufacturing operations and other proposed uses. The Commission is pleased that the project will be able to accommodate additional future bicycle parking capacity beyond what is required, further encouraging alternative modes of transportation.

The proposed zoning text amendment (N 200304 ZRQ) establishing the project area as an IBIA, is appropriate. The additional updates, including reorganizing the existing IBIA provisions to accommodate a new set of provisions applicable to M1-4 Districts and allowing the CPC to modify the underlying floor area, height and setback, yard, parking and loading regulations of M1-4 Districts, are appropriate. The Commission also believes that the proposed modification to reduce the requirement for horizontally contiguous industrial square footage in the proposed IBIA, from 5,000 square feet to 2,500 square feet, to be appropriate. The Commission acknowledges that this modification is consistent with the Department of City Planning's 2018 study, *Can Industrial Mixed-Use Buildings Work in NYC*, which found that the 2,500-square-foot requirement to be preferential for smaller, maker-type industrial tenants. The Commission notes that the reduced contiguous industrial space requirement provides flexibility and allows for a variety of industrial tenants.

FINDINGS

The Commission hereby finds, pursuant to proposed Section 74-966 of the Zoning Resolution, that the increase of the maximum permitted floor area ration will:

- (1) promote a beneficial mix of Required Industrial and Incentive Uses;
- (2) result in superior site planning, harmonious urban design relationships and a safe and

enjoyable streetscape;

(3) result in a building that has a better design relationship with surrounding streets and adjacent open areas; and

(4) result in a development or enlargement that will not have an adverse effect on the surrounding neighborhood; and

(5) of the yard or height and setback regulations will provide a better distribution of bulk on the zoning lot and will not unduly obstruct the access of light and air to surrounding streets and properties

RESOLUTION

Therefore, the City Planning Commission, deeming the actions described herein to be appropriate adopts the following resolution:

RESOLVED, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on September 14, 2020 with respect to this application (CEQR No. 20DCP078Q), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application submitted by RXR 42-11 9th Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50, in connection with a proposed twenty-one story commercial building within an Industrial Business Incentive Area specified on the maps in Section 74-968 (Maps of Industrial Business Incentive Areas), on property located at 42-11 9th Street (Block 461, Lot 16), in an M1-4 District, as revised, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 200303 ZSQ) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Perkins Eastman, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-20	Zoning Analysis	08/07/2020
Z-30	Zoning Site Plan	09/11/2020
Z-40	Ground Floor Plan	08/07/2020
Z-41	Cellar Floor Plan	08/07/2020
Z-42	Second Floor Plan	08/07/2020
Z-43	Third Floor Plan	09/11/2020
Z-44	4th + 5th Floor Plan	08/07/2020
Z-45	6th Floor Plan	08/07/2020
Z-46	7th – 9th Floor Plan	08/07/2020
Z-47	10th Floor Plan	08/07/2020
Z-48	11 th - 18 th Typical Floor Plan	08/07/2020
Z-49	19 th - 21st Floor Plan	08/07/2020
Z-60	Zoning Sections	08/07/2020
Z-61	Zoning Sections	08/07/2020
Z-62	Zoning Sections	08/07/2020
Z-83	Detail Elevation	03/10/2020

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed this application.
3. Such development shall conform to all applicable laws and regulations relating to its construction and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the Notice of Restrictions attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register of the City of New York, County of Queens.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign or legal representative of such party to observe any of the restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission or of any agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission to disapprove any application for modification, cancellation or amendment of the special permit.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 200303 ZSQ), duly adopted, by the City Planning Commission on January 6, 2021 (Calendar No. 18), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

KENNETH J. KNUCKLES, Esq., *Vice Chairman*

DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,

MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,

HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,

RAJ RAMPERSHAD, LARISA ORTIZ

Commissioners

EXHIBIT A

FFHJSJ DRAFT - 8/26/20

NOTICE OF RESTRICTIONS

This **NOTICE OF RESTRICTIONS** (this “**Notice**”) made as of this ___ day of _____, 2020, by **RXR 42-11 9TH HOLDINGS LLC**, a Delaware limited liability company, having an address at 75 Rockefeller Plaza, 13th Floor, New York, New York 10019 (“**Owner**”).

WITNESSETH:

WHEREAS, the Owner is the fee owner of certain real property located in the City and State of New York, Borough of Queens, designated as Block 461, Lot 16 on the Tax Map of the City of New York, commonly known by the street address 42-10 Tenth Street, Queens, NY 11101, and more particularly described by the metes and bounds description set forth in **Exhibit A** annexed hereto and by this reference made a part hereof (which property, together with any improvements thereon, is hereinafter referred to as the “**Premises**”);

WHEREAS, the Owner has submitted an application to the City Planning Commission (the “**Commission**”) for a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution of the City of New York (the “**Zoning Resolution**” or “**ZR**”) to increase the maximum floor area ratio for specific industrial, manufacturing and commercial uses and modify the loading berth requirements of ZR Section 44-50 (General Purposes) for the Premises (C 200303 ZSQ) (the “**Special Permit**”);

WHEREAS, the Department of City Planning, acting on behalf of the Commission, as lead agency for the City Environmental Quality Review Application No. 20DCP078Q, conducted environmental review of the application pursuant to Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY § 5-01 et seq. and the State Environmental Quality Review Act, New York State Environmental Conservation Law § 8-0101 et seq., and the regulations promulgated thereunder at 6 NYCRR Part 617, and issued a Negative Declaration on ___ __, 2020 for the Environmental Assessment Statement prepared in connection with environmental review of the application;

WHEREAS, the Owner proposes to build a development (the “**Subject Development**”) pursuant to the Special Permit;

WHEREAS, the Subject Development will contain a Project Component Related to the Environment;

WHEREAS, in connection with and as a requirement of the Special Permit, Owner is required to file a Notice of Restrictions with the New York City Register; and

NOW THEREFORE, Owner gives notice to all future owners and to every party having any right, title or interest in the Premises and their respective successors, heirs or assigns:

1. If the Subject Development is constructed, Owner shall ensure that reference to this Notice of Restrictions shall be made on any temporary or final certificate of occupancy issued by the New York City Department of Buildings for the Subject Development, and any amendments thereto, as long as the Subject Development remains intact.

2. If the Subject Development is constructed, Owner shall comply with all public notice and posting requirements set forth in ZR Section 74-96 (Industrial Business Incentive Areas).

3. If the Subject Development utilizes an increase in the maximum permitted floor area ratio pursuant to ZR Section 74-963 (Permitted floor area increase) or modifications to bulk regulations, publicly accessible open space requirements or parking and loading requirements pursuant to ZR Section 74-964 (Modifications in conjunction with a floor area increase), the Subject Development shall comply with all applicable requirements, conditions, and safeguards set forth in ZR Section 74-96 (Industrial Business Incentive Areas) or prescribed by the Commission to minimize adverse effects on the character of the surrounding area.

4. The Subject Development is to be developed only as shown on the plans and drawings listed below, and attached hereto as **Exhibit B** (collectively, the “**Subject Development Plans**”). Copies of the Subject Development Plans are also on file in the Office of the Superintendent of Buildings for the Borough of Queens.

Drawing No.	Title	Date
Z-20	Zoning Analysis	08/07/2020
Z-30	Zoning Site Plan	09/11/2020
Z-40	Ground Floor Plan	08/07/2020
Z-41	Cellar Floor Plan	08/07/2020
Z-42	Second Floor Plan	08/07/2020
Z-43	Third Floor Plan	09/11/2020
Z-44	4th + 5th Floor Plan	08/07/2020
Z-45	6th Floor Plan	08/07/2020
Z-46	7th - 9th Floor Plan	08/07/2020
Z-47	10th Floor Plan	08/07/2020
Z-48	11th - 18th Typical Floor Plan	08/07/2020
Z-49	19th - 21st Floor Plan	08/07/2020
Z-60	Zoning Sections	08/07/2020
Z-61	Zoning Sections	08/07/2020
Z-62	Zoning Sections	08/07/2020
Z-83	Detail Elevation	03/10/2020

5. If the Subject Development is constructed, then, to ensure the protection of potentially historic resources, Technical Policy and Procedure Notice #10/88 would be implemented for the adjacent eligible historic resource, the New York and Queens Electric Light and Power Substation, Number 4 (S/NR-08101.012787).

This NOTICE OF RESTRICTIONS shall be attached to and submitted with any applications relating to the Premises which are filed with New York City Department of Buildings or the New York City Department of Transportation. These agencies and any other agencies of the City of New York may enforce the restrictions contained herein by any method authorized by law or in equity.

IN WITNESS WHEREOF, Owner has made and executed the foregoing declaration as of the date hereinafter written.

RXR 42-11 9TH HOLDINGS LLC

By: _____
Name:
Title:

STATE OF NEW YORK)
) as.:
COUNTY OF NEW YORK)

On the __ day of _____ in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed he instrument.

Notary Public

Exhibit A

Premises

Exhibit B

Subject Development Plans



Sharon Lee
Queens Borough President

Community Board No. 2

43-22 50th Street, 2nd Floor
Woodside, New York 11377

(718) 533-8773

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www.nyc.gov/queenscb2

Lisa Deller
Chairperson

Debra Markell Kleinert
District Manager

October 2, 2020

Ms. Marisa Lago
Director
Department of City Planning
City Planning Commission
Calendar Information Office
120 Broadway, 31st Floor
New York, NY 10271

RE: DCP - ULURP Project Application: ULURP C 200303 ZSQ, N 200304 ZRQ: CEQR: 20DCP078Q
RXR LIC PROJECT 42-11 9TH Street, Long Island City, New York

Dear Ms. Lago:

Community Board 2 held a public hearing on October 1, 2020 for the DCP ULURP Project Application for RXR LIC Project, 42-11 9th Street, Long Island City, New York, ULURP C 200303 ZSQ, N 200304 ZRQ: CEQR: 20DCP078Q .

At the meeting, with a quorum present, a motion was made and seconded to support the application with the following conditions:

- RXR Realty/Titan (the developer) will set aside 10% of the industrial space at a rental rate of \$15.00 per square foot.
- Annual rent increases would be capped at 3% percent per year for ten (10) years and the lease would include a right to renew for an additional ten (10) years with the same terms.

The vote was 32 in favor of the motion, 2 opposed, and 2 abstentions.

If you have any questions, please feel free to contact Community Board 2.

Sincerely,

Debra Markell Kleinert
District Manager

DMK/mag

cc: Honorable Alexandria Ocasio-Cortez, US Congress
Honorable Carolyn B. Maloney, US Congress

Honorable Grace Meng, US Congress
Honorable Nydia M. Velazquez, US Congress
Honorable Michael Gianaris, NY State Senate
Honorable Brian Barnwell, NYS Assembly
Honorable Michael DenDekker, NYS Assembly
Honorable Catherine T. Nolan, NYS Assembly
Honorable Robert Holden, NYC Council Member
Honorable Jimmy Van Bramer NYC Council Member
Honorable Daniel Dromm, NYC Council Member
Honorable Sharon Lee, Queens Borough President
Irving Poy, Queens Borough President's Office
Vicky Garvey, Queens Borough President's Office
John Young, Department of City Planning
Alexis Wheeler, Department of City Planning
Teal Delys, Department of City Planning
John Perricone, Queens Borough President's Office
Lisa Deller, Chairperson, CB 2
Will Warren-O'Brien, Global Strategy Group
Jeff Nelson, RXR
Emma Manson, RXR
Carlos Escobar, Titan Machine Corp.
Carl Ordermann, Perkins Eastman
Ellen Lehman Fried Frank

DCP ULURP Project Application – RXR LIC Project 42-11 9th Street - Vote

Queens Borough President Recommendation

APPLICATION: ULURP # 200303 ZSQ

COMMUNITY BOARD: Q02

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by RXR 42-11 9th Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-96* (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50, in connection with a proposed twenty-story commercial building within an Industrial Business Incentive Area specified on the maps in Section 74-968 (Maps of Industrial Business Incentive Areas) in an M1-4 District, located at 42-11 9th Street, Block 461, Lot 16, Borough of Queens.

*Note: Section 74-96 is proposed to be changed under a concurrent related application (200304 ZRQ) for a Zoning Text Amendment to establish the proposed project as an Industrial Business Incentive Area 2 and make the Section's provisions applicable to M1-4 Districts. (Related ULURP # 200304 ZRQ)

PUBLIC HEARING

A Public Hearing was held by the Queens Borough President via Zoom webinar and livestreamed on www.queensbp.org on Thursday, November 12, 2020 at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were three (3) speakers. The hearing was closed.

CONSIDERATION

Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant has filed for an Industrial Business Incentive Area (IBIA) Special Permit that allows increased floor area and bulk modifications for certain manufacturing and commercial uses as an incentive to encourage mixed manufacturing-commercial development to strengthen and support the area. The Special Permit may be granted if a number of conditions and requirements are provided or met and identified on a specific site plan. The resulting development must include required industrial uses and incentive uses, minimum sidewalk widths, specified building heights and setbacks, ground floor design standards, public plazas must be at least 2000 SF in size, appropriate signage and other open areas. The proposed development and all of the conditions and requirements provided must be recorded in a filed Restrictive Declaration before any building permits can be issued;
- The Special Permit requested is currently only applicable in designated Industrial Business Incentive Areas. The applicant has concurrently filed a related application (ULURP #200304 ZSQ) for a zoning text amendment that would establish the applicant's property, located in an M1-4 District, in the Zoning Resolution as an Industrial Business Incentive Area making it eligible for the requested Special Permit;
- The proposed development is a 321,347 SF (6.5 Floor Area Ratio (FAR)), twenty-one-story mixed industrial/commercial building that includes approximately 64,270 SF for light manufacturing use (required industrial 1.3 FAR), 98,876 SF permitted uses (commercial 2.00 FAR), 158,201 SF incentive uses (commercial office and retail 3.2 FAR). The 6.5 FAR proposed development is the same as what would be allowed if the site were to be developed with an as-of-right 6.5 FAR community facility building. There will be 67 accessory parking spaces, 43 bicycle parking spaces, landscaped open space along 10th Street with a minimum depth of 15 feet, and the sidewalk along Queens Plaza South would be widened by over 5 feet to make it 15 feet wide. The proposed building would be approximately 330' tall built on a two-story podium and a 19-story tower above with additional setbacks on the tenth floor, and the bulkhead would have a maximum height of an additional 40'. The first floor would be used for industrial, retail, parking, loading, mechanical and lobby space, the second and third floors would also be reserved for industrial space only, floors 4-6, 10, 19-21 would be reserved for Permitted Uses and/or Incentive Uses (i.e., office space and/or restaurant space), and floors 7-9, 11-18 would be reserved for office space only;
- The Development Site (Block 461, Lot 16) is approximately 49,400 SF (200.33' x 254.42') in an M1-4 District, owned by 9th Street Management LLC. The lot is bounded by 9th Street, 43rd Avenue, 10th Street and the Queensboro Bridge directly above Queens Plaza South. The site is currently developed with a 45,536 SF one-and-a-half-story industrial building that covers most of the lot. Titan Machine Corporation, an elevator machining and repair company, has been in business on the site since 1973 and currently employs twenty-one workers. The space is no longer properly configured for the company's needs or modern equipment. Titan intends to relocate to another facility with more suitable space. This area of Long Island City is developed with a mix of industrial, commercial, office and residential uses are all within 600 feet of the development site. Notable development in the vicinity includes Queensbridge Park 1- block northwest, the NYCHA Queensbridge housing complex 1-block north, the Ravel Hotel to the west on 9th Street. The Development Site is served by the following transit options: Queensboro Plaza subway station

QUEENS BOROUGH PRESIDENT RECOMMENDATION

ULURP #200303 ZSQ

Page two of two

(7, N and W lines) to the east, Court Square-23rd Street subway station (E and M lines, with connections to the 7 and the G lines) to the southeast, Queensbridge-21st Street subway station (F line) to the northeast, as well as the Q102 and Q103 bus lines;

- In 2016, the City designed two Industrial Business Incentive Area (IBIA) Special Permits to facilitate the creation of new office and light industrial space in IBZs. In conjunction with the 2017 Plan, *New York Works*, the applicant seeks to amend the Zoning Resolution to accommodate future light industrial manufacturers who may need smaller industrial spaces, produce much-needed office space in Long Island City, and to facilitate the Proposed Development;
- The applicant met with the Community Board 2 Land Use Committee prior to certification of the application. Concerns were raised at that meeting about allotting smaller "maker" spaces at affordable rents to local manufacturers; the applicant's intention to participate in the Business Improvement District (BID); the applicant's intention to use and/or develop space under the Queensboro Bridge in relation to the development project dependent on NYC Department of Transportation use; and the applicant's intent to support M/WBE businesses within the industrial space. The Land Use Committee did not vote to recommend this application until the applicant better addressed these concerns;
- Community Board 2 (CB 2) approved this application with condition by a vote of thirty-two (32) in favor with two (2) against and two (2) abstaining at a public hearing held on October 1, 2020. CB 2's conditions were as follows: the developer should set aside 10% of the industrial space at a rental rate of \$15 per square feet keeping it affordable for local industrial users; and capping the annual rent increases at 3% for ten years, with an option to renew at those terms for another ten years with the same terms;
- Titan Machine Company has been in operation in Long Island City for nearly fifty years since 1973. Most of the employees live in the nearby community or are Queens residents. To date, RXR Holdings has teamed with Titan Machine Company to make commitments with local community based organizations to provide a variety of training, job readiness, educational opportunities and other programs that will benefit local and area residents;
- Residential development in Long Island City has supplanted many formerly industrial areas displacing industrial businesses in the area. Long Island City, however remains one of the largest remaining industrial areas left in New York City;
- During the Borough President's Land Use Public Hearing, the applicant identified several community based initiatives and outreach efforts in which they have established working relationships with local community based organizations creating job training and readiness programs, expanding vocational education opportunities, and seeking participation of local service providers for the development. The local organizations working with the developer include Urban Upbound, LaGuardia Community College, On Point Security, Riis Settlement House, and Pursuit who have agreed to participate in several programs geared towards the local community around the development site. The development team has already committed to 300 construction related jobs through local organizations and has agreed to work with SEIU 32BJ regarding services for the constructed building. The applicant also stated that they were considering CB2's conditions of approval. There were three speakers who testified in favor of the project citing Titan Machine Company's longstanding presence and participation in Long Island City organizations, the opportunity for the increase of up to 1500 new jobs instead of the existing 21 jobs on the site, the required industrial space and incentive commercial uses to be developed in the project as opposed to the predominantly residential development that has occurred over the last fifteen years in Long Island City, and RXR Holdings commitments to working with the local community.

RECOMMENDATION

Based on the above considerations, I hereby recommend approval of this application for the IBIA Special Permit with the following conditions:

- Developers hire workers, both during and after construction, who would be paid prevailing wage;
- The applicant consider the request issued by Queens Community Board 2 to set aside industrial space at \$15 per square feet to help keep the area affordable for small or emergent industrial businesses in Long Island City.



PRESIDENT, BOROUGH OF QUEENS

11/20/2020

DATE