



## Legislation Text

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**File #:** Res 1338-2008, **Version:** \*

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### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1338

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 070530 (A) ZRM, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution of the City of New York concerning Section 12-10 (Definitions), relating to the definition of General Large-Scale Development, Section 23-144 (In Designated Areas where the Inclusionary Housing Program is Applicable), Section 23-15 (Maximum Floor Area Ratio in R10 Districts), Section 23-922 (Inclusionary housing designated areas), Section 24-161 (Maximum floor area ratio for zoning lots containing community facility and residential uses), Section 35-31 (Maximum Floor Area Ratio for Mixed Buildings) and Section 74-743 (Special Provisions for Bulk Modifications) (L.U. No. 680).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on January 28, 2008 its decision dated January 28, 2008 (the "Decision"), pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution of the City of New York for a modified application submitted by 685,700,708 First Realty Company, LLC, concerning Section 12-10 (Definitions), relating to the definition of General Large-Scale Development, Section 23-144 (In Designated Areas where the Inclusionary Housing Program is Applicable), Section 23-15 (Maximum Floor Area Ratio in R10 Districts), Section 23-922 (Inclusionary housing designated areas), Section 24-161 (Maximum floor area ratio for zoning lots containing community facility and residential uses), Section 35-31 (Maximum Floor Area Ratio for Mixed Buildings) and Section 74-743 (Special Provisions for Bulk Modifications), (Application No. N 070530 (A) ZRM), Community District 6, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 070522 ZMM (L.U. No. 623), a zoning map amendment from M1-5 and M3-2 to C4-6; C 070523 (A) ZSM (L.U. No. 681), a special permit pursuant to Section 74-743(a)(2) and Section 74-743(a)(6)(ii) of the Zoning Resolution to modify height and setback regulations inclusionary housing requirements; C 070525 ZSM (L.U. No. 682), a special permit pursuant to Section 13-562 and 74-52 for a attended public parking garage; C 070529 ZMM (L.U. No. 683), a zoning map amendment from C1-9 and M3-2 zoning districts to a C5-2 district; C 070531 (A) ZSM (L.U. No. 684), a special permit pursuant to Section 74-743 (a)(1), 74-743 (a)(2), 74-743 (a)(5)(i), "General Large Scale Development" and to Section 74-743 "Special Provisions for Bulk Modification,"; C 070533 ZSM (L.U. No. 685), a special permit pursuant to Section 13-561 for an attended accessory parking garage; and C 070534 ZSM (L.U. No. 686), a special permit pursuant to Sections 13-562 and 74-52 for an attended public parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on February 25, 2008;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Supplemental Environmental Impact Statement ("FSEIS") for which a Notice of Completion was issued on January 18, 2008, with respect to this application (CEQR No. 06DCP039M), together with the Technical Memorandum, dated January 28, 2008, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations, have been met.

RESOLVED:

Having considered the FSEIS, with respect to the Application, the Council finds that:

- (1) the FSEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FSEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to a Restrictive Declaration, dated [January 28, 2008] March 24, 2008, those mitigative measures that were identified as practicable.

The Decision, FSEIS and the Technical Memorandum dated January 28, 2008, constitutes the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modifications:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution;

Matter in double underline is new, to be added by City Council.

## 12-10

### DEFINITIONS

\* \* \*

Large-scale development, general

A "general large-scale development" is a large-scale #development# or #enlargement# other than a #large-scale residential development# or a #large-scale community facility development#. A #general large-scale development# may be located in any #Commercial# or #Manufacturing District#, subject to the restrictions of Section 74-743 (Special provisions for bulk modifications), paragraph (a)(1), on a tract of land containing a single #zoning lot# or two or more #zoning lots# that are contiguous or would be contiguous but for their separation by a #street# or a #street# intersection, which tract of land:

- (a) has or will have an area of at least 1.5 acres; and
- (b) is designated as a tract, all of which is to be used, #developed# or #enlarged# as a unit:
  - (1) under single fee ownership or alternate ownership arrangements as set forth in the #zoning lot# definition in Section 12-10 (DEFINITIONS) for all #zoning lots# comprising the #development#; or
  - (2) under single fee, alternate or separate ownership, either:
    - (i) pursuant to an urban renewal plan for the #development# of a designated urban renewal area containing such tract of land; or
    - (ii) through assemblage by any other governmental agency, or its agent, having the power of condemnation.

Such tract of land may include any land occupied by #buildings# existing at the time an application is submitted to the City Planning Commission under the provisions of Article VII, Chapter 4, provided that such #buildings# form an integral part of the #general large-scale development#, and provided that there is no #bulk# distribution from a #zoning lot# containing such existing #buildings#. In C5 and C6 Districts, however, a #general large-scale development# having a minimum #lot area# of five acres may include a #zoning lot# that contains an existing #building# that is not integrally related to the other parts of the #general large-scale development#, provided that such #building# covers less than 15 percent of the #lot area# of the #general large-scale development# and provided that there is no #bulk# distribution from a #zoning lot# containing such existing #building#.

\* \* \*

## 23-144

### In designated areas where the Inclusionary Housing Program is applicable

In #Inclusionary Housing designated areas#, as listed in the following table, the maximum permitted #floor area ratios# shall be as set forth in Section 23-942 (In Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (Inclusionary Housing designated areas).

Community District	Zoning District
Community District 1, Brooklyn	R6 R6A R6B R7A
Community District 2, Brooklyn	R7A
Community District 7, Brooklyn	R8A
Community District 6, Manhattan	R10

Community District 7, Manhattan  
Community District 2, Queens

R9A  
R7X

\* \* \*

## 23-15

### Maximum Floor Area Ratio in R10 Districts

#### R10

In the district indicated, except in #Inclusionary Housing designated areas#, the #floor area ratio# for any #building# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING).

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of Manhattan, all #developments# or #enlargements# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.

\* \* \*

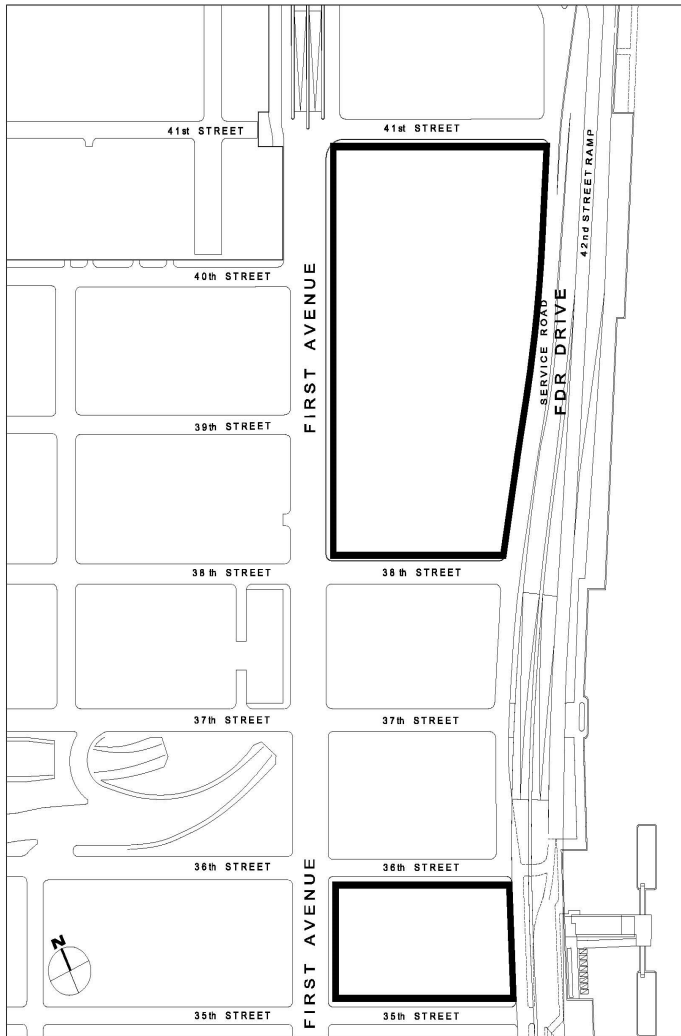
## 23-922

### Inclusionary housing designated areas

The Inclusionary Housing Program shall apply in the following areas:

\* \* \*

- (g) In Community District 6, in the Borough of Manhattan, in the R10 Districts within the areas shown on the following Map 11:



Map 11. Portion of Community District 6, Manhattan

The Inclusionary Housing Program shall apply in special purpose districts when specific zoning districts or

areas are defined as #Inclusionary Housing designated areas# within the special purpose district.

\* \* \*

## 23-942

### In Inclusionary Housing designated areas

The provisions of this Section shall apply in the #Inclusionary Housing designated areas# set forth in Section 23-922, except within Waterfront Access Plan BK-1 and in R7-3 Districts within Community District 1, Borough of Brooklyn.

#### (a) Maximum #floor area ratio#

The #floor area# of a #development# or #enlargement# may not exceed the base #floor area ratio# set forth in the following table, except that such #floor area# may be increased by one and one-quarter square feet for each square foot of #floor area# provided for #lower income housing#, up to the maximum #floor area ratio# specified in the table. However, the amount of #lower income housing# required to receive such bonus #floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, in the #building#. In addition, the following rules shall apply:

[TABLE]

\* for #zoning lots#, or portions thereof, beyond 100 feet  
of a #wide street#

\*\* for #zoning lots#, or portions thereof, within 100 feet  
of a #wide street#

#### (b) Height and setback

(1) Except in #Special Mixed Use Districts#, the compensated #building# must be #developed# or #enlarged# pursuant to the height and setback regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) or 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts), as applicable.

(2) In #Special Mixed Use Districts#, where the #residence district# designation has a letter suffix, the compensated #building# must be #developed# or #enlarged# pursuant to paragraph (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations). Where the #residence district# designation does not have a letter suffix, the compensated #building# must be #developed# or #enlarged# pursuant to the height and setback regulations of Section 23-633 regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

#### (c) #Lower income housing# requirements

The #lower income housing# must be provided in accordance with the provisions set forth in Section 23-95 (Lower Income Housing Requirements).

(d) Optional Provisions for general large-scale developments in C4-6 or C5 districts

Within a #general large-scale development# in a C4-6 or C5 district, the special optional regulations as set forth in this paragraph (d), inclusive, modify the provisions of paragraphs (a) and (c) of this Section, Section 23-93 (Definitions), and Section 23-95 (Lower Income Housing Requirements):

(1) For the purposes of this paragraph (d), inclusive, the definitions of #moderate income household#, #middle income household#, and #fair rent# in Section 23-231 (Definitions) shall apply. “Moderate income housing” shall be defined as #standard units# occupied or to be occupied by #moderate income households#, and “middle income housing” shall be defined as #standard units# occupied or to be occupied by #middle income households#. #Moderate income housing# and #middle income housing# shall be considered #lower income housing# for the purposes of the definition of #lower income housing plan# in Section 23-93.

(2) The #floor area# of a #development# or #enlargement# may not exceed the base #floor area ratio# set forth in the table in Section 23-942, except that the #floor area# of a #development# or #enlargement# may be increased up to the maximum #floor area ratio# specified in the table in 23-942 as follows:

(i) The #floor area# of a #development# or #enlargement# may be increased by one and one-quarter square feet for each square foot of #floor area# provided for #lower income housing#.

(ii) The #floor area# of a #development# or #enlargement# may be further increased by 0.833 square feet for each one square foot of #floor area# provided for #moderate income housing#, or by 0.625 square feet for each one square foot of #floor area# provided for #middle income housing#, provided that for each square foot of #floor area# increase pursuant to this paragraph, there is one square foot of #floor area# increase pursuant to paragraph (d)(2)(i) of this section.

(iii) However, the amount of #lower income housing#, #moderate income housing#, and #middle income housing# required to receive such bonus #floor area# need not exceed the amounts specified in this paragraph.

If both #moderate income housing# and #lower income housing# are provided, the amount of #moderate income housing# need not exceed 15 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #lower income housing# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#.

If both #middle income housing# and #lower income housing# are provided, the amount of #middle income housing# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #lower income housing# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#.

(3) The #lower income housing# must be provided in accordance with the provisions set forth in Section 23-95 (Lower Income Housing Requirements), except that:

(i) The provisions of paragraphs (a), (b), and (e)(i) of Section 93-233 shall apply, and

(ii) #Moderate income housing# and #middle income housing# shall be considered #lower income housing# for the purposes of Sections 23-951, 23-952, and 23-953.

## 24-161

### Maximum floor area ratio for zoning lots containing community facility and residential uses

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R5D R6A R6B R7-2 R7A R7B R7X R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, the #floor area ratios# of Section 23-942 shall apply within a #general large-scale development# or where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

\* \* \*

## 35-31

### Maximum Floor Area Ratio for Mixed Buildings

C1 C2 C3 C4 C5 C6

In all districts, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# containing a #mixed building#.

The maximum #floor area ratio# permitted for a #commercial# or #community facility use# shall be as set forth in Article III, Chapter 3, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#. However, in C4-7 Districts within Community District 7 in the Borough of Manhattan, such maximum #residential floor area ratio# may be increased pursuant to the provisions of Section 23-90 (INCLUSIONARY HOUSING).

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply within a #general large-scale development# or where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

A non-#residential use# occupying a portion of a #building# that was in existence on December 15, 1961, may be changed to a #residential use# and the regulations on maximum #floor area ratio# shall not apply to such change of #use#.



\* \* \*

74-74

## General Large-Scale Development

\* \* \*

74-743

## Special provisions for bulk modification

- (a) For a #general large-scale development#, the City Planning Commission may permit:
- (1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations within a #general large-scale development# without regard for #zoning lot lines# or district boundaries subject to the following limitations:
    - (i) no distribution of #bulk# across the boundary of two districts shall be permitted for a #use# utilizing such #bulk# unless such #use# is permitted in both districts;
    - (ii) when a #general large-scale development# is located partially in a #Residence District# or in a C1, C2, C3 or C4-1 District and partially in other #Commercial# or #Manufacturing Districts#, no transfer of commercial #floor area# to a #Residence District# or to a C1, C2, C3 or C4-1 District from other districts shall be permitted;
  - (2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;
  - (3) variation in the location of primary business entrances and #show windows# along frontages adjacent to #zoning lots# outside the #general large-scale development# without regard to regulations applicable near #Residence District# boundaries;
  - (4) the maximum #floor area ratio# permitted pursuant to Section 23-142 (In R6, R7, R8 or R9 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements provided that the #general large-scale development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community District 7 in Manhattan and that a minimum of 50 percent of the required #open space# is provided within the #general large-scale development#. Required #open space# for the purposes of paragraph (a)(4) of this Section shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio# pursuant to Section 23-142 for the applicable district;
  - (5) in an #Inclusionary Housing designated area# in a C4-6 or C5 District:
    - (i) a portion of the #lot area# that contains a wholly #commercial building# to be excluded from the calculation of #floor area# for any other

#buildings# on the remainder of the #zoning lot#; or

- (ii) community facility #floor area# located above the ground floor to be excluded from the calculation of the amount of #lower income housing# required pursuant to Section 23-942;

(b) In order to grant a special permit pursuant to this Section for any #general large-scale development#, the Commission shall find that:

\* \* \*

- (6) where the Commission permits the maximum #floor area ratio# in accordance with the provisions of paragraph (a)(4) of this Section, the #open space# provided is of sufficient size to serve the residents of new or #enlarged buildings#. Such #open space# shall be accessible to and usable by all residents of such new or #enlarged buildings#, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such #general-large scale development# shall include superior landscaping for #open space# of the new or #enlarged buildings#; ~~and~~

- (7) where the Commission permits the exclusion of #lot area# or #floor area# in accordance with the provisions of paragraph (a)(5) of this Section, such modification will facilitate a desirable mix of #uses# in the #general large-scale development# and a plan consistent with the objectives of the Inclusionary Housing program; and

- (78) a declaration with regard to ownership requirements in paragraph (b) of the #general large-scale development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission.

Adopted.

Office of the City Clerk, }  
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on March 26, 2008, on file in this office.

.....  
City Clerk, Clerk of The Council