

CITY COUNCIL  
LAND USE DIVISION

2016 JUL 13 P 12:17



CITY PLANNING COMMISSION  
CITY OF NEW YORK

OFFICE OF THE CHAIRMAN

NYC COUNCIL

2016 JUL 13 P 12:05

SPEAKER'S OFFICE

July 13, 2016

City Council  
City Hall  
New York, NY 10007

Re: 19-25 Kent Avenue  
ULURP No. N 160126 ZRK (LU 400)  
Related Applications: C 160124 ZSK (LU398) and C160125 (LU 399)  
Borough of Brooklyn

Honorable Members of the Council:

The City Planning Commission (the "Commission") has received the attached correspondence, dated July 12, 2016, from the City Council regarding the proposed modifications to the above-referenced application submitted by the Department of City Planning and 19 Kent Development, L.L.C., for a zoning text amendment to Article VII, Chapter 4 of the Zoning Resolution (ZR 74-96) related to applications submitted by 19 Kent Development, L.L.C., for special permits pursuant to ZR 74-962 and 74-963 to facilitate a mixed commercial and industrial development at 19-25 Kent Avenue in Brooklyn.

In accordance with Section 197-d(d) of the New York City Charter, the Commission, on July 13, 2016, has determined that the City Council's proposed modifications raise no land use or environmental issues requiring further review.

Best Regards,

A handwritten signature in blue ink, appearing to read "Carl Weisbrod".

Carl Weisbrod

Cc: W. von Engel  
A. Laremont

D. DeCerbo  
J. Harris

A. Sommer  
J. Mangin

Carl Weisbrod, Chairman  
City Planning Commission  
120 Broadway 31<sup>st</sup> Fl - New York NY 10271  
(212) 770-3200  
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**THE COUNCIL  
THE CITY OF NEW YORK  
LAND USE DIVISION  
250 BROADWAY - ROOM 1602  
NEW YORK NEW YORK 10007**

**RAJU MANN  
DIRECTOR**

**TEL.: 212-788-7335  
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July 12, 2016

**BY HAND**

Honorable Carl Weisbrod, Chairman  
City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, NY 10271

**RE: Application: N 160126 ZRK (LU 400)  
Related Applications: C 160124 ZSK (LU 398) AND C 160125 ZSK (LU 399)  
19-25 Kent Avenue Rezoning**

Dear Chairman Weisbrod:

On July 12, 2016, the Land Use Committee of the City Council, by a vote of 14-0-0, recommended modifications of the City Planning Commission's decisions in the above-referenced matter.

With respect to N160126 ZRY the proposed modification alters the following elements of the decision: a limitation on uses permitted in the required industrial space, a notification requirement for the community board, borough president and council member, a requirement that temporary certificates of occupancy for the incentive space be preceded by temporary certificates of occupancy for the required industrial space and a requirement that the owner retain an approved third party monitor to confirm the use of the space. The proposed modification to the zoning text is fully set forth in the attached document.

Pursuant to Section 197-d(d) of the City Charter and Section 11.70 of the Rules of the Council, I hereby file the proposed modifications with the Commission:

Honorable Carl Weisbrod  
N 160126 ZRK  
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Matter in underline is new, to be added by the City Planning Commission;  
Matter in ~~strikeout~~ is to be deleted by the City Planning Commission;  
Matter within # # is defined in Section 12-10;  
Matter in ~~double-strikeout~~ is text deleted by the Council;  
Matter in double-underline is new text added by the Council;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution

## Article VII ADMINISTRATION

### Chapter 4 Special Permits by the City Planning Commission

\* \* \*

#### 74-96

#### Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas

For #developments# or #enlargements# on #zoning lots# located within any Industrial Business Incentive Area specified in this Section, the City Planning Commission may increase the maximum permitted #floor area ratio# and modify the #use#, #bulk# and #public plaza# regulations as set forth in Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas). The Commission may also modify parking and loading requirements for such #developments# or #enlargements# pursuant to Section 74-963 (Parking and loading modifications in Industrial Business Incentive Areas).

For #developments# or #enlargements# receiving a #floor area# increase pursuant to this Section, Section 43-20 (YARD REGULATIONS), inclusive, shall be modified as follows: #rear yard# regulations shall not apply to any #development# or #enlargement# on a #through lot#.

#### Industrial Business Incentive Areas specified:

Community District 1, Brooklyn: The block bounded by North 12th Street, Kent Avenue, North 13th Street and Wythe Avenue.

#### 74-961

#### Definitions

For the purposes of Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), inclusive, a “required industrial use” and an “incentive use” shall be defined as follows:

#### Required Industrial Use

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A “required industrial use” is a #use# that helps achieve a desirable mix of #commercial# and #manufacturing uses# in an Industrial Business Incentive Area, and that generates additional #floor area# pursuant to provisions set forth in Section 74-962 and is:

listed in Use Groups 11A, 16A excluding “automobile, motorcycle, trailer, or boat sales,” “motorcycle or motor scooter rental establishments,” “stables for horses,” “riding academies,” “trade schools for adults,” “crematoriums, human,” “poultry or rabbit killing establishments,” “animal hospitals and kennels” and “animal pounds or crematoriums”, 16B, 17B and 17C, as specified in Sections 32-20 (Use Group 11), 32-25 (Use Group 16) and 42-14 (Use Group 17), Any diagnostic medical laboratories that receive patients shall in no event be considered a #required industrial use#; and

“beverages, alcoholic or breweries” as listed in Section 42-15 (Use Group 18A), where permitted by the provisions of the applicable zoning district, provided the applicable performance standards pursuant to Section 42-20 are met.

#### Incentive Use

An “incentive use” is a #use# permitted by the applicable zoning district, that is allowed to occupy the additional #floor area# generated by a #required industrial use# with the exception of the following #uses#:

#transient hotels# in Use Group 5, as specified in Section 32-14 (Use Group 5);

#uses# in Use Groups 6A or 6C as specified in Section 32-15 (Use Group 6);

#uses# in Use Group 7A as specified in Section 32-16 (Use Group 7);

#uses# in Use Group 8C as specified in Section 32-17 (Use Group 8);

#uses# in Use Group 10A and any retail spaces #accessory# to “wholesale offices or showrooms, with storage restricted to samples” in Use Group 10B as specified in Section 32-19 (Use Group 10);

#uses# as specified in Sections 32-21 (Use Group 12) and 32-22 (Use Group 13); and

moving or storage offices, with no limitation as to storage or #floor area# per establishment, as well as packing or crating establishments and warehouses as specified in Section 32-25 (Use Group 16).

#### 74-962

#### Floor area increase and public plaza modifications in Industrial Business Incentive Areas

In Industrial Business Incentive Areas, the Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.

For #developments# or #enlargements# in the district indicated in column (A), the base maximum #floor area ratio# on a #zoning lot# (column (B)) may be increased by 3.5 square feet for each square foot of #required industrial uses# up to the maximum #floor area ratio# for all #uses# on the #zoning lot# (column (E)), provided that such #development# or #enlargement# does not include a #transient hotel#, and that such additional #floor area# is occupied by #required industrial uses# and #incentive uses# up to the maximum #floor area ratio# set forth in column (C) (Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#), and column (D) (Maximum Additional #Floor Area Ratio# for #Incentive Uses#), respectively.

**TABLE**  
**FLOOR AREA INCREASE PERMITTED IN**  
**INDUSTRIAL BUSINESS INCENTIVE AREAS**

(A) <u>Zoning District</u>	(B) <u>Base Maximum #Floor Area Ratio#</u>	(C) <u>Maximum Additional #Floor Area Ratio# for # Required Industrial Uses#</u>	(D) <u>Maximum Additional #Floor Area Ratio# for #Incentive Uses#</u>	(E) <u>Maximum #Floor Area Ratio# for All #Uses#</u>
M1-2	2.0	0.8	2.0	4.8

For such #developments# or #enlargements# that, pursuant to this Section, increase their permitted #floor area#, and provide a #public plaza#, the Commission may also increase the maximum height of such #development# or #enlargement# and may modify the requirements for #public plazas# set forth in Section 37-70 (PUBLIC PLAZAS).

Applications for such #floor area# increases and modifications are subject to the requirements, conditions and findings set forth in this Section.

**(a) Application Requirements**

All applications for a special permit pursuant to this Section shall include the following:

- (1) site plans and elevations which shall establish distribution of #floor area#, height and #setback#, sidewalk widths, primary business entrances, including parking and loading, #yards# and #public plazas#, signage and lighting;
- (2) floor plans of all floors which shall establish the location, access plan and dimensions of freight elevators and loading areas and the location of #floor area# dedicated to # required industrial uses# and #incentive uses#;
- (3) drawings that show, within a 600 foot radius, the location and type of #uses#; the location, dimensions and elements of off-site open areas including #streets#, waterfront

and #upland# parcels; elements of a Waterfront Access Plan, as applicable; and the location of #street# trees and #street# furniture and any other urban design elements. The plans shall demonstrate that any #public plaza# provided meets the requirements of paragraph (b)(5) of this Section; and

- (4) for #zoning lots# in #flood zones#, flood protection plans, which shall show #base flood elevations# and advisory #base flood elevations#, as applicable, location of mechanical equipment, areas for storage of any hazardous materials and proposed structural or design elements intended to mitigate the impacts of flood and storm events.

**(b) Conditions**

- (1) Minimum amount of #required industrial uses#

#Required industrial uses# shall occupy a minimum of 5,000 square feet of horizontally contiguous #floor area# and shall be served by loading areas and freight elevators with sufficient capacity.

- (2) Minimum sidewalk width

All #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times. For the purposes of applying the #street wall# location requirements and the height and setback regulations of paragraph (b)(3) of this Section, any sidewalk widening line shall be considered to be the #street line#.

- (3) Height and setback

The height and setback regulations of the applicable zoning district shall apply as modified by the provisions of this paragraph.

- (i) The #street wall# of any #building# shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a #public plaza#.

- (ii) The height of a #building or other structure#, or portion thereof, located within ten feet of a #wide street# or within 15 feet of a #narrow street# shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section 43-42 shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond ten feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. All heights shall be measured from the #base plane#. Where a #public plaza# is provided pursuant to paragraph (b)(5) of this Section, such maximum #building# height may be increased to 135 feet.
  - (iii) Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a #public plaza#, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum #building# height.
- (4) Ground floor design
- (i) The ground floor level #street walls# and ground floor level walls fronting on a #public plaza# of a #development# or horizontal #enlargement# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or #public plaza# and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. The ground floor transparency requirements of this paragraph (b)(4)(i) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, or to #accessory# loading berths, or garage entrances#; or
  - (ii) For #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph (b)(4)(i) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and
  - (iii) For any #street wall# widths greater than 40 feet in length that do not require glazing as specified in paragraphs (b)(4)(i) or (b)(4)(ii), as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.

(5) #Public plazas#

A #public plaza# shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and minimum of at least 2,000 square feet in area. All #public plazas# shall comply with the provisions set forth in Section 37-70, inclusive, except certification requirements of Sections 37-73 (Kiosks and Open Air Cafes) and 37-78 (Compliance) shall not apply.

(6) Signs

(i) In all Industrial Business Incentive Areas, #signs# are subject to the regulations applicable in C6-4 Districts as set forth in Section 32-60, inclusive. Information #signs# provided pursuant to paragraph (b)(6)(ii) of this Section shall not count towards the maximum permitted #surface area# regulations of Section 32-64 (Surface Area and Illumination Provisions), inclusive.

(ii) An information #sign# shall be provided for all #buildings# ~~that are #developed# or #enlarged#~~ subject to the #use# restrictions of this special permit. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the ~~words~~ following statement in lettering no less than one-half of an inch in height, "This building is subject to Industrial Business Incentive Area (IBIA) regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include the Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph ~~(e)(2)~~ of this Section is available to the public.

(c) Findings

In order to grant an increase of the maximum permitted #floor area ratio# and modification of #public plaza# regulations, the Commission shall find that such increase or modification:

- (1) will promote a beneficial mix of #required industrial # and #incentive uses#;
- (2) will result in superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape;



- (3) will result in a #building# that has a better design relationship with surrounding #streets# and adjacent open areas;
- (4) will result in a #development# or #enlargement# that will not have an adverse effect on the surrounding neighborhood; and
- (5) any modification of the #public plaza# requirements will result in a #public plaza# of equivalent or greater value as a public amenity.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**(fd) Recordation Compliance**

Failure to comply with: a condition or restriction in a special permit granted pursuant to ~~this~~ Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), inclusive, or with applicable approved plans ~~related thereto~~, or with provisions of this paragraph (d), (e) and (f), inclusive, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.

**(1) Recordation**

A Notice of Restrictions, the form and content of which shall be satisfactory to the Commission, for a property subject to #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the lot is located.

The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect. No temporary certificate of occupancy for any portion of the #building# to be occupied by #incentive uses# shall be issued until a temporary certificate of occupancy for the core and shall be issued for all portions of the #building# required to be occupied by #required industrial uses#.

~~A Notice of Restrictions, the form and content of which shall be satisfactory to the City Planning Commission, for a #building# containing #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the lot is located.~~

~~The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect.~~

**(e) Periodic Notification by Owner**

~~No later than the first twentieth day after the lease executed by a new tenant permits occupancy of any #required industrial space# of each quarter of the year, the owner of a #building# subject to #use# restrictions of this Section shall provide the following information at the designated Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public pursuant to paragraph (b)(6)(ii) of this Section. If no new tenant executes a lease for any #required industrial space# within the calendar year, such information shall be provided no later than the twentieth day of the following calendar year. Such electronic information source shall be accessible to the general public at all times and include the information specified below:~~

- ~~(1) the date of the most recent update of this information;~~
- ~~(2) total #floor area# of the #required industrial uses# in the #development#;~~
- ~~(3) a digital copy of all approved special permit drawings pursuant to paragraph (a)(1), inclusive, through (a)(4) of this Section;~~
- ~~(4) the name of each business establishment occupying #floor area# reserved for #required industrial uses#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area#, the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included; and~~
- ~~(5) contact information, including the name of the owner of the #building# and the building management entity, if different; the name of the person designated to manage the #building#; and the street address, current telephone number and e-mail address of the management office. Such names shall include the names by which the owner and manager, if different, do business and are known to the public; and;~~
- ~~(6) all prior periodic notification information required pursuant to the provisions of paragraph (e) of this Section. However, such notification information that is older than four years from the date of the most recent update need not be included.~~

**(f) Compliance Annual Reporting by Qualified Third Party**

No later than June 30 of each year, beginning in the first calendar year following the calendar year in which a temporary or final certificate of occupancy was issued for a #building# subject to #use# restrictions of this Section, the owner of a #building# subject to #use# restrictions of this Section shall cause to be prepared a report on the existing conditions of the #building#, as of a date of inspection which shall be no earlier than May 15 of the year in which the report is filed.

The inspection shall be preceded by an annual notification letter from the owner of a #building# subject to #use# restrictions of this Section to all the #required industrial use# tenants of the #building# announcing the date of such inspection, that the organization conducting the inspection shall have access to the spaces occupied by #required industrial uses#, and encouraging the tenants to provide information, including but not limited to the number of employees for each such space, to the organization.

The owner of a #building# subject to #use# restrictions of this Section shall cause such report to be prepared by either an organization under contract with the City to provide inspection services, or on the Department of Small Business Services list of certified firms that provides such inspection services, or by an organization that the Commissioner of the Department of Small Business Services determines to be qualified to produce such report, provided that any such organization selected by the owner to prepare such report shall have a professional engineer or a registered architect, licensed under the laws of the State of New York, certify the report. Such report shall be in a form provided by the Director of the Department of City Planning, and shall include all of the information required pursuant to provisions of paragraph (e) of this Section, and additional information as set forth in this paragraph (f):

- (1) a description of each establishment including the North American Industry Classification System (NAICS) code and number of employees;
- (2) the total amount of #required industrial use floor area# that is vacant, as applicable;
- (3) the average annual rent for the portions of the #building#, in the aggregate, required to be occupied by #required industrial uses#. However, prior to 36 months from the date of execution of a lease by the first #required industrial use# tenant in the building, no such figure shall be required to be included in any report due pursuant to this paragraph (f). For all calendar years following the year in which the first average annual rent figure is required to be submitted as part of an annual report, the average annual rent figure reported shall be for the annual average rent for the calendar year two years prior to the year in which the report is due; and
- (4) the number of new leases executed during the calendar year, categorized by lease duration, in five year increments from zero to five years, five to ten years, ten to fifteen years, fifteen to twenty years and twenty years or greater.

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The report shall be submitted to the Director of the Department of City Planning by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President, and local City Council member shall be included in such transmission.

~~Failure to comply with a condition or restriction in a special permit granted pursuant to this Section or with approved plans related thereto, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.~~

#### **74-963**

##### **Parking and loading modifications in Industrial Business Incentive Areas**

In association with an application for a special permit for #developments# or #enlargements# pursuant to Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas), the Commission may reduce or waive the off-street parking requirements set forth in Section 44-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES), inclusive, not including bicycle parking, and may also reduce or waive the loading berth requirements as set forth in Section 44-50 (GENERAL PURPOSES), inclusive, provided that the Commission finds that:

- (a) such reduction or waiver will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
- (b) the number of curb cuts provided are the minimum required for adequate access to off-street parking and loading berths, and such curb cuts are located so as to cause minimum disruption to traffic, including vehicular, bicycle and pedestrian circulation patterns;
- (c) the #streets# providing access to the #development# or #enlargement# are adequate to handle the traffic generated thereby, or provision has been made to handle such traffic; and
- (d) the reduction or waiver of loading berths will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

\* \* \*

Honorable Carl Weisbrod  
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Please feel free to contact me at (212) 482-5185 if you or your staff has any questions in this regard.

Sincerely,



.....  
Julie Lubin, Esq.  
General Counsel

JL:

RECEIVED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

Encl.

- c: Members, City Planning Commission
- Raju Mann, Director, Land Use Division
- Amy Levitan, Deputy Director
- Brian Paul, Project Manager
- Anita Laremont, Esq., DCP
- Danielle J. DeCerbo, DCP
- File