



Legislation Details (With Text)

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In control: Committee on Land Use

On agenda: 9/26/2018

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Title: Resolution approving with modifications the decision of the City Planning Commission on Application No. N 180217 ZRK (L.U. No. 193), for an amendment of the Zoning Resolution of the City of New York, modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission) relating to modifications of the special permit for school construction in the Special Downtown Brooklyn District, modifying Article X, Chapter 1 (Special Downtown Brooklyn District) and modifying Appendix F (Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing area, Community District 2, Borough of Brooklyn.

Sponsors: Rafael Salamanca, Jr., Francisco P. Moya

Indexes:

Attachments: 1. Resolution, 2. Land Use Calendar - Week of August 13, 2018 - August 17, 2018, 3. Hearing Testimony - Zoning 8-14-18, 4. Hearing Testimony - Zoning 8-14-18 additional, 5. Hearing Transcript - Zoning 8-14-18, 6. Land Use Calendar - Week of September 17, 2018 - September 21, 2018, 7. September 26, 2018 - Stated Meeting Agenda with Links to Files, 8. Hearing Transcript - Stated Meeting 9-26-18, 9. Minutes of the Stated Meeting - September 26, 2018, 10. City Planning Commission Approval Letter, 11. Committee Report

Date	Ver.	Action By	Action	Result
9/20/2018	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
9/26/2018	*	City Council	Approved, by Council	Pass

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 558**

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 180217 ZRK (L.U. No. 193), for an amendment of the Zoning Resolution of the City of New York, modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission) relating to modifications of the special permit for school construction in the Special Downtown Brooklyn District, modifying Article X, Chapter 1 (Special Downtown Brooklyn District) and modifying Appendix F (Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing area, Community District 2, Borough of Brooklyn.

By Council Members Salamanca and Moya

WHEREAS, the City Planning Commission filed with the Council on August 6, 2018 its decision dated August 6, 2018 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Educational Construction Fund and 80 Flatbush Avenue, LLC, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission) relating to modifications of the special permit for school construction in the Special Downtown Brooklyn District, modifying Article X, Chapter 1 (Special Downtown

Brooklyn District) and modifying Appendix F (Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing area, which in conjunction with the related actions would facilitate a new, approximately 1.1-million square-foot mixed-use development with two schools, retail, office and residential units, located at 80 Flatbush Avenue in the Downtown Brooklyn neighborhood of Community District 2, Brooklyn, (Application No. N 180217 ZRK), Community District 2, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 180216 ZMK (L.U. No. 192), a zoning map amendment to change a C6-2 zoning district to a C6-9 zoning district and C 180218 ZSK (L.U. No. 194), a special permit to modify to bulk, use, parking, loading and MIH requirements;

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 August 14, 2018;

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, including the positive declaration (CEQR No. 17ECF001K) issued on May 24, 2017 and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on July 27, 2018 which identified significant adverse impacts with respect to shadows, historic and cultural resources, transportation (traffic and pedestrian) and construction (noise, traffic, and pedestrian) and significant adverse impacts related to hazardous materials and noise which would be avoided through the placement of an (E) designation (E-124) and the Technical Memorandum dated September 26, 2018 (the "Technical Memorandum").

RESOLVED:

Having considered the FEIS and the Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS 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 available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating, as conditions to the approval, those project components related to the environment and mitigation measure that were identified as practicable; and
- (4) The Decision, together with the FEIS and the Technical Memorandum constitute 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 Section 200 of the City Charter and on the basis of the Decision and Application, and based

on the environmental determination and consideration described in the report, N 180217 ZRK, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

Matter double struck out is old, deleted by the City Council;

Matter double-underlined is new, added by the City Council;

* * * indicates where unchanged text appears in the Zoning Resolution.

**ARTICLE VII
ADMINISTRATION**

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

* * *

**74-75
Educational Construction Fund Projects**

**74-751
Educational Construction Fund in certain districts**

In R5, R6, R7, R8, R9 or R10 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, or in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4, C5, C6 or C7 Districts, for combined #school# and #residences# including air rights over #schools# built on a #zoning lot# owned by the New York City Educational Construction Fund, the City Planning Commission may permit utilization of air rights; modify the requirements that open area be accessible to and usable by all persons occupying a #dwelling unit# or #rooming unit# on the #zoning lot# in order to qualify as #open space#; permit ownership, control of access and maintenance of portions of the #open space# to be vested in the New York City Educational Construction Fund or City agency successor in title; permit modification of #yard# regulations and height and setback regulations; permit the distribution of #lot coverage# without regard for #zoning lot lines# for a #zoning lot# containing the Co-op Tech High School in Manhattan Community District 11; authorize the total #floor area#, #open space#, #dwelling units# or #rooming units# permitted by the applicable district regulations on such site to be distributed without regard for district boundaries; and authorize an increase of 25 percent in the number of #dwelling units# or #rooming units# permissible under the applicable district regulations. For the purposes of this Section, a #zoning lot# owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school listed in the following table.

School	Community District
P.S. 151	CD 8, Manhattan

The total number of #dwelling units# or #rooming units# and #residential floor area# shall not exceed that permissible for a #residential building# on the same #zoning lot#.

The distribution of #bulk# on the #zoning lot# shall permit adequate access of light and air to the surrounding #streets# and properties.

As further conditions for such modifications:

- (a) the #school# and the #residence# shall be #developed# as a unit in accordance with a plan approved by the Commission;
- (b) at least 25 percent of the total #open space# required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such #residence# and under the direct control of its management;
- (c) notwithstanding the provisions of Section 23-12 (Permitted Obstructions in Open Space), none of the required #open space# shall include driveways, private streets, open #accessory# off-street parking spaces or open #accessory# off-street loading berths; and
- (d) the Commission shall find that:
 - (1) a substantial portion of the #open space# which is not accessible exclusively to the occupants of such #residence# will be accessible and usable by them on satisfactory terms part-time;
 - (2) playgrounds, if any, provided in conjunction with the #school# will be so designed and sited in relation to the #residence# as to minimize any adverse effects of noise; and
 - (3) all #open space# will be arranged in such a way as to minimize friction among those using #open space# of the #buildings or other structures# on the #zoning lot#.

The Commission shall give due consideration to the landscape design of the #open space# areas. The Commission shall also give due consideration to the relationship of the #development# to the #open space# needs of the surrounding area and may require the provision of a greater amount of total #open space# than the minimum amount required by the applicable district regulation where appropriate for the purpose of achieving the #open space# objectives of the #Residence District# regulations.

The Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

74-752

Educational Construction Fund projects in certain areas

In C6-9 Districts within the #Special Downtown Brooklyn District#, for #developments#, #enlargements# or #conversions# that include one or more #schools# on a tract of land owned by the New York City Educational Construction Fund, the City Planning Commission may permit the modifications set forth in paragraph (a) of this Section. For the purposes of this Section, a tract of land owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership

arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school.

(a) Modifications

The Commission may modify:

- (1) applicable ground floor #use# regulations;
- (2) in a #Mandatory Inclusionary Housing area#, the affordable housing requirements of paragraph (d) of Section 23-154 (Inclusionary Housing);
- (3) other #bulk# regulations, except that the maximum permitted #floor area ratio# may not be increased; and
- (4) #accessory# off-street parking and loading berth requirements.

(b) Findings

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

- (1) such modifications will facilitate the construction of one or more #schools# on the #zoning lot#;
- (2) such ground floor #use# modifications will improve the layout and design of the #school# or #schools# , shall not have an adverse effect on the #uses# located within any portion of the #zoning lot# and will not impair the essential character of the surrounding area;
- (3) such modifications to the affordable housing requirements in a #Mandatory Inclusionary Housing area# will facilitate significant public infrastructure or public facilities, including one or more #schools#, addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#;
- (4) such #bulk# modifications will result in a better site plan for the #school# or #schools# and will have minimal adverse effects on the surrounding area;
- (5) such parking and loading modifications will improve the layout and design of the school and will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the

character of the surrounding area.

* * *

**ARTICLE X
SPECIAL PURPOSE DISTRICTS**

**Chapter 1
Special Downtown Brooklyn District**

* * *

**101-05
Applicability of Special Permits by the Board of Standards and Appeals**

Within the #Special Downtown Brooklyn District#, Section 73-68 (Height and Setback and Yard Modifications) shall not be applicable.

* * *

**101-21
Special Floor Area and Lot Coverage Regulations**

R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

(e) In C6-9 Districts

In C6-9 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 18.0 12.0, and the maximum #residential floor area ratio# shall be 12.0 9.0. No #floor area# bonuses shall be permitted. However, on a #zoning lot# with a minimum #lot area# of 50,000 square feet improved with public #schools# containing at least 100,000 square feet of floor space #developed# pursuant to an agreement with the New York City Educational Construction Fund, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 15.0, and the maximum #residential floor area ratio# shall be 12.0. Up to 46,050 square feet of floor space within such public #schools# shall be exempt from the definition of #floor area# for the purposes of calculating the permitted #floor area ratio# for #community facility uses# and the total maximum #floor area ratio# of the #zoning lot#. In addition, any #building# containing #residences# may be #developed# in accordance with the Quality Housing Program and the regulations of Article II, Chapter 8 shall apply. In such instances, the #bulk# regulations of this chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

* * *

**101-22
Special Height and Setback Regulations**

The height of all #buildings or other structures# shall be measured from the #base plane#. The provisions of Section 101-221 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Brooklyn District#.

In R7-1, C5-4, C6-1, ~~and C6-4~~ and C6-9 Districts, except C6-1A Districts, the underlying height and setback regulations shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the provisions of Section 101-222 (Standard height and setback regulations) or, as an option where applicable, Section 101-223 (Tower regulations). #Buildings or other structures# within the Flatbush Avenue Extension and Schermerhorn Street Height Limitation Areas shall comply with the provisions of Section 101-30 (SPECIAL PROVISIONS WITHIN HEIGHT LIMITATION AREAS). However, the underlying height and setback regulations shall apply to any #Quality Housing building#, except that Quality Housing height and setback regulations shall not be applicable within any R7-1 District mapped within a C2-4 District.

* * *

**101-222
Standard Height and Setback Regulations**

C2-4/R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

MAXIMUM BASE HEIGHTS AND MAXIMUM BUILDING HEIGHTS

IN C2-4/R7-1, C6-1, C6-4.5, ~~AND~~ C6-6 AND C6-9 DISTRICTS

District	Maximum Base Height		Maximum #building# Height	
	Beyond 100 feet a #wide street#	Within 100 feet a #wide street#	Beyond 100 feet a #wide street#	Within 100 feet a #wide street#
C2-4/R7-1	85	85	160	160
C6-1	125	150	185	210
C6-4.5 C6-6 <u>C6-9</u>	125	150	250	250

* * *

**101-223
Tower regulations**

C5-4 C6-1 C6-4 C6-6 C6-9

* * *

(d) Maximum #building# height

In C6-1 Districts, the maximum height of a #building or other structure# shall be 495 feet. No height limit shall apply within a C5-4, C6-4, or C6-6 or C6-9 District.

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APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

BROOKLYN

* * *

Brooklyn Community District 2

* * *

Map 8 - [date of adoption]



Mandatory Inclusionary Housing Area (MIHA) - see Section 23-154(d)(3)

Area 5 - [date of adoption] - MIH Program Option 1 and Option 2

Portion of Community District 2, Brooklyn

* * *

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 September 26, 2018, on file in this office.

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