



Legislation Details (With Text)

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Type: Resolution **Status:** Adopted

In control: Committee on Land Use

On agenda: 11/16/2005

Enactment date: **Enactment #:**

Title: Resolution approving the decision of the City Planning Commission on Application No. N 060053 ZRK, for amendments to the text of the Zoning Resolution of the City of New York relating to Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts) and Article II, Chapter 4 (Bulk Regulations for Community Facility Buildings in Residence Districts), Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts), to permit an Inclusionary Housing bonus in specified areas within Community District 7 in Brooklyn (L.U. No. 618).

Sponsors: Melinda R. Katz, Tony Avella

Indexes:

Attachments: 1. Committee Report, 2. Hearing Transcript - Stated Meeting 11/16

Date	Ver.	Action By	Action	Result
11/15/2005	*	Committee on Land Use	Approved by Committee	
11/16/2005	*	City Council	Approved, by Council	Pass

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1259**

Resolution approving the decision of the City Planning Commission on Application No. N 060053 ZRK, for amendments to the text of the Zoning Resolution of the City of New York relating to Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts) and Article II, Chapter 4 (Bulk Regulations for Community Facility Buildings in Residence Districts), Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts), to permit an Inclusionary Housing bonus in specified areas within Community District 7 in Brooklyn (L.U. No. 618).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on October 21, 2005 its decision dated October 19, 2005 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for amendments to the text of the Zoning Resolution of the City of New York (Application No. N 060053 ZRK) (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 060054 ZMK (L.U. No. 619), an amendment to the Zoning Map to rezone all or portions of fifty blocks in the Brooklyn neighborhoods of Park Slope South, Greenwood Heights and Windsor Terrace from R5 and R6 districts to R5B, R6B, R6A, C4-3A and R8A districts;

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 November 14, 2005;

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 Negative Declaration, issued on August

22, 2005, which included (E) designations for hazardous materials, air quality and noise (CEQR No. 06DCP014K);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

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; and

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 in # # is defined in Section 12-10;
- * * * indicates where unchanged text appears in the Zoning Resolution

23-145
For residential buildings developed or enlarged pursuant to the Quality Housing Program

R6 R7 R8 R9 R10

In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for any #residential building# on a #zoning lot developed# or #enlarged# pursuant to the Quality Housing Program shall be as set forth in the following table and the maximums for #developments#, or #enlargements# where permitted, located within 100 feet of a #wide street# in R6, R7 or R8 Districts without a letter suffix outside the #Manhattan Core#, shall be as designated by the same district with an asterisk. In an R6 District inside the #Manhattan Core# located within 100 feet of a #wide street#, the maximums shall be indicated by the same district with a double asterisk.

MAXIMUM LOT COVERAGE AND FAR
 FOR
 QUALITY HOUSING BUILDINGS
 (in percent)

Maximum #Lot Coverage#

<u>District</u>	<u>#Corner Lot#</u>	<u>#Interior Lot# or Maximum #Floor #Through Lot#</u>	<u>Area Ratio#</u>
R6	80	60	2.20
R6**	80	60	2.43
R6* R6A R7B	80	65	3.00
R6B	80	60	2.00
R7	80	65	3.44
R7* R7A	80	65	4.00
R7X	80	70	5.00
R8 R8A R8X	80	70	6.02
R8*	80	70	7.20
R8B	80	70	4.00
R9 R9A	80	70	7.52
R9X	80	70	9.00
R10	100	70	10.00

However, the #floor area ratios# in the table in this Section shall be modified in certain R6, ~~and R7~~ and R8A Districts within Community Districts 1 and 7 in the Borough of Brooklyn, as specified in Section 23-942 (In Community Districts 1 and 7, Borough of Brooklyn).

* * *

23-922

Community Districts 1 and 7, Borough of Brooklyn

The Inclusionary Housing Program shall apply in the following areas:

(a) In the following areas of Community District 1, in the Borough of Brooklyn, located north of the Williamsburg Bridge, Washington Plaza, Borinquen Place and Grand Street:

- (a1) Waterfront Access Plan BK-1, as set forth in Section 62-352;
- (b2) all #Special Mixed Use Districts#;
- (c3) all R6A, R6B and R7A Districts; and
- (d4) the following R6 areas:
 - (4i) the #block# bounded by Havemeyer Street, North Sixth Street, Metropolitan Avenue and North Fifth Street;
 - (2ii) the #block# bounded by Roebling Street, North Fifth Street, Havemeyer Street and Metropolitan Avenue;
 - (3iii) those #blocks# bounded by Wythe Avenue, Grand Street, Berry Street and South Third Street;
 - (4iv) those #blocks# and portions of #blocks# bounded by Bedford Avenue, North 1st Street, Driggs Street, Fillmore Place, Roebling Street, and a line coincident with the centerline of the long dimension of the #blocks# bounded by Bedford Avenue, Grand Street, Roebling Street and South First Street; and
 - (5v) that portion of the #block# bounded by Franklin Street, Huron Street, Manhattan Avenue and India Street that is within 100 feet of Franklin Street and 100 feet of India Street.

(b) In Community District 7, in the Borough of Brooklyn, in all R8A districts.

23-93

Definitions

For the purposes of the Inclusionary Housing program, matter in italics is defined either in Section 12-10 (DEFINITIONS) or in this Section.

Administering agent

The "administering agent" is the entity or entities identified in the #lower income housing plan# as responsible for ensuring compliance with such plan.

The #administering agent# shall be a not-for-profit organization, unless the Commissioner of Housing Preservation and Development finds that a good faith effort by the developer of the #compensated development# to secure a qualified not-for-profit organization as the #administering agent# was unsuccessful, or, in Community District 1, Borough of Brooklyn, if the #floor area# of the #standard units# comprising the #lower income housing# constitutes less than half of the total #residential floor area# or community facility #floor area# used as a not-for profit institution with sleeping accommodations in the #building#. However, in Community District 7, Borough of Brooklyn, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to city, state, or federal funding sources, to serve as the #administering agent# during such compliance period.

* * *

Fair rent

At initial occupancy of #lower income housing#, "fair rent" (the "Section 8 Standard") is an annual rent for each such housing equal to not more than either the public assistance shelter allowance if the #family# receives public assistance, or 30 percent of the annual income of the tenant of such housing, provided that such tenant is a #lower income household# at the time of initial occupancy pursuant to the provisions of this program.

Upon renewal of a lease for an existing tenant in #lower income housing#, #fair rent# (the "Rent Stabilization Standard") is not more than the then-current #fair rent# for such housing plus a percentage increase equal to the percentage increase for a renewal lease of the same term permitted by the Rent Guidelines Board for units subject to the rent stabilization law.

After initial occupancy, upon rental of #lower income housing# to a new tenant, #fair rent# is not more than the higher of:

- (a) the then-currently applicable "Section 8 Standard"; or
- (b) the Rent Stabilization Standard.

In order for rent to be #fair rent#, the following must also apply:

There shall be no additional charge to the tenant for the provision of heat and electric service, except that the Commissioner of Housing Preservation and Development may approve a #lower income housing plan# making a #lower income household# responsible for the payment of utilities as long as the sum of:

- (1) the initial #fair rent#; and
- (2) the monthly costs of a reasonable compensation for these utilities, by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment do not exceed 30 percent of said #lower income household's# income.

However, in Community Districts 1 and 7, Borough of Brooklyn, the Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of City, State or Federal programs assisting #lower income housing# will be considered #fair rent#, provided that such rents do not exceed 30 percent of #lower income household's# income, as applicable, and provided further that upon expiration or termination of the requirements of the City, State or Federal program, rent increases and rentals shall be subject to the higher of the then-currently applicable Section 8 Standard or the Rent Stabilization Standard.

At initial occupancy of any #lower income housing#, no portion of the #fair rents# shall be for the payment of the principal or interest on any debt, and the #lower income housing# shall not secure any debt and shall be free of all liens, except liens for real estate taxes, water charges and sewer rents and other governmental charges for which payment is not yet due. #Fair rents# may be used for the payment of principal or interest of debt only if such debt was incurred after the date of initial occupancy and is for a capital improvement to such #lower income housing# other than those capital improvements set forth in the #lower income housing plan#.

In Community Districts 1 and 7, Borough of Brooklyn, at initial occupancy of any #lower income housing#, a portion of the #fair rents# may be for the payment of the principal or interest on debt, and such housing may secure debt, provided that, as of the date of

the approval of the #lower income housing plan#, the Commissioner of Housing Preservation and Development finds that the total annual rent, when such interest and principal payments are deducted, is in compliance with the requirements of Section 23-95, paragraph(c), and provided that the lender agrees to enter into a written agreement which subordinates such debt to the provisions of the #lower income housing plan#.

Lower income household

A "lower income household" is a #family# having an income equal to or less than the income limits (the "80 Percent of SMSA Limits") for New York City residents established by the U.S. Department of Housing and Urban Development pursuant to Section 3 (b)(2) of the United States Housing Act of 1937, as amended, for lower income families receiving housing assistance payments.

In Community Districts 1 and 7, Borough of Brooklyn, #lower income households# shall also include all existing households in tenancy, provided such households occupy units that are within a #building# in which rents for all occupied units are regulated by City or State law, and the aggregate maximum permitted annual rent roll for such occupied units, divided by the number of occupied units, is less than 30 percent of the applicable income limit for a #lower income household# as provided in this Section. In determining the applicable income limit for such #lower income households#, the Commissioner of Housing Preservation and Development may make adjustments, consistent with U. S. Department of Housing and Urban Development regulations, for the number of persons residing in each unit.

Lower income housing

"Lower income housing" are #standard units# occupied or to be occupied by #lower income households#. #Lower income housing# shall not include #standard units# assisted under city, state or federal programs, except where such assistance is in the form of:

- (a) real estate tax abatements and exemptions which are specifically limited to the #lower income housing#; or
- (b) operating assistance that the Commissioner of the Department of Housing Preservation and Development determines will be used to enable households with incomes of not more than 62.5 percent of the "80 Percent of SMSA Limits" to afford such #lower income housing#.

However, in Community Districts 1 and 7, Borough of Brooklyn, #lower income housing# shall include #standard units# assisted under City, State or Federal programs.

* * *

23-942

In Community Districts 1 and 7, Borough of Brooklyn

The provisions of this Section 23-942 shall apply in the designated areas set forth in Section 23-922, except within Waterfront Access Plan BK-1.

The #floor area# of a #development# or #enlargement# may not exceed the base #floor area ratio# set forth in the table below, 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 in this Section. However, in Community District 7, Borough of Brooklyn, 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#.

District	#floor area ratio#	Base #floor area ratio#	Maximum
R6B		2.0	2.2
R6*		2.2	2.42
R6A		2.7	3.6
R6**		2.7	3.6
R7A		3.45	4.6
<u>R8A</u>		<u>5.4</u>	<u>7.2</u>

* 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#

In addition, the following rules shall apply:

- (a) The #building# must be #developed# or #enlarged# pursuant to the Quality Housing Program or, in #Special Mixed Use Districts#, pursuant to paragraph (b) of Section 123-662; and
- (b) The #lower income housing# must be provided in accordance with the provisions set forth in Section 23-95 (Lower Income Housing Requirements).

23-95

Lower Income Housing Requirements

* * *

- (f) Permits and certificates of occupancy

No building permit for the #compensated development# shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any part of the #compensated development# until a temporary certificate of occupancy for each unit of #lower income housing# has been issued or, in Community District 7, Borough of Brooklyn, if the #building# has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the #lower income housing#. No permanent certificate of occupancy shall be issued for any part of the #compensated development# until a permanent certificate of occupancy for each unit of the #lower income housing# has been issued or, in Community District 7, Borough of Brooklyn, if the #building# has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the #lower income housing#. Prior to the issuance of any temporary or permanent certificate of occupancy for the #compensated development#, the Commissioner of Housing Preservation and Development shall certify that the #lower income housing# is in compliance with the #lower income housing plan#.

- (g) Insurance

The #administering agent# of the #lower income housing# shall have said housing insured against any damage or destruction in an amount equal to no less than the replacement value of such housing.

Any insurance proceeds received as a result of damage or destruction of all or part of such housing shall be used first for restoring such damaged or destroyed housing to #lower income housing#, free of violations under the New York City Building Code, the New York State Multiple Dwelling Law, the New York City Housing Maintenance Code and this Resolution. However, in Community Districts 1 and 7, Borough of Brooklyn, the Commissioner of Housing Preservation and Development may modify this requirement to provide priority for lenders participating in the financing of #lower income housing# that is assisted under City, State or Federal programs.

* * *

23-951

On-site new construction option

To qualify for this option, the designated #lower income housing# shall meet the following requirements.

- (a) The #lower income housing# shall be located in newly constructed #floor area# in the #compensated development#. The #lower income housing# shall be maintained and leased to #lower income households# for the life of the increased #floor area#.

- (b) #Dwelling units# designated as #lower income housing# shall be distributed throughout the #development#. No #story# shall contain more than two such units unless at least 80 percent of all #stories# contain two such units. The size of the designated #lower income housing# units shall at least be distributed among the various size units in proportion to the total distribution of unit size within the #building# in the following categories of unit sizes:

- under 600 net square feet
- 600 - 749 net square feet
- 750 - 949 net square feet
- 950 - 1149 net square feet
- 1150 or more net square feet

In Community District 1, Borough of Brooklyn, the requirements of this paragraph, (b), may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#.

In Community District 7, Borough of Brooklyn, if the #lower income housing# is subject to the requirements of city, state or federal programs assisting the #lower income housing# that have size and distribution requirements conflicting with the size and distribution requirements of this paragraph, (b), then the size and distribution requirements of this paragraph, (b), may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#.

23-952

Substantial rehabilitation and off-site new construction options

To qualify for one or more of these options, the designated #lower income housing# shall meet the following requirements:

- (a) The #lower income housing# shall be located either:
- (1) within the same Community District as the #compensated development#; or
 - (2) within an adjacent Community District and within a one-half mile radius of the #compensated development#, except that #lower income housing# located within a one-half mile radius of a #compensated development# in Community District 1, Borough of Brooklyn, shall be located in an adjacent Community District in the Borough of Brooklyn.

For the new construction option the #lower income housing# shall be in a new #building#. For the substantial rehabilitation options, the #lower income housing# shall be in an existing #building# in which, prior to the submission of the #lower income housing plan# pursuant to this Section, any #residential# portion not in public ownership had been entirely vacant for not less than three years.

Furthermore, in Community Districts 1 and 7, Borough of Brooklyn, the #administering agent# shall not be required to verify the income of households in tenancy, as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

- (b) The #lower income housing# shall be maintained and leased to #lower income households# for the life of the increased #floor area#.
- (c) On-site substantial rehabilitation units shall be those units on the same #zoning lot# as the #compensated development#.

23-953

Preservation option

To qualify for this option, the designated #lower income housing# shall meet the following requirements.

- (a) The #lower income housing# shall be located either:

- (1) within the same Community District as the #compensated development#; or
- (2) within an adjacent Community District and within a one-half mile radius of the #compensated development#, except that #lower income housing# located within a one-half mile radius of a #compensated development# in Community District 1, Borough of Brooklyn, shall be located in an adjacent Community District in the Borough of Brooklyn.

The #lower income housing# shall be in an existing occupied #residential# or #mixed building#. Only #standard units# occupied by #lower income households# shall be #lower income housing#. For each #standard unit# designated as #lower income housing# the #administering agent# shall verify the income of the household in tenancy.

Furthermore, in Community Districts 1 and 7, Borough of Brooklyn, the #administering agent# shall not be required to verify the income of households in tenancy, as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

* * *

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 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#.

The following rules shall apply in the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn):

- (a) The provisions of this Section 24-161 shall apply in the following areas of Community District 1, Borough of Brooklyn:
 - (1) those portions of #blocks# bounded by a line 82 feet west of Franklin Street, a line 100 feet north of Freeman Street, a line 100 feet west of Franklin Street, Freeman Street, Franklin Street, and Eagle Street, and
 - (2) those #blocks# and portions of #blocks# bounded by Berry Street, North 5th Street, a line 100 feet southeasterly of Havemeyer Street, North 6th Street, Havemeyer Street, North 7th Street, Roebling Street, North 8th Street, Driggs Avenue, North 9th Street, a line 100 feet southeasterly of Bedford Avenue, North 11th Street, Union Avenue, Richardson Street, Leonard Street, Bayard Street, Graham Avenue, Driggs Avenue, North 12th Street, a line midway between Bedford Avenue and Berry Street, and North 10th Street.
- (b) In the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn), except as set forth in paragraph (a) above and except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply 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 Community District 7, Borough of Manhattan, the maximum #floor area ratio# permitted for a #residential use# set forth in Article II, Chapter 3 may be increased pursuant to the provisions of Section 23-90 (INCLUSIONARY HOUSING).

The following rules shall apply in the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn):

- (a) The provisions of this Section 35-31 shall apply in the following areas of Community District 1, Borough of Brooklyn:
 - (1) those portions of #blocks# bounded by a line 82 feet west of Franklin Street, a line 100 feet north of Freeman Street, a line 100 feet west of Franklin Street, Freeman Street, Franklin Street, and Eagle Street, and
 - (2) those #blocks# and portions of #blocks# bounded by Berry Street, North 5th Street, a line 100 feet southeasterly of Havemeyer Street, North 6th Street, Havemeyer Street, North 7th Street, Roebling Street, North 8th Street, Driggs Avenue, North 9th Street, a line 100 feet southeasterly of Bedford Avenue, North 11th Street, Union Avenue, Richardson Street, Leonard Street, Bayard Street, Graham Avenue, Driggs Avenue, North 12th Street, a line midway between Bedford Avenue and Berry Street, and North 10th Street.
- (b) In the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn), except as set forth in paragraph (a) above, and except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

* * *
* * *

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 November 16, 2005, on file in this office.

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