



## Legislation Text

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**File #:** Res 1831-2013, **Version:** \*

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### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1831

Resolution approving the decision of the City Planning Commission on Application No. N 130117 ZRK, for an amendment of the Zoning Resolution of the City of New York, relating to Article X Chapter 1 (Special Downtown Brooklyn District), to allow special permits for use and bulk modifications for cultural uses in certain C6-2 districts (L.U. No. 830).

By Council Members Comrie and Weprin

WHEREAS, the City Planning Commission filed with the Council on April 26, 2013 its decision dated April 24, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by 22 Lafayette LLC and the NYC Economic Development Corporation, for an amendment of the text of the Zoning Resolution of the City of New York, relating to Article X Chapter 1 (Special Downtown Brooklyn District), to allow special permits for use and bulk modifications for cultural uses in certain C6-2 districts. The proposed zoning text amendment, along with its related actions, would create a new special permit that would allow for an increase in the permitted community facility floor area, modification of height and setback requirements, modification of the street wall requirements, and modification of signage regulations for projects containing cultural uses in C6-2 districts east of Flatbush Avenue in the Special Downtown Brooklyn District, in order to facilitate the development of a proposed mixed-use development which will include residential, retail, cultural uses and public open space in Brooklyn Community District 2 (Application No. N 130117 ZRK), Borough of Brooklyn (the "Application");

WHEREAS, the application is related to Applications C 130116 ZMK (L.U. No. 829), a zoning map amendment changing a C6-1 zoning district to a C6-2 zoning district within the Special Downtown Brooklyn District, and C 130118 ZSK (L.U. No. 831), a special permit pursuant to Section 101-81 of the Zoning Resolution to modify bulk and signage regulations;

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 June 4, 2013;

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

WHEREAS, the Council has considered the relevant environmental issues, including (i) the Final Environmental Impact Statement ("2004 FEIS") for which a Notice of Completion was issued on April 30, 2004 (CEQR No. 03DME016K), as more specifically discussed and considered in New York City Council Resolutions No. 448 through and including No. 466 of 2004; and (ii) the CEQR Revised Technical Memoranda

for the Application dated April 15, 2013 (the “Revised Technical Memorandum”);

WHEREAS, as set forth in the Revised Technical Memorandum, an E-designation (E-305) for Brooklyn, Block 2110, Lot 3 will be placed on the project site, which addresses hazardous materials remediation on the project site; and

WHEREAS, the Revised Technical Memorandum concludes that the proposed program, as set forth in the Application, would not result in significant adverse environmental impacts that has not been previously identified in the 2004 FEIS and CEQR technical memoranda related thereto;

RESOLVED:

The Council finds that pursuant to the Revised Technical Memorandum the action described herein will not result in significant adverse environmental impacts that has not been previously identified in the 2004 FEIS and related CEQR technical memoranda.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 130117 ZRK, incorporated by reference herein, the Council approves the Decision.

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 to be deleted;

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

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

ARTICLE X

Chapter 1

Special Downtown Brooklyn District

\* \* \*

101-80

Special Permits

101-81

Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 Districts

In order to support a concentration of cultural uses and public open spaces in the C6-2 District bounded by Flatbush Avenue, Hanson Place, St. Felix Street and Lafayette Avenue, for #buildings# intended to be occupied in whole or in part by cultural uses, the City Planning Commission may permit the maximum #community facility floor area ratio# to be increased from 6.5 to 7.0, may permit modifications of the special #street wall# location regulations of Section 101-41, and the height and setback regulations of Section 23-632 as applied to

the #residential# portion of a #building#, and modifications of applicable #sign# regulations in accordance with this Section. For the purposes of this Section 101-81, “cultural use” shall be defined as public or non-profit libraries, theaters, museums, visual or performing arts spaces, or art, music, dance, theatrical studios or other comparable uses and space occupied by such cultural use shall qualify as #community facility floor area#.

In order to grant such special permit, the conditions of paragraph (a) and the findings of paragraph (b) shall be met. In addition, special regulations pertaining to the certificate of occupancy of such #building# shall apply as set forth in paragraph (c).

(a) Conditions

(1) A letter from the Office of the Mayor shall be submitted certifying that:

- (i) a preliminary agreement has been executed providing for a cultural facility consisting of at least 40,000 square feet of interior gross square feet in the #building# to be transferred for cultural uses and for the construction of the core and shell of such cultural facility by the applicant; and
- (ii) floor plans have been provided to the Office of the Mayor which demonstrate that the cultural facility is well-suited for cultural uses, and

(2) A legal commitment in the form of declaration of restrictions shall be executed and delivered to the City for recording upon the approval of the permit, restricting use of the #floor area# to be occupied by cultural uses to cultural use for the life of the related #development#, provided, that in the event the majority of the #zoning lot# containing such #floor area# is in the ownership of a not for profit corporation under contract with the City to provide economic development services at the time of the grant of such permit, execution and recordation of such declaration of restrictions shall be made at the time of the transfer of ownership of the majority of such #zoning lot# for purposes of facilitating the related #development#.

(b) In order to grant such permit, the Commission shall find that:

- (1) the #building# including such cultural uses is designed and arranged on the #zoning lot# in a manner that results in ample visibility of and access to the cultural uses from surrounding #streets#;
- (2) any #street wall# modifications will facilitate access to #open space# on the lot and result in a #development# that activates the pedestrian environment;
- (3) any #bulk# modifications will result in a better distribution of #bulk# on the #zoning lot# by providing for increased light and air to #open space# on the #zoning lot#;
- (4) the appearance of #bulk# is minimized through an enhanced articulation of the base and tower elements of the #building#, an enhanced relationship between the #building# and the #open space# on the #zoning lot#, and an enhanced amount and arrangement of the fenestration of the #building#; and
- (5) any modifications to #sign# regulations will result in greater visibility for the cultural uses

provided on the #zoning lot#.

The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the #development# and to minimize adverse effects on the character of the surrounding area.

(c) Certificate of Occupancy

The Commissioner of Buildings shall not issue a temporary or permanent certificate of occupancy for more than an amount of #floor area# in the #building# equal to the #floor area# to be occupied by non-cultural uses minus 40,000 square feet of #floor area# unless the Department of Buildings has received a letter from the Office of the Mayor certifying that:

(1) A deed transferring ownership of a majority of the #zoning lot# has been recorded and that such deed or other recorded document provides for:

(i) the construction by transferee of the core and shell of the cultural facility described in paragraph (a)(1)(i) of this Section;

(ii) the creation of a condominium unit for such cultural facility and the transfer of ownership thereof to the City; and

(iii) a right of the transferor to re-enter and re-acquire the #zoning lot# should the applicant fail to complete the construction of the core and shell of the cultural facility.

Should the certification by the Office of the Mayor not be issued within 30 days of the recording of the deed or other document with the stated provisions, a copy of such deed or document may be provided to the Department of Buildings in satisfaction of such certification.

\* \* \*

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 June 17, 2013, on file in this office.

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City Clerk, Clerk of The Council