



## Legislation Text

File #: Res 1832-2013, Version: \*

### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1832

Resolution approving the decision of the City Planning Commission on ULURP No. C 130118 ZSK (L.U. No. 831), for the grant of a special permit pursuant to Section 101-81 of the Zoning Resolution to permit the maximum floor area requirements of Section 33-123 (Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts) to be increased; and to modify Sections 101-41 (Special Street Wall Location Regulations), 23-632 (Front setbacks in districts where front yards are not required), and 32-64 (Surface Area and Illumination Provisions), Section 32-65 (Permitted Projection or Height of Signs) and Section 32-68 (Permitted Signs on Residential or Mixed Buildings) in connection with a proposed 32-story mixed use development, on property located at 113 Flatbush Avenue (Block 2110, Lots 3 and 103), in a C6-2 District, within the Special Downtown Brooklyn District, Borough of Brooklyn.

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"), on the application submitted by 22 Lafayette LLC and the NYC Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 101-81 of the Zoning Resolution:

1. to permit the maximum community floor area requirements of Section 33-123 (Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts) to be increased from 6.5 to 7.0;
2. to modify the street wall location requirements of Section 101-41 (Special Street Wall Location Regulations);
3. to modify the height and setback regulations of Section 23-632 (Front setbacks in districts where front yards are not required); and
4. to modify the sign regulations of Section 32-64 (Surface Area and Illumination Provisions), Section 32-65 (Permitted Projection or Height of Signs) and Section 32-68 (Permitted Signs on Residential or Mixed Buildings),

in connection with a proposed 32-story mixed use development, on property located at 113 Flatbush Avenue (Block 2110, Lots 3 and 103), in a C6-2 District, within the Special Downtown Brooklyn District, (ULURP No. C 130118 ZSK), Community District 2, 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 N 130117 ZRK (L.U. No. 830), a zoning text amendment relating to Article X, Chapter 1 (Special Downtown Brooklyn District);

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 101-81 of the Zoning Resolution of the City of New York;

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; and

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, C 130118 ZSK, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The development that is the subject of this Application (C 130118 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans prepared by TEN Arquitectos, filed with this Application and incorporated in the Decision and this resolution, and in accordance with the provisions and procedures set forth in the restrictive declaration attached as Exhibit A to the City Planning Commission Report for C 130118 ZSK:

| <u>Dwg. No.</u> | <u>Title</u>                            | <u>Last Date Revised</u> |
|-----------------|---|--------------------------|
| Z-03            | Zoning Analysis                         | 11.19.12                 |
| Z-04            | Lot Coverage Diagram                    | 11.19.12                 |
| Z-05            | Site/Roof Plan                          | 11.19.12                 |
| Z-06            | Ground Floor Plan                       | 11.19.12                 |
| Z-07a           | Zoning Envelope I                       | 11.19.12                 |
| Z-07b           | Zoning Envelope II                      | 11.19.12                 |
| Z-08            | Encroachment Diagram Sky Exposure Plane | 11.19.12                 |
| Z-10            | Initial Setback Encroachment Diagram    | 11.19.12                 |
| Z-11            | Encroachment Diagram Signage            | 11.19.12                 |
| Z-13            | Floor Plans - 2 thru 4                  | 11.19.12                 |
| Z-15            | Zoning Elevations I                     | 11.19.12                 |
| Z-16            | Zoning Elevations II                    | 11.19.12                 |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted by the Decision and in this resolution and shown on the plans listed above which have been filed with this Application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event the property that is the subject of the Application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of the City Planning Commission report for C 130118 ZSK and this resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached to the City Planning Commission Report for C 130118 ZSK as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, Kings County.
7. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to

observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution and the restrictive declarations whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation, or amendment of the special permit hereby granted or of the restrictive declarations.

8. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

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.

City Clerk, Clerk of The Council