



Legislation Text

File #: Res 0771-2007, Version: *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 771

Resolution approving the cancellation of Restrictive Declaration D-15, which was approved as part of a Zoning Map Amendment (CP-23030) to provide off-site accessory parking in connection with the development of a manufacturing facility on an adjacent parcel of land bounded by Walworth Street, DeKalb Avenue and Nostrand Avenue, on property located at 223/225 Spencer Street and 557 DeKalb Avenue (Block 1763, Lots 1, 2, and 62), Brooklyn (Preconsidered L.U. No. 391; 20075268 RSK).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on September 19, 2005 its decision dated September 14, 2005 (the "Decision"), on the application submitted by Middleland, Inc. (the "Applicant") for the cancellation of Restrictive Declaration D-15, which was previously approved in connection with an application for a Zoning Map amendment (CP-23030), which provides that the property located at Block 1763, Lots 1, 2, and 62, in an M1-5 District shall be used only as an accessory parking lot for the I.B.M. plant, Community District 3, Borough of Brooklyn (ULURP No. M 030440 ZMK (L.U. No. 604, Resolution No. 1230 of 2005) (the "Application");

WHEREAS, the Application was related to ULURP Application Number C 030276 ZMK (L.U. No. 605, Resolution No. 1231 of 2005), an amendment to the Zoning Map, changing from an M1-5 to an R6 District;

WHEREAS, the Decisions were subject to review and action by the Council pursuant to Section 197-d (b)(1) of the City Charter;

WHEREAS, on October 27, 2005, the Council disapproved the Decisions;

WHEREAS, in May, 2006, the Applicant challenged the actions of the Council in the Supreme Court of the State of New York (Middleland Inc. and SDR LLC v. The City Council of the City of New York, Brooklyn Borough President and Community Board 3 of the Borough of Brooklyn);

WHEREAS, on December 22, 2006, the Court found that with respect to ULURP No. C030276 ZMK (L.U. 605, Res. 1231 of 2005), that the Council acts in a legislative capacity and that the determination was not arbitrary or capricious and denied the petition;

WHEREAS, the Court also found that the Restrictive Declaration is improperly based on the identity of the owner and that non-cancellation of the restrictive declaration constitutes an unconstitutional regulatory taking of the Applicant's property;

WHEREAS, the Court declared the Restrictive Declaration invalid, null and void; set aside Resolution 1230 of 2006 disapproving the decision of the City Planning Commission to cancel the Restrictive Declaration and directed the Council to cancel the Restrictive declaration;

RESOLVED:

Pursuant to Rule 6.40 of the Rules of the Council, the Council approves the cancellation of the Restrictive Declaration D-15, which was approved as part of a Zoning Map Amendment (CP-23030) to provide off-site accessory parking in connection with the development of a manufacturing facility on an adjacent parcel of land bounded by Walworth Street, DeKalb Avenue and Nostrand Avenue, on property located at 223/225 Spencer Street and 557 DeKalb Avenue (Block 1763, Lots 1, 2, and 62), 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 March 14, 2007, on file in this office.

City Clerk, Clerk of The Council