



## **CITY PLANNING COMMISSION**

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July 11, 2005/ Calendar No. 14

C 070431 ZRY

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**IN THE MATTER OF** an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, Article 2, Chapter 3, to apply the Inclusionary Housing program to proposed R7A districts on Myrtle Avenue, Fulton Street and Atlantic Avenue, Borough of Brooklyn, Community 2.

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The application for an amendment to the Zoning Resolution was filed by the Department of City Planning on April 18, 2007. The proposed text amendment will allow the Inclusionary Housing program to be used in the proposed R7A districts on Myrtle Avenue, Fulton Street and Atlantic Avenue in Borough of Brooklyn, Community District 2.

### **RELATED ACTION**

In addition to the amendment to the Zoning Resolution which is the subject of this report, implementation of the rezoning proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 070430 ZMK      Application for an amendment of the Zoning Map, to rezone all or portions of ninety-nine blocks in the Brooklyn neighborhoods of Fort Greene and Clinton Hill from R6, R7-1, R7-2 and M1-1 districts to R5B, R6B, R6A and R7A districts.

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related zoning map amendment application (C 070430 ZMK).

## **ENVIRONMENTAL REVIEW**

This application (N 070431 ZRY) in conjunction with the related application (C 070430 ZMK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07DCP066K. The lead agency is the City Planning Commission.

A summary of the environmental review and the Environmental Assessment Statement appears in the report on the related zoning map amendment application (C 070430 ZMK).

## **PUBLIC REVIEW**

On April 23, 2007 this application was referred to Brooklyn Community Board 2 and the Brooklyn Borough President in accordance with the procedure for referring non-ULURP matters.

The related action (C 070430 ZMK) was certified as complete by the Department of City Planning on April 23, 2007 and was duly referred to Brooklyn Community Board 2 and the

Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Review**

Community Board 2 held a public hearing on May 16, 2007 on this application (N 070431 ZRY) and on June 13, 2007 issued a recommendation to approve the application with modifications. A full discussion of the Community Board 2 resolution appears in the report on the related zoning map amendment application (C 070430 ZMK).

### **Borough President's Review**

A full discussion of the Borough President's resolution appears in the report on the related zoning map amendment application (C 070430 ZMK).

### **City Planning Commission Public Hearing**

On June 6, 2007 (Calendar No. 3), the City Planning Commission scheduled June 20, 2007, for a public hearing on the application (C 070430 ZMK). The hearing was duly held on June 20, 2007 (Calendar No. 4) in conjunction with the application for the related zoning map change (C 070430 ZMK).

There were 8 speakers in favor of the applications and none in opposition.

A full discussion of the City Planning Commission Public Hearing appears in the report on the related zoning map amendment application (C 070430 ZMK).

## **CONSIDERATION**

The Commission believes that this amendment to the zoning text (N 070431 ZRY) is appropriate.

A full consideration of the issues, and the reasons for approving this application, appear in the report on the related zoning map amendment application (C 070430 ZMK).

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, 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

\* \* \*

**12-10  
DEFINITIONS**

\* \* \*

**Inclusionary Housing designated area**

An “Inclusionary Housing designated area” is a specified area in which the Inclusionary Housing Program is applicable, pursuant to the regulations set forth in Section 23-90, inclusive. Such #Inclusionary Housing designated areas# are identified in Section 23-922 or in Special Purpose Districts, as applicable.

\* \* \*

**23-142  
In R6, R7, R8 or R9 Districts**

R6 R7 R8 R9

Except as otherwise provided in the following Sections:

Section 23-144 (In ~~R6, R7, and R8 Districts~~ designated areas where the Inclusionary Housing Program is applicable)

\* \* \*

**23-144  
In ~~R6, R7 and R8 Districts~~ designated areas where the Inclusionary Housing Program is Applicable**

In ~~R6, R7 and R8 Districts~~ #Inclusionary Housing designated areas# ~~where the Inclusionary Housing Program is applicable~~, as listed in the following table, the maximum permitted #floor area ratios# shall be as set forth in Section 23-942 (In ~~R6, R7 and R8 Districts~~ Inclusionary Housing designated areas. The locations of such districts are specified in Section 23-922 (~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas).

<u>Community District</u>	<u>Zoning District</u>
Community District 1, Brooklyn	R6 R6A R6B R7A
<u>Community District 2, Brooklyn</u>	<u>R7A</u>
Community District 3, Brooklyn	R7D
Community District 7, Brooklyn	R8A

\* \* \*

**23-921**  
**R10 Districts**

The Inclusionary Housing Program shall apply in all R10 Districts located in #Inclusionary Housing designated areas#, subject to the provisions relating to such designated areas, and in all other R10 Districts, subject to the provisions of Section 23-941 (In R10 Districts other than Inclusionary Housing designated areas), as applicable.

**23-922**  
**~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas**

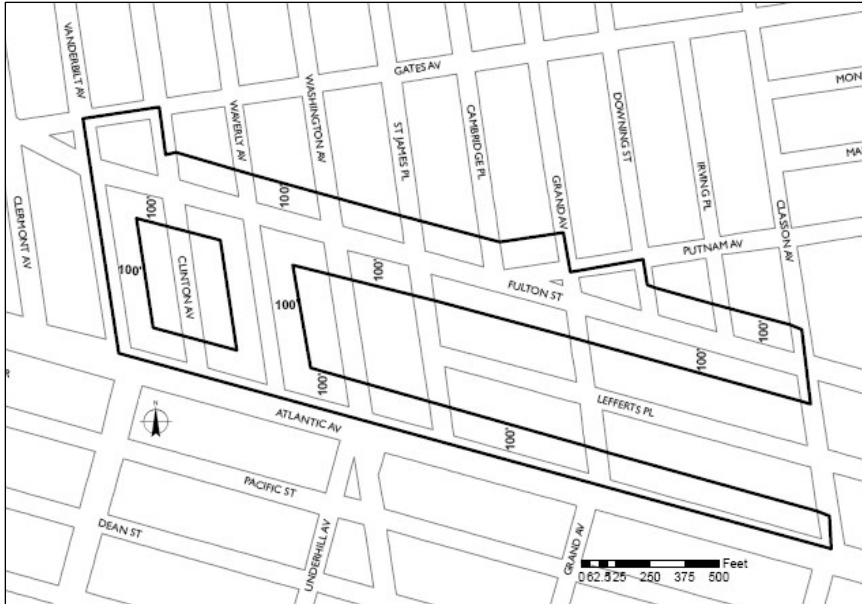
The Inclusionary Housing Program shall apply in the following areas:

- (a) In Community District 1, in the Borough of Brooklyn, in Waterfront Access Plan BK-1, as set forth in Section 62-352, and in the R6, R6A, R6B and R7A Districts within the areas shown on the following Maps 1 and 2:

\* \* \*

- (e) In Community District 2, in the Borough of Brooklyn, in the R7A Districts within the areas shown on the following Maps 7, 8 and 9:





Map 9  
Portion of Community District 2, Brooklyn

**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. However, in #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, 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



\* \* \*

However, in ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, 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 re-rentals shall be subject to the higher of the then-currently applicable Section 8 Standard or the Rent Stabilization Standard.

\* \* \*

In ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, 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#.

#### Inclusionary Housing designated areas

“Inclusionary Housing designated areas” shall be those areas specified in Section 23-922 (Inclusionary Housing designated areas).

#### Lower income household

\* \* \*

In ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, #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

\* \* \*

However, in ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, #lower income housing# shall include #standard units# assisted under City, State or Federal programs.

\* \* \*

~~R6, R7 and R8 designated areas~~

~~“R6, R7 and R8 designated areas” shall be those areas specified in Section 23-922 (Certain R6, R7 and R8 Districts).~~

\* \* \*

### **23-941**

#### **In R10 Districts other than Inclusionary Housing designated areas**

The #floor area ratio# of a #development# may be increased from 10.0 to a maximum of 12.0 at the rate set forth in this Section, if the developer of such #development# provides #lower income housing# pursuant to Section 23-95 (Lower Income Housing Requirements).

\* \* \*

### **23-942**

#### **In ~~R6, R7 and R8~~ Districts Inclusionary Housing designated areas**

The provisions of this Section shall apply in the designated areas set forth in Section 23-922, except within Waterfront Access Plan BK-1 and in R7-3 Districts within Community District 1, Borough of Brooklyn.

\* \* \*

### **23-951**

#### **On-site new construction option**

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

\* \* \*

In ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, 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:

\* \* \*

Furthermore, in ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, 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#.

\* \* \*

### **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:

\* \* \*

Furthermore, in ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, 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**

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas ~~Certain R6, R7 and R8 Districts~~), 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**

\* \* \*

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas ~~Certain R6, R7 and R8 Districts~~), 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.

\* \* \*

### **123-63**

#### **Maximum Floor Area Ratio and Lot Coverage Requirements for Residential Buildings in R6, R7, R8 and R9 Districts**

\* \* \*

However, in ~~designated R6, R7 or R8 Districts where the Inclusionary Housing Program is applicable~~ #Inclusionary Housing designated areas#, as listed ~~below~~ in the following table, the maximum permitted #floor area ratio# shall be as set forth in Section 23-942 (In ~~R6, R7 and R8~~

~~Districts~~ Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas).

**123-64**

**Maximum Floor Area Ratio and Lot Coverage Requirements for Mixed Use Buildings**

(a) Maximum #floor area ratio#

\* \* \*

(4) Maximum #floor area# in #mixed use buildings#

The maximum total #floor area# in a #mixed use building# in #Special Mixed Use Districts# shall be the maximum #floor area# permitted for either the #commercial#, #manufacturing#, #community facility# or #residential# portion of such #building#, as set forth in this Section, whichever permits the greatest amount of #floor area#.

However, in the designated areas set forth in Section 23-922 (~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, the #floor area ratios# of Section 23-942 shall apply.

\* \* \*

The above resolution (N 070431 ZRY), duly adopted by the City Planning Commission on July 11, 2007 (Calendar No. 14), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN**, AICP, Chair  
**KENNETH J. KNUCKLES, Esq.**, Vice-Chairman  
**ANGELA M. BATTAGLIA, IRWIN CANTOR, P.E.**,  
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**DOLLY WILLIAMS**, Commissioner, Recused