



## **CITY PLANNING COMMISSION**

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April 1, 2009/Calendar No. 19

N 090282 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 amendment of the Zoning Resolution of the City of New York relating to the creation of an R1-2A Zoning District.

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The application for an amendment to the New York City Zoning Resolution was filed by the Department of City Planning on January 13, 2009, to create an R1-2A zoning district.

### **Related Action**

In addition to the amendment to the Zoning Resolution which is the subject of this report, the following application is being considered concurrently with this application:

**C 090281 ZMQ:** Amendment to the Zoning Map to rezone a 257 block area of North Flushing in Queens Community Districts 7 and 11.

### **BACKGROUND**

A full background discussion and description appears in the report on the related application for an amendment of the Zoning Map (C 090281 ZMQ).

### **ENVIRONMENTAL REVIEW**

This application (N 090282 ZRY) in conjunction with the application for the related action (C 090281 ZMQ) 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 09DCP042Q. The lead agency is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on January 20, 2009.

## **PUBLIC REVIEW**

On January 20, 2009 the application (N 090282 ZRY) was duly referred to Queens Community Boards 7 and 11, the Queens Borough President the Queens Borough Board in accordance with the procedure for non-ULURP items.

### **Community Board Review**

Community Boards 7 and 11 held a public hearing on this application on January 29, 2009. On February 2, 2009 Community Board 11, by a vote of 36 to 0 with no abstentions, adopted a resolution recommending approval of the application. On February 9, 2009 Community Board 7, by a vote of 41 to 0 with no abstentions, adopted a resolution recommending approval of the application.

### **Borough President Review**

This application was considered by the Queens Borough President who issued a recommendation on March 9, 2009 to approve the application.

### **Borough Board Review**

This application was considered by the Queens Borough Board, which voted on March 9, 2009 to recommend approval of the application.

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

On March 4, 2009 (Calendar No. 6) the City Planning Commission scheduled March 18, 2009 for a public hearing. The hearing was duly held on March 18, 2009 (Calendar No. 24), in

conjunction with the hearing for the related action (C 090281 ZMQ). There were several speakers as described in the report on the related application for the amendment of the Zoning Map (C 090281 ZMQ) and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the proposed text amendment is appropriate. A full consideration and reasons for approving this application, appears in the report on the related application for amendment of the Zoning Map (C 090281 ZMQ).

## **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 to be deleted;  
Matter with # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

### **Article 1 General Provisions**

#### **Chapter 1 Title, Establishment of Controls and Interpretation of Regulations**

\* \* \*

#### **11-12 Establishment of Districts**

In order to carry out the purposes and provisions of this Resolution, the following districts are hereby established:

#### Residence Districts

R1-1 Single-Family Detached Residence District  
R1-2 Single-Family Detached Residence District  
R1-2A Single-Family Detached Residence District

\* \* \*

### 11-335

#### Building permits for other construction in R1-2A and R2A Districts

In R1-2A Districts established on or before (effective date) and R2A Districts established on or after December 20, 2006, if a building permit for other construction has been lawfully issued prior to the date establishing such R2A District, such construction may be continued, notwithstanding the provisions of paragraph (a) of Section 11-332 (Extension of period to complete construction), provided that the Department of Buildings determines that all of the requisite structural framing to perform the work authorized under the permit was completed on or before the date establishing such R2A District. If the Commissioner of Buildings determines that such framing was not complete on such date, the provisions of paragraph (a) of Section 11-332 shall apply.

\* \* \*

### Article 1

### Chapter 2

#### Construction of Language and Definitions

\* \* \*

### 12-10

#### Definitions

\* \* \*

#### Floor area

"Floor area" is the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#. In particular, #floor area# includes:

\* \* \*

- (i) floor space used for #accessory# off-street parking spaces provided in any #story# after June 30, 1989:
  - (1) within #detached# or #semi-detached single-# or #two-family residences# in R1-2A, R2A, R2X, R3, R4 or R5 Districts, except that:
    - (i) in R2A Districts, #floor area# within such #residences# shall include only floor space in excess of 300 square feet for one such space; and
    - (ii) in R3, R4A and R4-1 Districts in #lower density growth management areas#, and in all R1-2A Districts, #floor area# within such #residences#

shall include only floor space in excess of 300 square feet for one such space and in excess of 500 square feet for two such spaces;

\* \* \*

(o) any other floor space not specifically excluded.

However, the #floor area# of a #building# shall not include:

\* \* \*

(6) floor space used for #accessory# off-street parking spaces provided in any #story#:

- (i) up to 200 square feet per required space existing on June 30, 1989, within #residential buildings# in R3, R4 or R5 Districts, and up to 300 square feet for one required space in R2A Districts. However, for #detached# or #semi-detached single-# or #two-family residences# in R3, R4A and R4-1 Districts within #lower density growth management areas#, and in all R1-2A Districts, #floor area# shall not include up to 300 square feet for one required space and up to 500 square feet for two required spaces;

\* \* \*

(8) floor space used for mechanical equipment, except that such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#;

(9) except in R1-2A, R2A, R2X, R3, R4 and R5 Districts, the lowest #story# (whether a #basement# or otherwise) of a #residential building#, provided that:

- (i) such #building# contains not more than two #stories# above such #story#;

\* \* \*

## Article II

### Chapter 3

#### Bulk Regulations for Residential Buildings in Residence Districts

\* \* \*

#### 23-12

##### Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following shall not be considered obstructions when located in any #open space# required on a #zoning lot#, except that no portion of such #open space# which is also a required #yard# or #rear yard equivalent#, or is needed to satisfy the minimum required area or dimensions of a #court#, may contain any obstructions not permitted in such #yard#, #rear yard equivalent# or #court#:

\* \* \*

- (e) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot#. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;

\* \* \*

## 23-141

### Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts

R1 R2 R3 R4 R5

Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, the minimum required #open space# or #open space ratio#, the maximum #lot coverage# and the maximum #floor area ratio# for any #building# on a #zoning lot# shall be as set forth in the following tables:

(a)

District	Minimum Required #Open Space Ratio#	Maximum #Floor Area Ratio#
R1 * R2*	150.0	0.50

\* R1-2A, R2A and R2X are subject to the provisions of paragraph (b).

(b)

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum #Floor Area Ratio#
<u>R1-2A</u>	<u>30</u>	<u>70</u>	<u>.50</u>
R2A	30	70	.50
R2X	governed by #yard# requirements		.85
R3-1 R3-2	35	65	.50
R3A R3X	governed by #yard# requirements		.50
R4	45	55	.75
R4A R4-1	governed by #yard# requirements		.75
R4B	55	45	.90
R5	55	45	1.25
R5A	governed by #yard# requirements		1.10
R5B	55	45	1.35
R5D	60*	40*	2.00

- \* For #corner lots#, the maximum #lot coverage# shall be 80 percent and the minimum required #open space# shall be 20 percent.

In addition, the following rules shall apply:

\* \* \*

- (4) In R3, R4A and R4-1 Districts within #lower density growth management areas#, and in all R1-2A Districts, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence# may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces are in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12, paragraph (e), 23-441 or 23-442, except that in R1-2A Districts, such parking spaces need not be located in the #side lot ribbon#.

\* \* \*

## 23-22

### Maximum Number of Dwelling Units or Rooming Units

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, no #rooming units# shall be permitted and any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

\* \* \*

#### FACTOR FOR DETERMINING MAXIMUM NUMBER OF DWELLING UNITS OR ROOMING UNITS

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
R1-1	4,750	
R1-2, <u>R1-2A</u>	2,850	
R2, R2A	1,900	

\* \* \*

## 23-30

### LOT AREA AND LOT WIDTH REGULATIONS

\* \* \*

## 23-32

### Minimum Lot Area or Lot Width for Residences

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as provided in Section 23-33 (Special Provisions for Existing Small Lots), no #residence# is permitted on a #zoning lot# with a total #lot area# or #lot width# less than as set forth in the following table:

**REQUIRED MINIMUM  
LOT AREA AND LOT WIDTH**

Type of #Residence#	Minimum #Lot Area# (in sq. ft.)	Minimum #Lot Width# (in feet)	District
#Single-family detached#	9,500	100	R1-1
	5,700	60	R1-2 <u>R1-2A</u>
	3,800	40	R2 R2A
	2,850	30	R2X
#Single-# or #two-family detached# or #zero lot line# where permitted	3,800	40	R3-1 R3-2 R4-R10
	3,325	35	R3X
	2,850	30	R4A* R5A
	2,375	25	R3A* R4B R4-1* R5B R5D
Any other permitted	1,700	18	R3-R10*

\* \* \*

**23-40  
YARD REGULATIONS**

\* \* \*

**23-45  
Minimum Required Front Yards**

R1 R2 R3 R4 R5

- (a) In the districts indicated, #front yards# shall be provided as set forth in the following table, except that for a #corner lot# in an R1-2 District, one #front yard# may have a depth of 15 feet and, for a #corner lot# in an R3 District, one #front yard# may have a depth of 10 feet.

Front Yard	District
20 feet	R1



<u>20 feet*</u>	<u>R1-2A</u>
15 feet	R2 R2X R3-1 R3-2
15 feet*	R2A
10 feet*	R3A R3X R4-1 R4A R5A
10 feet**	R4 R5
5 feet*	R4B R5B R5D

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\* Except as provided in paragraphs (b) and (c) of this Section.

\*\* If the depth of a #front yard# exceeds 10 feet or the #zoning lot# is #developed# pursuant to the optional regulations applicable in a #predominantly built-up area#, the depth of a #front yard# shall be at least 18 feet. However, on a #corner lot#, if one #front yard# has a depth of at least 18 feet, the other #front yard# shall have a depth of at least 10 feet.

Furthermore, if an opening to an #accessory# off-street parking space is located within the #street wall# of a #residential building#, there shall be an open area between the opening and the #street line# which is at least 8 and 1/2 feet in width by 18 feet in depth, except this provision shall not apply in R5D Districts.

R2A R3A R3X R4-1 R4A R4B R5A R5B R5D

- (b) For the purpose of paragraphs (b) and (c) the area between the #street line# and the front building wall of adjacent #buildings# on the same or adjoining #zoning lots# shall be considered adjacent #front yards#.

Except as provided in paragraph (c) of this Section, in the districts indicated, if adjacent #residential buildings# on the same or on adjoining #zoning lots# fronting on the same #street# have #front yards# greater than the minimum set forth in paragraph (a) of this Section, then a #front yard# shall be provided which:

- (1) in R1-2A, R2A, R3A, R3X, R4A, R4-1 or R5A Districts is at least as deep as an adjacent #front yard#; and
- (2) in R4B, R5B or R5D Districts is no deeper than the deepest adjacent #front yard# and no shallower than the shallowest adjacent #front yard#.

However, a #front yard# need not exceed 20 feet in depth, except that in R1-2A Districts, a #front yard# need not exceed 25 feet in depth.

In determining the depth of the adjacent #front yards#, balconies, and projections from the front building wall that do not exceed 33 percent of the aggregate width of the #building#, shall be disregarded.

For new #developments# or #enlargements#, projections into the required #front yard# are permitted provided that the aggregate width of all projections at the level of any #story# does not exceed 33 percent of the aggregate width of the #building#. The depth of such projections shall not exceed three feet into the #front yard#. However, balconies shall be subject to the provisions of Sections 23-13 (Balconies) and 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

\* \* \*

**23-461**  
**Side yards for single- or two-family residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

- (a) In all districts, as indicated, for #single-family detached residences# or, where permitted, for #two-family detached residences#, #side yards# shall be provided as set forth in the table in this paragraph, except that on #corner lots# in R1, R2, R3, R4 and R5 Districts, one #side yard# shall be at least 20 feet in width:

**MINIMUM REQUIRED SIDE YARDS**

Number Required	Required Total Width (in feet)	Required Minimum Width of any #Side Yard# (in feet)	District
2	35	15	R1-1
2	20	8	R1-2 <u>R1-2A</u>
2	13	5	R2 R2A R3-1 R3-2 R4-R10

\* \* \*

**23-631**  
**Height and setback in R1, R2, R3, R4 and R5 Districts**

R1 R2

- (a) In the districts indicated, except R1-2A, R2A and R2X Districts, the front wall or any other portion of a #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table:

\* \* \*

R1-2A R2A R2X R3 R4 R4A R4-1 R5A

- (b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (h) and (i) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and abutting #semi-detached buildings# may be considered to be one #building#.

The perimeter walls of a #building or other structure# are those portions of the outermost walls enclosing the #floor area# within a #building or other structure# at any level and height is measured from the #base plane#. Perimeter walls are subject to setback regulations at a maximum height above the #base plane# of:

21 feet	R2A R2X R3 R4A
25 feet	<u>R1-2A</u> R4 R4-1 R5A
26 feet*	R3 R4A R4-1 within #lower density growth management areas#

The above resolution (N 090282 ZRY), duly adopted by the City Planning Commission on April 1, 2009 (Calendar No. 19), 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, FAICP, Chair**  
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