



CITY PLANNING COMMISSION

January 25, 2006/Calendar No. 4

N 060170 ZRK

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, relating to Article I, Chapter 4 (Sidewalk Cafe Regulations), Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts), Article II, Chapter 4 (Bulk Regulations for Community Facility Buildings in Residence Districts), Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts), Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), and Article XII, Chapter 3 (Special Mixed Use District), Community District 1, Borough of Brooklyn.

The application for an amendment of the Zoning Resolution was filed by the Department of City Planning on October 28, 2005, to clarify and modify certain provisions of the zoning text adopted under the Greenpoint-Williamsburg Rezoning in May 2005.

RELATED ACTIONS

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

C 060171 ZMK Amendment of the Zoning Map, Section Nos. 12c, 12d, 13a and 13b to rezone approximately 19 blocks to MX-8, M1-2/R6A and M1-2/R6B.

BACKGROUND

In May 2005, the Greenpoint-Williamsburg rezoning and related applications were approved to allow for housing and open spaces, in tandem with light industry and commercial uses, along two miles of Brooklyn's East River waterfront and the adjoining upland neighborhoods. During the public review process, text changes were identified which would require subsequent action. After adoption, additional text changes were also determined to be necessary to clarify the text, correct inaccurate references in the text, and modify certain provisions. Additional zoning map changes were also deemed necessary to apply contextual height limits within certain mixed-use areas.

The area affected by the proposed zoning text changes includes both the waterfront and upland portions of the rezoned area, which is generally bounded by the Williamsburg Bridge to the south, the Brooklyn-Queens Expressway and McGuinness Boulevard to the east, Newtown Creek to the north, and the East River to the west. The area affected by the proposed zoning map changes includes approximately 19 blocks in the Williamsburg portion of the rezoned area.

ZONING TEXT AMENDMENT (N 060170 ZRK)

The application for zoning text changes is composed of several items which are described below:

Anti-harassment (Sections 23-013, 24-012)

The proposed text changes would apply the anti-harassment provisions recently approved for the Special Hudson Yards District to the upland areas recently rezoned as part of the Greenpoint-Williamsburg rezoning. These changes provide a process to evaluate whether harassment of tenants has occurred. If harassment is found, the proposed amendment would impose zoning-based remedies that would be in addition to any other legal penalties. The provision responds to the concerns raised by the Community Board and the City Council that there be additional protections for existing residential units, and fulfills a commitment made at the adoption of the Greenpoint-Williamsburg rezoning to apply such provisions to the rezoning area.

Clarifications and Technical Refinements to Inclusionary Housing Program

Several text changes, including technical refinements to the program recently applied in Hudson Yards and South Park Slope, are proposed to facilitate the consistent administration of the Inclusionary Housing program. The proposed text changes would:

- Clarify text describing the boundaries in which the Inclusionary Housing program applies, and add a half-block along Grand Street between Havemeyer Street and Marcy Avenue which had been erroneously omitted from the upland Inclusionary area (Section 23-922(d)).

- Clarify section references for Inclusionary developments in upland M1-2/R6 districts, which require such developments to follow contextual height and setback rules (Section 23-942).
- Modify the Inclusionary Housing bonus to be consistent with Hudson Yards and South Park Slope, requiring a percentage of the residential floor area of a development using the bonus to be affordable. The existing text requires a percentage of all floor area on the site to be affordable. The proposed change would prevent any disincentive for utilization of the bonus within a mixed-use development, while still serving the affordability goals of the Inclusionary Housing program (Sections 23-942, 62-352(b)).
- Apply other changes from the Hudson Yards FUCA, which were also applied in the South Park Slope rezoning, to Greenpoint-Williamsburg:
 - Modify the definition of administering agent, to allow the Commissioner to designate the same entity responsible for carrying out the requirements of city, state or federal housing assistance programs utilized by the lower income housing, to also serve as administering agent for Inclusionary Housing purposes (Section 23-93).
 - Establish parameters for the preservation option when no new Certificate of Occupancy is needed. Under the proposed changes, the HPD Commissioner would need to certify compliance with the requirements of the lower income housing plan before DOB grants a temporary or permanent certificate of occupancy for the bonused floor area (Sections 23-95(f), 62-352(d)).
- Clarify the applicability of Inclusionary Housing requirements in the event of subdivision of a waterfront parcel (Section 62-352(b)). The proposed changes would require any development utilizing floor area from both R6 and R8 districts to provide 20 to 25 percent affordable housing in order to receive the bonus. This clarification reflects that parcels cannot be subdivided to evade affordable housing requirements under the bonus program.

- Delete text allowing exceptions to maximum FAR for mixed buildings, to apply regulations uniformly throughout rezoned area. Under the proposed changes, mixed buildings developed pursuant to the Quality Housing program or in Special Mixed Use Districts would be subject to the maximum base FARs of Section 23-942, or for developments utilizing the Inclusionary Housing bonus, to the maximum FAR permitted with the Inclusionary Housing bonus. Because of scope limitations, mixed community facility-residential buildings in certain areas were excepted from this limitation; a commitment was made at adoption of the rezoning to eliminate this exception (Sections 24-161, 35-31, 123-64).
- Make a technical change to facilitate provisions adopted in May that allow some flexibility in the building envelope for buildings in containing at least 20 percent affordable housing within waterfront developments. The text adopted in May exempted such buildings from floorplate limitations below a height of 100 feet. The proposed changes allow a similar exemption from limitations on building length below 100 feet, making it possible to utilize the additional floorplate flexibility (Section 62-354(e)).

Waterfront Access Plan (WAP)

Proposed changes include corrections and clarifications to the WAP, along with the addition of an option for a slightly reconfigured upland connection on Parcel 26:

- Correction to cross-reference to clarify applicability of streetwall regulations (Section 62-341(a)(1)).
- Clarification of language to reflect that the special bulk regulations for the Greenpoint-Williamsburg WAP area apply to all waterfront lots in the rezoned area (Sections 62-831, 62-831(g)).
- Clarification that only shade trees or shade structures (not ornamental trees) are required on Green Street and N. 6th Street piers (Sections 62-831(e)(5)(iii), 62-831(e)(13)(iii)).

- Clarification of the dimensional requirements for the supplemental access area required adjacent to the MTA ventilation building at N. 7th Street (Section 62-831(e)(13)(iii)).
- Allowance for additional flexibility in location of upland connection on Parcel 26 if provided as sidewalks adjacent to a road extending N. 4th Street. This modification corresponds with plans formulated by the developer of this site, where an initial phase of development is planned to include approximately 120 apartments affordable to low-income households (Section 62-831(e)(14)(ii)).

Other Text Changes (Section 14-44)

The proposed changes would permit sidewalk cafes in the MX-8 district, which is located in the upland portion of the area rezoned under the Greenpoint-Williamsburg rezoning, effectively reinstating provisions which had allowed sidewalk cafes in these areas under the previous zoning.

ZONING MAP CHANGES (C 060171 ZMK)

The proposed zoning map changes would rezone all or portions of 19 blocks currently zoned MX-8, M1-2/R6 to M1-2/R6A and M1-2/R6B, in order to apply contextual height limits. The contextual height limits of the proposed districts (70 feet maximum total building height in R6A, 50 feet maximum in R6B) respond to community concerns about out-of-scale development and would prevent the construction of new buildings that are inconsistent with the existing built character of these and nearby areas.

The area affected by the proposed changes to the zoning map includes three non-contiguous areas:

- Metropolitan Avenue / East of BQE: approximately 15 blocks within the area generally bounded by Bedford Avenue, Metropolitan Avenue and North 4th Street, Union Avenue, Borinquen Place, Marcy Avenue, and Grand Street;

- Grand Street between Wythe Avenue and Kent Avenue: two block faces along Grand Street between Kent and Wythe Avenues; and
- East of McCarren Park: an area of just over one block bounded by a line 100 feet west of Manhattan Avenue to the west, Bayard Street to the north, Graham Avenue, and the Brooklyn-Queens Expressway (BQE).

These areas are characterized by a mix of residential, commercial, and light industrial uses, including one- and two-story industrial and commercial buildings, and 2- to 6-story residential and loft buildings. Several wide streets run through these areas, including Metropolitan Avenue, Union Avenue, Roebling Street, Borinquen Place, and the BQE, which runs through the eastern portion of the rezoning area as an elevated structure with entrances and exits near Metropolitan Avenue. The L and G subway lines both stop at the intersection of Metropolitan and Union Avenues, in the eastern portion of the area.

Existing Context and Zoning (M1-2/R6)

The rezoning area is located entirely within the area recently rezoned as part of the Greenpoint-Williamsburg rezoning and is currently zoned Special Mixed Use District MX-8, M1-2/R6. The M1-2/R6 zoning designation allows residential development at 2.2 FAR on narrow streets and 2.7 FAR on wide streets. Under the Inclusionary Housing program, developments providing affordable housing are eligible for a floor area bonus to a maximum of 2.42 FAR on narrow streets and 3.6 on wide streets. Residential buildings have a 60-foot maximum base height, and can rise to a total height of 110 to 150 feet subject to setback regulations. New residential developments must provide 1 parking space for 70% of dwelling units.

The M1-2/R6 zoning also permits light industrial and commercial uses at up to 2.0 FAR, and community facility uses at up to 4.8 FAR. In this area, where the Inclusionary Housing program

is applicable, the maximum FAR for a mixed building containing residential use is limited to the maximum FAR for residential use.

Metropolitan Avenue / East of BQE

Along Metropolitan Avenue (including one block front on Hope Street), existing buildings include residential buildings of between 2 and 6 stories, some with ground-floor commercial use, as well as loft buildings of up to 6 stories and low-rise industrial buildings. The area is characterized by a mix of residential, commercial, and light industrial uses with the exception of a half-block along Fillmore Place, which features a consistent row of three-story rowhouses. Between the BQE, Metropolitan Avenue, Union Avenue, and Borinquen Place, development generally consists of low-rise industrial buildings interspersed with 2- to 5-story loft and residential buildings, and several 6-story apartment buildings in the southern part of this area.

Grand Street between Wythe Avenue and Kent Avenue

The western portion of the rezoning area includes two block fronts along Grand Street. These blocks are occupied by three- to five-story residential buildings, some with ground-floor commercial use; one-story industrial and warehouse buildings; and vacant lots.

East of McCarren Park

Existing buildings in this area of just over one block between Bayard Street and the BQE consist of low-rise industrial and 2- to 3-story residential buildings.

Proposed Zoning

M1-2/R6A

M1-2/R6A is proposed for areas along Metropolitan Avenue, east of the BQE, and east of

McCarren Park. These areas contain a mix of building types as well as several wide streets. The proposed M1-2/R6A district would ensure that new development in these areas remains in scale with the surrounding neighborhoods. In areas located near the wide streets of Metropolitan Avenue, Union Avenue, Roebling Street, Borinquen Place, and the BQE, the proposed M1-2/R6A zoning would apply contextual height limits but would not increase the permitted floor area ratio.

The M1-2/R6A zoning permits the same maximum residential FAR of 2.7 (3.6 with the Inclusionary Housing bonus) as permitted under the existing M1-2/R6 on wide streets. M1-2/R6A limits residential buildings to a maximum base height of 60 feet and a maximum building height of 70 feet after a setback of 15 feet on a narrow street or 10 feet on a wide street. One parking space is required for 50% of residential units. Regulations governing commercial or manufacturing uses would be unchanged under the proposed action. The maximum FAR for community facility developments is 3.0. In this area, where the Inclusionary Housing program is applicable, the maximum FAR for a mixed building containing residential use is limited to the maximum FAR for residential use.

M1-2/R6B

M1-2/R6B is proposed for two block faces along Grand Street, where existing buildings are between one and four stories, with the exception of one five-story loft building built to 2.9 FAR. There are no wide streets in this area. M1-2/R6B is also proposed for one half-block on the northern side of Fillmore Place, a block containing a row of three story rowhouses as well as low-rise industrial and automotive buildings.

The proposed M1-2/R6B allows residential development at 2.0 FAR, with a bonus to 2.2 FAR available under the Inclusionary Housing program. Residential buildings are subject to a 40-foot

maximum base height, with a total height of 50 feet permitted after a setback of 15 feet on a narrow street. New residential developments must provide 1 parking space for each of 50% of their dwelling units. The maximum FAR for community facility developments is 2.0. Regulations for commercial and manufacturing uses would be unchanged under the proposed zoning designation. The proposed height limits and FAR would promote development that is consistent with the small-scale character along Grand Street and Fillmore Place.

ENVIRONMENTAL REVIEW

This application (N 060170 ZRK), in conjunction with the related application (C 060171 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 04DCP003K. The lead agency is the City Planning Commission.

A Notice of Minor Modification was issued on October 31, 2005, which determined that the zoning text and map changes set forth in Applications N060170ZRK and 060171ZMK would not result in any new or additional significant adverse impacts not already set forth in the Final Environmental Impact Statement (FEIS) for the Greenpoint-Williamsburg Rezoning. The Notice of Completion for the Greenpoint-Williamsburg Rezoning FEIS was issued on March 4, 2005.

To avoid the potential for air quality impacts associated with boiler emissions, the proposed zoning map amendment includes (E) designations on the following properties:

- **Block 2367, Lots 27 and 28**
- **Block 2374, Lots 27, 28 and 31**
- **Block 2378, Lots 29 and 32**

- **Block 2378, Lots 35 and 36**

The text of the (E) designation for air quality for the above properties is as follows:

Any new residential development on the above-referenced properties must use natural gas as the type of fuel for space heating and hot water (HVAC) systems.

The (E) designations for air quality on the above properties would ensure that no impacts related to air quality would occur as a result of the proposed action. These (E) designations are incorporated into the (E) designations mapped in connection with the original Greenpoint-Williamsburg Rezoning (E 138).

PUBLIC REVIEW

On October 31, 2005, this application (N 060170 ZRK) was duly referred to Community Board 1 and the Brooklyn Borough President in accordance with the Commission's policy for non-ULURP items. Concurrently, on October 31, 2005, the related application (C 060171 ZMK) was certified as complete by the Department of City Planning in accordance with Article 3 of the Uniform Land Use Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 1 held a public hearing on the application (N 060170 ZRK) on November 9, 2005, and on December 6, 2005, by a vote of 34 to 3 with no abstentions, adopted a resolution recommending approval of the zoning map and text change applications (C 060171 ZMK and N 060170 ZRK), subject to the following condition: "Remove the one block bounded by Metropolitan Avenue, North 1st Street, Driggs Avenue and Bedford Avenue and request that this block be included in a subsequent follow-up."

Borough President Recommendation

The application (N 060170 ZRK) was considered by the Borough President, who issued on January 3, 2006, a recommendation approving the proposed zoning map and text applications (C 060171 ZMK and N 060170 ZRK) subject to the following condition: “that the zoning lots fronting on North First Street between Bedford and Driggs [be removed from the proposed zoning map change] until a subsequent follow-up zoning action can map an R6B district in place of the existing R6.”

City Planning Commission Public Hearing

On December 19, 2005 (Calendar No. 27), the City Planning Commission scheduled January 11, 2006, for a public hearing on the application (N 060170 ZRK). The hearing was duly held on January 11, 2006 (Calendar No. 26), in conjunction with the application for the related action (C 060171 ZMK).

There was one speaker in favor of the application and no speakers in opposition.

The one speaker, an owner of property located on North 1st Street within an area proposed to be rezoned from M1-2/R6 to M1-2/R6A, endorsed the proposed changes, saying that he agreed with the height limits proposed for this area.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application, in conjunction with that for the related action, was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 04-080.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this amendment of the Zoning Resolution (N 060170 ZRK), in conjunction with the related application for amendments to the Zoning Map (C 060171 ZMK), is appropriate.

The comprehensive Greenpoint-Williamsburg rezoning, adopted in May 2005, was a watershed event in the revitalization of these neighborhoods. The rezoning included several innovations, among which was an Inclusionary Housing program providing powerful incentives for the creation and preservation of affordable housing in conjunction with new developments in medium-density districts. This Inclusionary Housing program has been technically refined in its subsequent application to neighborhoods such as South Park Slope, and the Commission is pleased to apply these refinements to Greenpoint-Williamsburg. The establishment of a consistent set of Inclusionary Housing requirements will facilitate the program's administration in all neighborhoods where it is applied.

The Commission supports the proposed changes to the Waterfront Access Plan, including clarifications to the zoning text as well as the modified public access requirements for Parcel 26, located between North 4th Street and North 5th Street. This modification, which will facilitate the development of an initial development phase containing approximately 120 apartments affordable to low-income households, would permit a slight adjustment to the alignment of the upland connection to provide a more clearly public entrance to the waterfront area along an extension of North 4th Street, while improving visual access to the waterfront from Kent Avenue.

The proposed actions also fulfill a commitment made at adoption of the Greenpoint-Williamsburg Rezoning to apply the Hudson Yards anti-harassment provisions to the rezoned area, providing an additional deterrent to the harassment of residents. In addition, the proposed

text changes allow sidewalk cafes in Special Mixed Use District MX-8, helping to activate the streets in this mixed-use area.

A key principle of the Greenpoint-Williamsburg rezoning was the establishment of height limits in upland areas to ensure that new developments are consistent with the scale of the existing neighborhood. During the period immediately preceding adoption of the rezoning, the pressure for development of tall buildings within the upland area further highlighted the importance of height limits. The proposed follow-up changes to the zoning map would place contextual height limits in certain areas near Metropolitan Avenue and the Brooklyn-Queens Expressway where the current M1-2/R6 zoning does not have contextual height limits.

The proposed zoning map changes respond to community concerns about out-of-scale development by extending M1-2/R6B and M1-2/R6A zoning districts, with their respective height limits, to approximately 19 additional blocks currently zoned M1-2/R6. The M1-2/R6B designation would protect the predominantly low-rise scale of Fillmore Place and Grand Street between Wythe and Kent Avenues, limiting the height of new buildings to 40 feet at the streetwall and 50 feet total. The proposed M1-2/R6A districts would prohibit out-of-scale development while providing opportunities for the construction of appropriately scaled new housing, limited to 60 feet in height at the streetwall and 70 feet total height, with a consistent streetwall. In addition, the Commission notes that the proposed M1-2/R6A districts would promote affordable housing through a 33 percent FAR bonus (from 2.7 to 3.6 FAR) for developments providing 20 percent affordable housing.

The Commission notes the support of both the Community Board and Borough President for the proposed follow-up actions, as well as their recommendations that one block be removed from the zoning map change to be addressed in a subsequent rezoning. This block, bounded by Metropolitan Avenue, Driggs Avenue, North 1st Street, and Bedford Avenue, contains residential buildings of three to six stories, as well as several vacant sites and a one-story industrial building. The Commission believes that the application of contextual height limits to this area should not be delayed, and that the proposed M1-2/R6A designation would prevent out-of-scale development.

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, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, and based on the environmental determination set forth in the Notice of Minor Modification dated October 31, 2005 and the 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:

Underlined matter is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

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

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

* * *

14-44

Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

* * *

	#Enclosed Sidewalk Cafe#	#Unenclosed Sidewalk Cafe#
Brooklyn		
Bay Ridge District	Yes	Yes
Coney Island Mixed Use District	Yes	Yes
Downtown Brooklyn District	Yes	Yes
Franklin Street Mixed Use District	Yes	Yes
Northside Mixed Use District	Yes	Yes
Ocean Parkway District*	Yes	Yes
Sheepshead Bay District	No	Yes
<u>Special Mixed Use District MX-8 (Greenpoint-Williamsburg)</u>	<u>Yes</u>	<u>Yes</u>

 * #Sidewalk cafes# are not allowed on Ocean Parkway

* * *

23-013
Harassment

Within the Greenpoint-Williamsburg anti-harassment area in Community District 1, Borough of Brooklyn, as shown on Map 1 in this Section, the provisions of paragraphs (a) through (d), inclusive, of Section 93-90 (Harassment) shall apply as modified in this Section.

For the purposes of this Section, the following definitions in Section 93-90(a) shall be modified:

Anti-Harassment Area
“Anti Harassment Area” shall mean the Greenpoint-Williamsburg anti-harassment area as shown on Map 1 in this section.

Referral date
“Referral date” shall mean October 4, 2004.

In addition, Section 93-90(d)(3) is modified as follows:

No portion of the #low income housing# required under this Section shall qualify to:

- (i) increase the #floor area ratio# pursuant to the provisions of Section 23-90 or Section 62-352 (Inclusionary Housing), or
- (ii) increase the maximum height of a #building# or the height above which the gross area per #residential story# of a #building# is limited pursuant to the provisions of Section 62-354 (Special height and setback regulations), paragraphs (b)(2) and (d), or
- (iii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

* * *

23-922

Community Districts 1 and 7, Borough of Brooklyn

The Inclusionary Housing Program shall apply in the following areas:

- (a) In the following areas of Community District 1, in the Borough of Brooklyn, located ~~north of the Williamsburg Bridge, Washington Plaza, Borinquen Place and Grand Street~~ in an area bounded by South 5th Street, Grand Street Extension/Borinquen Place, Union Avenue, Metropolitan Avenue, Humboldt Street, Meeker Avenue, Russell Street, Engert Avenue, McGuinness Boulevard, the Newtown Creek, and the East River:
- (1) Waterfront Access Plan BK-1, as set forth in Section 62-352;
 - (2) all #Special Mixed Use Districts#;
 - (3) all R6A, R6B and R7A Districts; and
 - (4) R6 Districts within the following R6 areas:
 - (i) the #block# bounded by Havemeyer Street, North Sixth Street, Metropolitan Avenue and North Fifth Street;
 - (ii) the #block# bounded by Roebling Street, North Fifth Street, Havemeyer Street, ~~and Metropolitan Avenue,~~ and North Fourth Street;
 - (iii) those #blocks# bounded by Wythe Avenue, Grand Street, Berry Street and South Third Street;
 - (iv) those #blocks# and portions of #blocks# bounded by Bedford Avenue, North 1st Street, ~~Driggs Street~~ Avenue, Fillmore Place, Roebling Street, and a line coincident with the centerline of the long dimension of the #blocks# bounded by Bedford Avenue, Grand Street, Roebling Street and South First Street; ~~and~~
 - (v) that portion of the #block# bounded by Havemeyer Street, Hope Street, Marcy Avenue, and South First Street that is within 100 feet of Grand Street; and

(vi) that portion of the #block# bounded by Franklin Street, Huron Street, Manhattan Avenue and India Street that is within 100 feet of Franklin Street and 100 feet of India Street.

(b) In Community District 7, in the Borough of Brooklyn, in all R8A districts.

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, ~~or, in Community District 1, Borough of Brooklyn, if the #floor area# of the #standard units# comprising the #lower income housing# constitutes less than half of the total #residential floor area# or #community facility floor area used# as a not for-profit institution with sleeping accommodations in the #building#.~~ However, in Community Districts 1 and 7, Borough of Brooklyn, 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.

* * *

23-942

In Community Districts 1 and 7, Borough of Brooklyn

The provisions of this Section 23-942 shall apply in the designated areas set forth in Section 23-922, except within Waterfront Access Plan BK-1.

(a) Maximum floor area ratio

The #floor area# of a #development# or #enlargement# may not exceed the base #floor area ratio# set forth in the table below, except that such #floor area# may be increased by

one and one-quarter square feet for each square foot of #floor area# provided for #lower income housing#, up to the maximum #floor area ratio# specified in the table in this Section. However, ~~in Community District 7, Borough of Brooklyn,~~ the amount of #lower income housing# required to receive such bonus #floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, in the #building#.

District	Base #floor area ratio#	Maximum #floor area ratio#
R6B	2.0	2.2
R6*	2.2	2.42
R6A	2.7	3.6
R6**	2.7	3.6
R7A	3.45	4.6
R8A	5.4	7.2

* for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#

** for #zoning lots#, or portions thereof, within 100 feet of a #wide street#

In addition, the following rules shall apply:

~~(a)~~(b) Height and setback

~~The compensated #building# must be #developed# or #enlarged# pursuant to the Quality Housing Program or, in #Special Mixed Use Districts#, pursuant to paragraph (b) of Section 123-662, and~~

- (1) Except in #Special Mixed Use Districts#, the compensated #building# must be #developed# or #enlarged# pursuant to the height and setback regulations of Section 23-633 (Street wall location and height and setback regulations in certain districts) or Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts), as applicable.
- (2) In #Special Mixed Use Districts#, where the residence district designation has a letter suffix, the compensated #building# must be #developed# or #enlarged# pursuant to paragraph (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations). Where the #residence district# designation does not have a letter suffix, the compensated #building# must be #developed# or #enlarged# pursuant to the height and setback

regulations of Section 23-633 regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

(b)(c) Lower income housing requirements

The #lower income housing# must be provided in accordance with the provisions set forth in Section 23-95 (Lower Income Housing Requirements).

* * *

**23-95
Lower Income Housing Requirements**

* * *

(f) Permits and certificates of occupancy

No building permit for the #compensated development# shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any part of the #compensated development# until a temporary certificate of occupancy for each unit of #lower income housing# has been issued or, in Community Districts 1 and 7, Borough of Brooklyn, if the #building# has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the #lower income housing#. No permanent certificate of occupancy shall be issued for any part of the #compensated development# until a permanent certificate of occupancy for each unit of the #lower income housing# has been issued or, in Community Districts 1 and 7, Borough of Brooklyn, if the #building# has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the #lower income housing#. Prior to the issuance of any temporary or permanent certificate of occupancy for the #compensated development#, the Commissioner of Housing Preservation and Development shall certify that the #lower income housing# is in compliance with the #lower income housing plan#.

* * *

23-951

On-site new construction option

* * *

- (b) #Dwelling units# designated as #lower income housing# shall be distributed throughout the #development#. No #story# shall contain more than two such units unless at least 80 percent of all #stories# contain two such units. The size of the designated #lower income housing# units shall at least be distributed among the various size units in proportion to the total distribution of unit size within the #building# in the following categories of unit sizes:

- under 600 net square feet
- 600 - 749 net square feet
- 750 - 949 net square feet
- 950 - 1149 net square feet
- 1150 or more net square feet

~~In Community District 1, Borough of Brooklyn, the requirements of this paragraph, (b), may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#.~~

In Community Districts 1 and 7, Borough of Brooklyn, 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#.

* * *

24-012

Harassment

Within the Greenpoint-Williamsburg anti-harassment area set forth in Section 23-013, the provisions of Section 23-013 shall apply to any #zoning lot# containing a #building used# partly for a #residential use#.

* * *

24-161

Maximum floor area ratio for zoning lots containing community facility and residential uses

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R6A R6B R7-2 R7A R7B R7X R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

The following rules shall apply ~~i~~In the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn), ~~÷~~

(a) ~~—~~ The provisions of this Section 24-161 shall apply in the following areas:

~~—~~ (1) ~~—~~ those portions of #blocks# bounded by a line 82 feet west of Franklin Street, a line 100 feet north of Freeman Street, a line 100 feet west of Franklin Street, Freeman Street, Franklin Street, and Eagle Street, and

~~—~~ (2) ~~—~~ those #blocks# and portions of #blocks# bounded by Berry Street, North 5th Street, a line 100 feet southeasterly of Havemeyer Street, North 6th Street, Havemeyer Street, North 7th Street, Roebling Street, North 8th Street, Driggs Avenue, North 9th Street, a line 100 feet southeasterly of Bedford Avenue, North 11th Street, Union Avenue, Richardson Street, Leonard Street, Bayard Street, Graham Avenue, Driggs Avenue, North 12th Street, a line midway between Bedford Avenue and Berry Street, and North 10th Street.

(b) ~~—~~ In the designated areas set forth in Section 23-922 (Community District 1, Borough of Brooklyn), except as set forth in paragraph (a) above and 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

C1 C2 C3 C4 C5 C6

In all districts, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# containing a #mixed building#.

* * *

~~The following rules shall apply i~~In the designated areas set forth in Section 23-922 (Community Districts 1 and 7, Borough of Brooklyn), ~~;~~

~~(a) — The provisions of this Section 35-31 shall apply in the following areas:~~

~~———— (1) — those portions of #blocks# bounded by a line 82 feet west of Franklin Street, a line 100 feet north of Freeman Street, a line 100 feet west of Franklin Street, Freeman Street, Franklin Street, and Eagle Street, and~~

~~———— (2) — those #blocks# and portions of #blocks# bounded by Berry Street, North 5th Street, a line 100 feet southeasterly of Havemeyer Street, North 6th Street, Havemeyer Street, North 7th Street, Roebling Street, North 8th Street, Driggs Avenue, North 9th Street, a line 100 feet southeasterly of Bedford Avenue, North 11th Street, Union Avenue, Richardson Street, Leonard Street, Bayard Street, Graham Avenue, Driggs Avenue, North 12th Street, a line midway between Bedford Avenue and Berry Street, and North 10th Street.~~

~~(b) — In the designated areas set forth in Section 23-922 (Community District 1, Borough of Brooklyn), except as set forth in paragraph (a) above, and 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.~~

* * *

62-341

Developments on land and platforms

All #developments# on portions of a #zoning lot# landward of the #shoreline# or on #platforms# shall be subject to the height and setback provisions of this Section. However, when the seaward view from all points along the shoreline of a #zoning lot# is entirely obstructed by existing elevated roads, bridges or similar structures which are less than 50 feet above mean high water and within 200 feet of the #shoreline#, #developments# shall be exempt from the requirements

of this Section. Height and setback regulations for #developments# on #piers# and #floating structures# are set forth in Sections 62-342 and 62-343.

(a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

(1) #Street lines#

For the purposes of paragraphs (c) and (d) of this Section and of paragraph (h) of Section 62-354, a #shore public walkway#, #visual corridor#, #upland connection# or #supplemental public access area# shall be considered a #street# and its boundary shall be treated as a #street line#. Any #visual corridor# or #upland connection# that measures at least 75 feet in width, or any #shore public walkway# or #supplemental public access area#, shall be considered a #wide street#. Any other #visual corridor# or #upland connection# shall be considered a #narrow street#.

62-352

Inclusionary Housing

* * *

(b) Floor area increase

(1) For #zoning lots# located in R8 Districts, or located partially in R8 Districts and partially in R6 Districts, the maximum permitted #floor area ratio# on such #zoning lots# may be increased in R6 Districts from 2.43 to 2.75, and in R8 Districts from 4.88 to 6.5, provided that:

(i) at least 20% of the total #residential floor area# on the #zoning lot# is occupied by lower income households#, or

(ii) at least 10% of the total #residential floor area# on the #zoning lot# is occupied by #lower income households# and at least 15% of the total #residential floor area# on the #zoning lot# is occupied by #moderate income households#.

(2) For #zoning lots# located entirely within R6 Districts, the maximum permitted #floor area ratio# may be increased from 2.43 to 2.75 provided that:

- (i) at least 7.5% of the total #residential floor area# on the #zoning lot# is occupied by #lower income households#, or
- (ii) at least 5% of the total #residential floor area# on the #zoning lot# is occupied by #lower income households# and at least 5% of the total #residential floor area# on the #zoning lot# is occupied by #moderate income households#.

Where #lower# or #moderate income housing# is provided on a #zoning lot# other than the #zoning lot# occupied by the compensated #development#, the percentage of #residential floor area# required to be occupied by such households pursuant to this Section shall be determined as a percentage of the #residential floor area# on the #zoning lot# of such compensated #development#, inclusive of #floor area# bonused pursuant to this Section.

For the purposes of determining the amount of #lower income housing# required to increase the maximum permitted #floor area# pursuant to this paragraph (b), community facility #floor area# used as a philanthropic or not-for-profit institution with sleeping accommodations shall be considered #residential floor area#.

Any #zoning lot# located entirely within an R6 District that, in conjunction with a #zoning lot# located partially or entirely within an R8 District, utilizes a distribution of #floor area#, #lot coverage# or #residential# density without regard to #zoning lot lines# or district boundaries pursuant to Section 62-353 (Special floor area, lot coverage and residential density distribution regulations), shall comply with the provisions of paragraph (b)(1) of this Section.

* * *

- (d) Permits and certificate of occupancy

The requirements of paragraph (f) of Section 23-94 shall not apply. In lieu thereof, the provisions of this paragraph (d) shall apply.

No building permit for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to paragraph (b) of this Section, or is located on any #story# that utilizes the increased height for #developments# that provide Inclusionary Housing as set forth in paragraph (b)(2) of Section 62-354 (Special Height and Setback Regulations) shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to paragraph (b) of this Section, or is located on any #story# that utilizes the increased height for #developments# that provide Inclusionary Housing as set forth in paragraph (b)(2) of Section 62-354 (Special Height and Setback Regulations), until a temporary certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing. No permanent certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to paragraph (b) of this Section, or is located on any #story# which utilizes the increased height for #developments# that provide Inclusionary Housing as set forth in paragraph (b)(2) of Section 62-354 (Special Height and Setback Regulations), until a permanent certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing.

* * *

**62-354
Special Height and Setback Regulations**

* * *

- (e) Paragraph (c)(6) shall not apply. In lieu thereof, the outermost walls of each #story# located entirely above a height of 85 feet shall be inscribed within a rectangle. The maximum length of any side of such rectangle that is parallel or within 45 degrees of being parallel to Kent Avenue, West Street or Commercial Street, whichever is closest, shall not exceed 110 feet. The maximum length of any other side of such rectangle shall not exceed 170 feet, except that for #buildings# where at least 20 percent of the total #floor area# is comprised of #lower income housing# pursuant to Section 62-352, such maximum length of 170 feet shall apply above a height of 100 feet.

* * *

62-831

**Waterfront Access Plan BK-1:
Greenpoint-Williamsburg**

* * *

- Parcel 11: Block 2543, Lot 1
- Parcel 12a: Block 2556, Lot 41
- Parcel 12b: Block 2556, Lots 45 and 46
- Parcel 12c: Block 2556, Lots 55, 57 and 58
- Parcel 12d: Block 2556, Lot 54
- Parcel 12e: Block 2556, Lot 53
- Parcel 12f: Block 2556, Lot 52
- Parcel 12g: Block 2556, Lot 51
- Parcel 12h: Block 2556, Lot 50
- Parcel 12i: Block 2556, Lot 49
- Parcel 12j: Block 2556, Lot 48
- Parcel 13: Block 2556 Lot 1, Block 2564 Lot 1, Block 2567 Lot 1 and Block 2570, Lot 36

* * *

(e) Special public access provisions by parcel

* * *

(5) Parcel 5c

* * *

(iii) #Supplemental public access area#

Two #supplemental public access areas# shall be provided on Parcel 5c.

A #supplemental public access area# shall be bounded by the southern boundary of the required Green Street #upland connection#, the #shore public walkway#, the southern boundary of Parcel 5c and the northern prolongation of the eastern boundary of the #shore public walkway#

required in Parcel 7. The requirements for a waterfront plaza described in paragraph (b)(3) of this Section shall apply.

The remaining required #supplemental public access area# shall be provided either on the #pier# or distributed evenly as a widening of the pedestrian circulation zone of the #shore public walkway# located between the Eagle Street and Green Street #upland connections#. If any #supplemental public access area# is located on the #pier#, ~~the planting requirements for Waterfront Plaza shall apply, except that one shade tree shall be required for each 1,000 square feet of #supplemental public access area#, but in no event shall more than four shade trees be required. A shading element may be substituted for the required shade trees may be substituted by a shading element~~ at a rate of 450 sq. ft. of shade element per tree.

* * *

(13) Parcel 25

* * *

(iii) #Supplemental public access area#

Two #supplemental public access areas# shall be provided.

One #supplemental public access area# shall be provided along the prolongation of the southern #street line# of North 7th Street and the #shore public walkway#. Such public access area shall be a minimum of 3,000 square feet in area and shall have a minimum depth of 90 feet ~~from the southern #street line# of North 7th Street~~ measured from the #shore public walkway#. The entire #supplemental public access area#, excluding the required buffer, shall be developed as clear circulation path.

A minimum of one linear foot of seating shall be required for every 40 square feet of pedestrian circulation zone and shall be located in the required buffer zone. Four trees shall be required, at least two of which are shade trees. Small or ornamental trees located within the buffer zone shall not be counted toward the minimum requirements.

The remaining required #supplemental public access area# shall be located either on the #pier# or abut the #shore public walkway# continuously along its longest side, and shall also abut the required #upland connection# where it meets the #shore public walkway#. At least 70 percent of the required #supplemental public access# shall have a width to depth ratio of 2:1. The requirements for a waterfront plaza described in paragraph (b)(3) of this Section shall apply. If any #supplemental public access area# is located on the #pier#, ~~the planting requirements for Waterfront Plaza shall apply, except that~~ one shade tree shall be required for each 1,000 square feet of #supplemental public access area#, but in no event shall more than four shade trees be required. A shading element may be substituted for the ~~required shade trees may be substituted by a shading element~~ at a rate of 450 sq. ft. of shade element per tree.

* * *

(14) Parcel 26

* * *

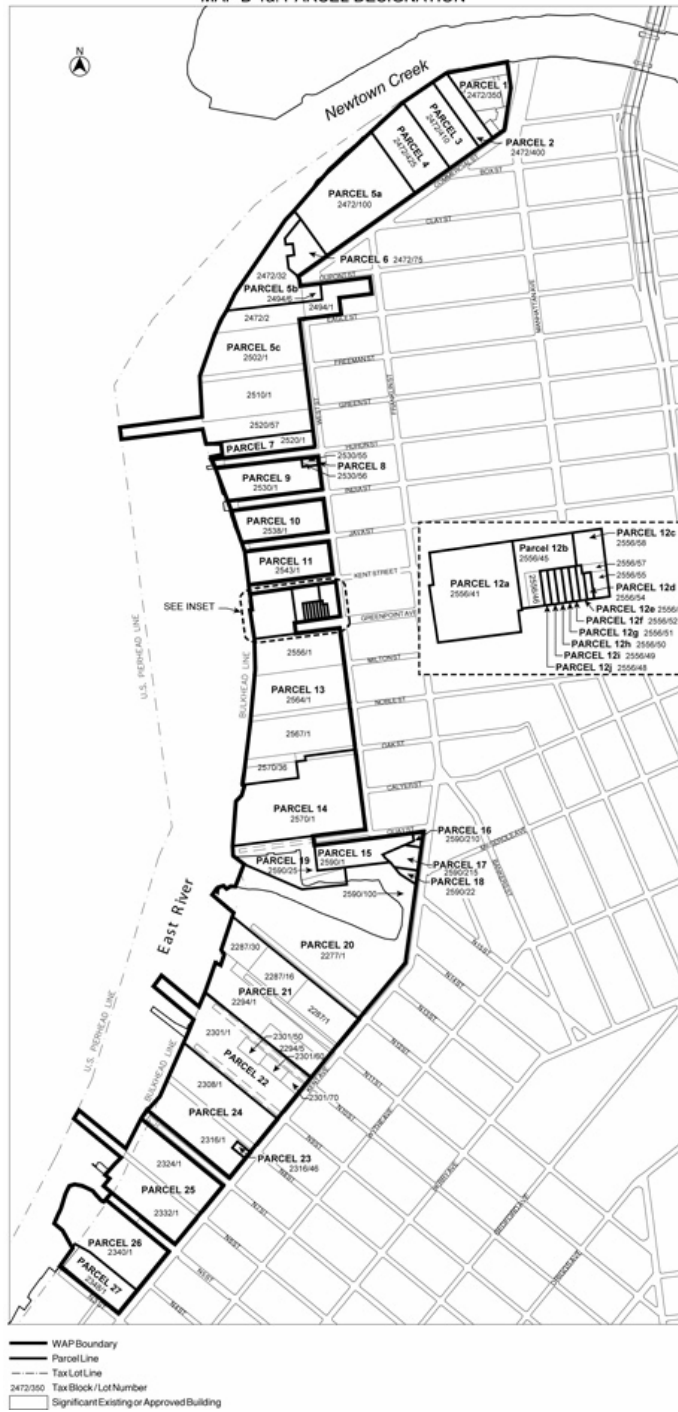
(ii) #Upland connections#

An #upland connection# shall be provided between Kent Avenue and the #shore public walkway# located within the prolongation of the #street lines# of North 4th Street. However, if the #upland connection# is provided within a private drive pursuant to Section 62-622, then a portion of the southern pedestrian circulation zone beyond 15 feet from Kent Avenue may be located up to 15 feet outside the prolongation of the #street lines# of North 4th Street, provided that this pedestrian circulation zone is not located entirely outside the prolongation of the #street lines# of North 4th Street at any point within 80 feet of Kent Avenue.

* * *

(g) Greenpoint-Williamsburg Waterfront Access Plan Maps

MAP B-1a: PARCEL DESIGNATION



MAP B-1b: PUBLIC ACCESS ELEMENTS



MAP B-1c: DESIGNATED VISUAL CORRIDORS



- Parcel Line
- Visual Corridor (Designated Location)
- ▨ Visual Corridor (within Flexible Location Zone)

* * *

123-64

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

(a) Maximum #floor area ratio#

(1) Manufacturing or commercial portions

The maximum #floor area ratio# permitted for the #manufacturing# or #commercial# portion of a #mixed use building# in #Special Mixed Use Districts# shall be the applicable maximum #floor area ratio# permitted for #manufacturing# or #commercial buildings# under the provisions of Section 43-12, in accordance with the designated M1 District.

(2) Community facility portion

The maximum #floor area ratio# permitted for the #community facility# portion of a #mixed use building# in #Special Mixed Use Districts# shall be the applicable maximum #floor area ratio# permitted for #community facility buildings# in #Residence Districts# under the provisions of Section 24-11, in accordance with the designated #Residence District#.

(3) #Residential# portion

Where the #Residence District# designation is an R3, R4 or R5 District, the maximum #floor area ratio# permitted for the #residential# portion of a #mixed use building# in #Special Mixed Use Districts# shall be the applicable maximum #floor area ratio# permitted for #residential buildings# under the provisions of Sections 23-14 and 23-141, in accordance with the designated #Residence District#.

Where the #Residence District# designation is an R6, R7, R8, R9 or R10 District, the maximum #floor area ratio# permitted for the #residential# portion of a #mixed use building# in #Special Mixed Use Districts# shall be the applicable maximum #floor area ratio# permitted for #residential buildings# under the provisions of Section 123-63, in accordance with the designated #Residence District#.

(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 (Community Districts 1 and 7, Borough of Brooklyn), ~~the following rules shall apply:~~

- ~~(i) The provisions of paragraph (a)(4) of this Section 23-64 shall apply in the following areas:~~
 - ~~(1) those portions of #blocks# bounded by a line 82 feet west of Franklin Street, a line 100 feet north of Freeman Street, a line 100 feet west of Franklin Street, Freeman Street, Franklin Street, and Eagle Street, and~~
 - ~~(2) those #blocks# and portions of #blocks# bounded by Berry Street, North 5th Street, a line 100 feet southeasterly of Havemeyer Street, North 6th Street, Havemeyer Street, North 7th Street, Roebling Street, North 8th Street, Driggs Avenue, North 9th Street, a line 100 feet southeasterly of Bedford Avenue, North 11th Street, Union Avenue, Richardson Street, Leonard Street, Bayard Street, Graham Avenue, Driggs Avenue, North 12th Street, a line midway between Bedford Avenue and Berry Street, and North 10th Street.~~
- ~~(ii) In the designated areas set forth in Section 23-922 (Community District 1, Borough of Brooklyn), except as set forth in paragraph (i) above and except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply.~~

* * *

The above resolution (N 060170 ZRK), duly adopted by the City Planning Commission on January 25, 2006 (Calendar No. 4), 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.,
ANGELA R. CAVALUZZI, R.A., ALFRED C. CERULLO, III,
JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,
KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners

LISA A. GOMEZ, Commissioner, Recused