



CITY PLANNING COMMISSION

August 8, 2007 / Calendar No. 26

N 070428 ZRY

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, concerning Section 23-90 (Inclusionary Housing), inclusive, sections relating to Inclusionary Housing designated areas, and the application of the Inclusionary Housing program to proposed R9A districts in the Borough of Manhattan, Community District 7.

This application for an amendment to the Zoning Resolution was filed by the Department of City Planning on April 17, 2007. The proposed text amendment will allow the Inclusionary Housing program to be used in the proposed R9A districts on Broadway in the Borough of Manhattan, Community District 7.

RELATED ACTION

In addition to the application for the amendment of the Zoning Resolution which is the subject of this report (N 070428 ZRY), implementation of the proposal also requires action by the City Planning Commission on the following application which is considered concurrently with this application:

N 070427 ZMM: An application for an amendment to the Zoning Map, to rezone all or portions of 51 blocks in the northern portion of the Upper West Side, including the neighborhood known as Manhattan Valley, from R8 and R7-2 zoning districts to R8B, R8A, R8, and R9A zoning districts.

BACKGROUND

A full background discussion and description of this application appears in the report on the related zoning map amendment application (C 070427 ZMM).

ENVIRONMENTAL REVIEW

This application (N 070428 ZRY) in conjunction with the related application (C 070427 ZMM), 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 07DCP060M. 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 070427 ZMM).

PUBLIC REVIEW

On April 23, 2007 this application was referred to Manhattan Community Board 7 and the Manhattan Borough President in accordance with the procedure for referring non-ULURP matters. The related action (C 070427 ZMM) was certified as complete by the Department of City Planning on April 23, 2007 and was duly referred to Manhattan Community Board 7 and the Manhattan 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 7 held a public hearing on May 16, 2007 on this application (N 070428 ZRY) and on June 5, 2007 issued a recommendation to approve the application. A full discussion of the Community Board 7 resolution appears in the report on the related zoning map amendment application (C 070427 ZMM).

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 070427 ZMM).

City Planning Commission Public Hearing

On June 20, 2007 (Calendar No. 15), the City Planning Commission scheduled July 11, 2007 for a public hearing on the application (C 070428 ZRY). The hearing was duly held on July 11, 2007 (Calendar No. 45), in conjunction with the related application (C 070427 ZMM), for a zoning text amendment.

There were 15 speakers in favor of the applications and none opposed.

A full discussion of the City Planning Commission Public Hearing appears in the report on the related zoning map amendment application (C 070427 ZMM).

CONSIDERATION

The Commission believes that this amendment to the zoning text (N 070428 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 070427 ZMM).

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 underlined is new, to be added;

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

Matter in ~~strikeout~~ is text to be deleted;

*** indicates where unchanged text appears in the zoning resolution

ARTICLE I GENERAL PROVISIONS

* * *

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.

* * *

**Article II
Residence District Regulations**

* * *

**Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts**

* * *

**23-00
APPLICABILITY AND GENERAL PURPOSES**

* * *

**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
Community District 3, Brooklyn	R7D
Community District 7, Brooklyn	R8A
<u>Community District 7, Manhattan</u>	<u>R9A</u>
Community District 2, Queens	R7X

* * *

**23-90
INCLUSIONARY HOUSING**

**23-921
R10 Districts**

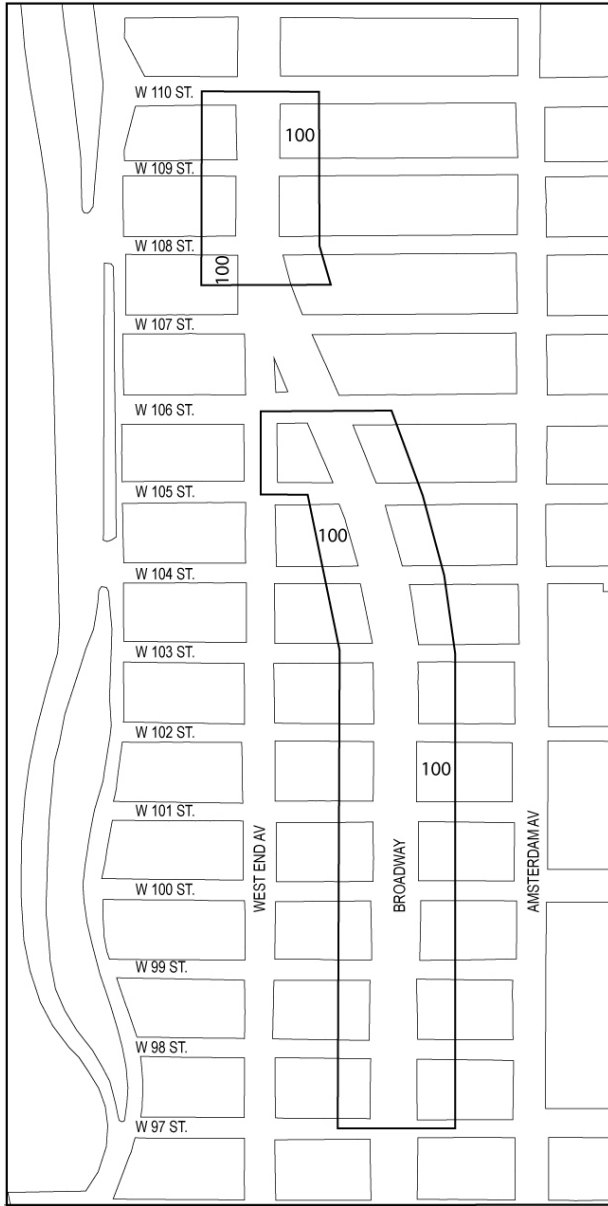
The Inclusionary Housing Program shall apply in all R10 Districts located in #Inclusionary Housing designated areas#, subject to the provisions relating to such designated areas, and in all other R10 Districts, subject to the provisions of Section 23-941 (In R10 Districts other than Inclusionary Housing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

* * *

- (e) In Community District 7, in the Borough of Manhattan, in the R9A Districts within the areas shown on the following Map 7:



Map 7
Portion of Community District 7, Manhattan

The Inclusionary Housing Program shall apply in special purpose districts when specific zoning districts or areas are defined as #Inclusionary Housing designated areas# within the special purpose district, pursuant to this Section.

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# 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 #Inclusionary Housing 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.

* * *

(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 following table, 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. However, 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#. In addition, the following rules shall apply:

<u>District</u>	<u>Base #floor area ratio#</u>	<u>Maximum #floor area ratio#</u>
R6*	2.2	2.42
R6**	2.7	3.6
R6A	2.7	3.6
R6B	2.0	2.2
R7A	3.45	4.6
R7X	3.75	5.0
R8A	5.40	7.2
<u>R9A</u>	<u>6.5</u>	<u>8.5</u>

* 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#

* * *

**23-951
On-site new construction option**

* * *

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 (~~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 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 (~~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 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).

<u>Special Mixed Use District</u>	<u>Designated Residence District</u>
MX 8-Community District 1, Brooklyn	R6 R6A R6B R7A

**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 #Inclusionary Housing 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 070428 ZRY), duly adopted by the City Planning Commission on August 8, 2007 (Calendar No. 26), 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 G. CANTOR, P.E., BETTY CHEN,

LISA A. GOMEZ, JOHN MEROLO, DOLLY WILLIAMS, Commissioners