

CITY COUNCIL
LAND USE DIVISION

2018 SEP 25 A 9:39



CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

NYC COUNCIL
SPEAKER'S OFFICE
RECEIVED

2018 SEP 25 A 9:06

September 24, 2018

City Council
City Hall
New York, NY 10007

Re: 80 Flatbush Avenue Rezoning
C 180216 ZMK; N 180217 ZRK; 180218 ZSK
Borough of Brooklyn

Honorable Members of the Council:

The City Planning Commission (the "Commission") has received the attached correspondence, dated September 20, 2018, from the City Council regarding the proposed modification to the above-referenced application submitted by the New York City Education Construction Fund (ECF) and 80 Flatbush Avenue, LLC, c/o Alloy Development, LLC for a zoning map amendment from a C6-2 district to a C6-9 district within the Special Downtown Brooklyn District (SDBD); for zoning text amendments to designate a Mandatory Inclusionary Housing (MIH) area, establish the C6-9 district within the SDBD, and create a new ZR 74-752 ECF special permit; and for the grant of the ZR 74-752 special permit to allow modifications of bulk, use, parking, loading and MIH requirements.

In accordance with Section 197-d(d) of the New York City Charter, the Commission, on September 24, 2018 has determined that the City Council's proposed modification raises no land use or environmental issues requiring further review.

Very truly yours,

A handwritten signature in blue ink that reads "Marisa Lago".

Marisa Lago
Chair

cc: W. Von Engel
A. Laremont

D. DeCerbo
R. Singer

A. Amin
J. Mangin

A. Fabre

Marisa Lago, Chair
City Planning Commission
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September 20, 2018

Honorable Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

**Re: Application Nos.: N 180217 ZRK (L.U. No. 193), C 180218 ZSK (L.U. No. 194)
Related Application No. C 180216 ZMK**

80 Flatbush Avenue Rezoning

Dear Chair Lago:

On September 20, 2018, the Land Use Committee of the City Council, by vote of 16-1-0 for Application N 180217 ZRK and C 180218 ZSK, recommended modifications of the City Planning Commission's decisions in the above-referenced matters.

Pursuant to Section 197-d(d) of the City Charter and Section 11.70 of the Rules of the Council, I hereby file the proposed modifications with the Commission:

N 180217 ZRK (L.U. No. 193)

Matter underlined is new, to be added;
Matter ~~struck-out~~ is to be deleted;
Matter within ## is defined in Section 12-10;
Matter ~~double-struck-out~~ is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council;
* * * indicates where unchanged text appears in the Zoning Resolution.

**ARTICLE VII
ADMINISTRATION**

**Chapter 4
Special Permits by the City Planning Commission**

* * *

74-75
Educational Construction Fund Projects

74-751
Educational Construction Fund in certain districts

In R5, R6, R7, R8, R9 or R10 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, or in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4, C5, C6 or C7 Districts, for combined #school# and #residences# including air rights over #schools# built on a #zoning lot# owned by the New York City Educational Construction Fund, the City Planning Commission may permit utilization of air rights; modify the requirements that open area be accessible to and usable by all persons occupying a #dwelling unit# or #rooming unit# on the #zoning lot# in order to qualify as #open space#; permit ownership, control of access and maintenance of portions of the #open space# to be vested in the New York City Educational Construction Fund or City agency successor in title; permit modification of #yard# regulations and height and setback regulations; permit the distribution of #lot coverage# without regard for #zoning lot lines# for a #zoning lot# containing the Co-op Tech High School in Manhattan Community District 11; authorize the total #floor area#, #open space#, #dwelling units# or #rooming units# permitted by the applicable district regulations on such site to be distributed without regard for district boundaries; and authorize an increase of 25 percent in the number of #dwelling units# or #rooming units# permissible under the applicable district regulations. For the purposes of this Section, a #zoning lot# owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school listed in the following table.

<u>School</u>	<u>Community District</u>
P.S. 151	CD 8, Manhattan

The total number of #dwelling units# or #rooming units# and #residential floor area# shall not exceed that permissible for a #residential building# on the same #zoning lot#.

The distribution of #bulk# on the #zoning lot# shall permit adequate access of light and air to the surrounding #streets# and properties.

As further conditions for such modifications:

Honorable Marisa Lago, Chair
N 180217 ZRK (L.U. No. 193) and C 180218 ZSK (L.U. No. 194)
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- (a) the #school# and the #residence# shall be #developed# as a unit in accordance with a plan approved by the Commission;
- (b) at least 25 percent of the total #open space# required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such #residence# and under the direct control of its management;
- (c) notwithstanding the provisions of Section 23-12 (Permitted Obstructions in Open Space), none of the required #open space# shall include driveways, private streets, open #accessory# off-street parking spaces or open #accessory# off-street loading berths; and
- (d) the Commission shall find that:
 - (1) a substantial portion of the #open space# which is not accessible exclusively to the occupants of such #residence# will be accessible and usable by them on satisfactory terms part-time;
 - (2) playgrounds, if any, provided in conjunction with the #school# will be so designed and sited in relation to the #residence# as to minimize any adverse effects of noise; and
 - (3) all #open space# will be arranged in such a way as to minimize friction among those using #open space# of the #buildings or other structures# on the #zoning lot#.

The Commission shall give due consideration to the landscape design of the #open space# areas. The Commission shall also give due consideration to the relationship of the #development# to the #open space# needs of the surrounding area and may require the provision of a greater amount of total #open space# than the minimum amount required by the applicable district regulation where appropriate for the purpose of achieving the #open space# objectives of the #Residence District# regulations.

The Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

In C6-9 Districts within the #Special Downtown Brooklyn District#, for #developments#, #enlargements# or #conversions# that include one or more #schools# on a tract of land owned by the New York City Educational Construction Fund, the City Planning Commission may permit the modifications set forth in paragraph (a) of this Section. For the purposes of this Section, a tract of land owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school.

(a) Modifications

The Commission may modify:

- (1) applicable ground floor #use# regulations;
- (2) in a #Mandatory Inclusionary Housing area#, the affordable housing requirements of paragraph (d) of Section 23-154 (Inclusionary Housing);
- (3) other #bulk# regulations, except that the maximum permitted #floor area ratio# may not be increased; and
- (4) #accessory# off-street parking and loading berth requirements.

(b) Findings

To grant a special permit pursuant to this Section, the Commission shall find that:

- (1) such modifications will facilitate the construction of one or more #schools# on the #zoning lot#;
- (2) such ground floor #use# modifications will improve the layout and design of the #school# or #schools# , shall not have an adverse effect on the #uses# located within any portion of the #zoning lot# and will not impair the essential character of the surrounding area;
- (3) such modifications to the affordable housing requirements in a #Mandatory Inclusionary Housing area# will facilitate significant public infrastructure or public facilities, including one or more #schools#, addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#;

- (4) such #bulk# modifications will result in a better site plan for the #school# or #schools# and will have minimal adverse effects on the surrounding area;
- (5) such parking and loading modifications will improve the layout and design of the school and will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

**ARTICLE X
SPECIAL PURPOSE DISTRICTS**

**Chapter 1
Special Downtown Brooklyn District**

* * *

**101-05
Applicability of Special Permits by the Board of Standards and Appeals**

Within the #Special Downtown Brooklyn District#, Section 73-68 (Height and Setback and Yard Modifications) shall not be applicable.

* * *

**101-21
Special Floor Area and Lot Coverage Regulations**

R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

(e) In C6-9 Districts

In C6-9 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be ~~18.0~~ 12.0, and the maximum #residential floor area

ratio# shall be ~~12.0~~ 9.0. No #floor area# bonuses shall be permitted. However, on a #zoning lot# with a minimum #lot area# of 50,000 square feet improved with public #schools# containing at least 100,000 square feet of floor space #developed# pursuant to an agreement with the New York City Educational Construction Fund, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 15.0, and the maximum #residential floor area ratio# shall be 12.0. Up to 46,050 square feet of floor space within such public #schools# shall be exempt from the definition of #floor area# for the purposes of calculating the permitted #floor area ratio# for #community facility uses# and the total maximum #floor area ratio# of the #zoning lot#. In addition, any #building# containing #residences# may be #developed# in accordance with the Quality Housing Program and the regulations of Article II, Chapter 8 shall apply. In such instances, the #bulk# regulations of this chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

* * *

101-22 Special Height and Setback Regulations

The height of all #buildings or other structures# shall be measured from the #base plane#. The provisions of Section 101-221 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Brooklyn District#.

In R7-1, C5-4, C6-1, and C6-4 and C6-9 Districts, except C6-1A Districts, the underlying height and setback regulations shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the provisions of Section 101-222 (Standard height and setback regulations) or, as an option where applicable, Section 101-223 (Tower regulations). #Buildings or other structures# within the Flatbush Avenue Extension and Schermerhorn Street Height Limitation Areas shall comply with the provisions of Section 101-30 (SPECIAL PROVISIONS WITHIN HEIGHT LIMITATION AREAS). However, the underlying height and setback regulations shall apply to any #Quality Housing building#, except that Quality Housing height and setback regulations shall not be applicable within any R7-1 District mapped within a C2-4 District.

* * *

101-222 Standard Height and Setback Regulations

C2-4/R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

MAXIMUM BASE HEIGHTS AND MAXIMUM BUILDING HEIGHTS
 IN C2-4/R7-1, C6-1, C6-4.5, AND C6-6 AND C6-9 DISTRICTS

District	Maximum Base Height		Maximum #building# Height	
	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#
C2-4/R7-1	85	85	160	160
C6-1	125	150	185	210
C6-4.5 C6-6 <u>C6-9</u>	125	150	250	250

* * *

101-223
 Tower regulations

C5-4 C6-1 C6-4 C6-6 C6-9

* * *

(d) Maximum #building# height

In C6-1 Districts, the maximum height of a #building or other structure# shall be 495 feet. No height limit shall apply within a C5-4, C6-4, or C6-6 or C6-9 District.

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

BROOKLYN

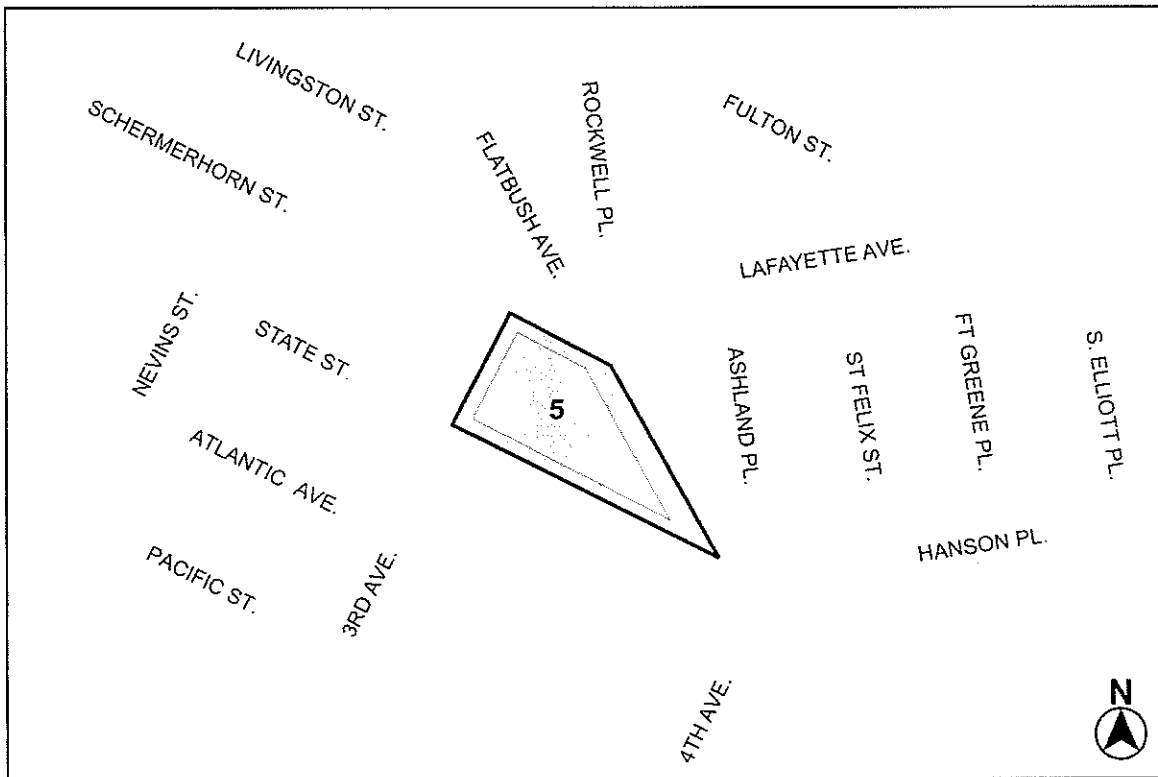
Honorable Marisa Lago, Chair
N 180217 ZRK (L.U. No. 193) and C 180218 ZSK (L.U. No. 194)
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* * *

Brooklyn Community District 2

* * *

Map 8 – [date of adoption]



Mandatory Inclusionary Housing Area (MIHA) - see Section 23-154(d)(3)

Area 5 — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 2, Brooklyn

* * *

C 180218 ZSK (L.U. No. 194)

Matter ~~double-struck-out~~ is old, deleted by the City Council;
 Matter double-underlined is new, added by the City Council;

1. The property that is the subject of this application (C 180218 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Alloy Design, LLP, filed with this application and incorporated in this resolution:

Drawing	Title	Date Revised
Z-02	Zoning Analysis	08/06/ // 2018
Z-03	Site Plan (Roof Plan)	01/23/ // 2018
Z-04	Zoning Axonometrics	01/23/ // 2018
Z-05	Bulk Modification Plan	08/06/ // 2018
Z-06	Tower Coverage	01/23/ // 2018
Z-07	Ground Floor Use Modification Plan	01/23/ // 2018
Z-08	EW Sections	08/06/ // 2018
Z-09	EW Sections	08/06/ // 2018
Z-10	NS Sections	08/06/ // 2018

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is

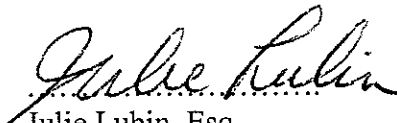
the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

Honorable Marisa Lago, Chair
N 180217 ZRK (L.U. No. 193) and C 180218 ZSK (L.U. No. 194)
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Please feel free to contact me at (212) 482-5185 if you or your staff have any questions in the regard.

Sincerely,


Julie Lubin, Esq.
General Counsel

JL:mcs

RECEIVED BY: 

DATE: Sep 20, 2018

TIME: 3:50 PM

C: Members, City Planning Commission
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