

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 994**

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 070431 ZRY, an amendment to the text of the Zoning Resolution of the City of New York, relating to Article 2, Chapter 3, to apply the Inclusionary Housing program to proposed R7A districts on Myrtle Avenue, Fulton Street and Atlantic Avenue, Brooklyn (Preconsidered L.U. No. 491).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on July 11, 2007 its decision dated July 11, 2007 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution of the City of New York (Application No. N 070431 ZRY) (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 070430 ZMK (Preconsidered L.U. No. 490), an amendment to the Zoning Map to rezone all or portions of ninety-nine blocks in the Brooklyn neighborhoods of Fort Greene and Clinton Hill from R6, R7-1, R7-2 and M1-1 districts to R5B, R6B, R6A, and R7A districts;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 23, 2007;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on April 23, 2007, which included (E) designations for hazardous materials and noise. On June 18, 2007, a change was made to the EAS to remove an (E)-designation from a city-owned site and a Revised Negative declaration was issued on this date (CEQR No. 07DCP00K);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modifications; and

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

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

* * *

12-10
DEFINITIONS

* * *

Inclusionary Housing designated area

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

* * *

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

R6 R7 R8 R9

Except as otherwise provided in the following Sections:

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

* * *

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

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

<u>Community District</u>	<u>Zoning District</u>
Community District 1, Brooklyn	R6 R6A R6B R7A
Community District 2, Brooklyn	R7A
Community District 3, Brooklyn	R7D
Community District 7, Brooklyn	R8A
Community District 2, Queens	R7X

* * *

23-921
R10 Districts

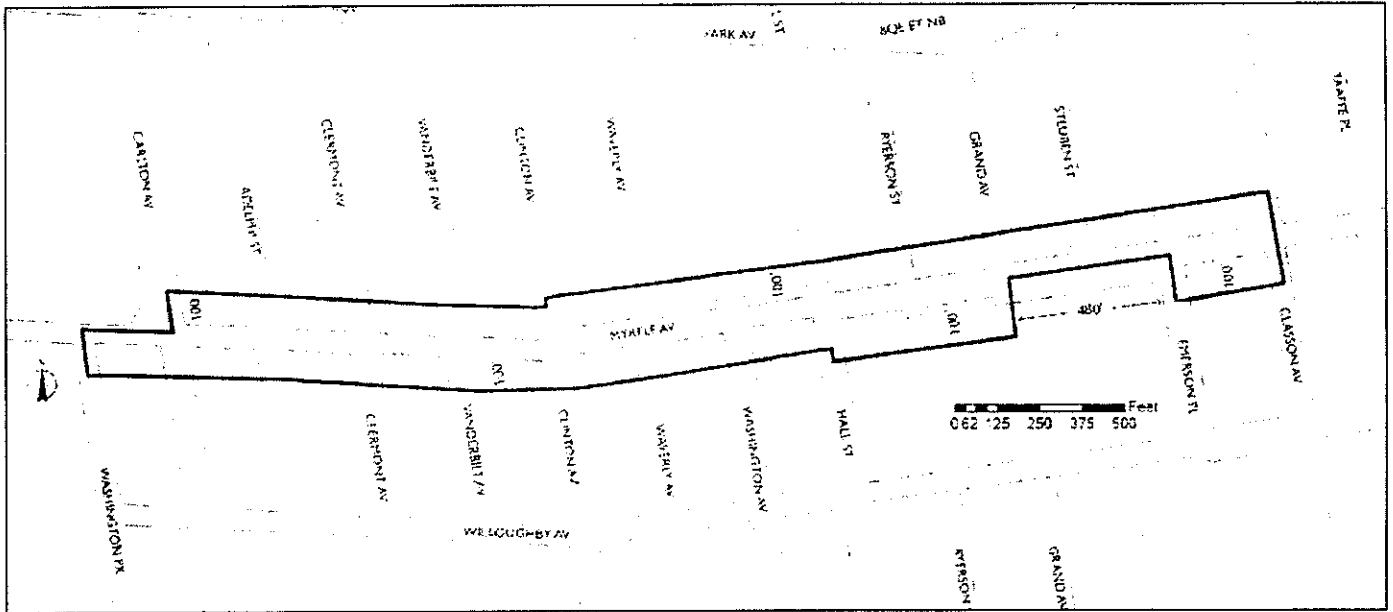
The Inclusionary Housing Program shall apply in all R10 Districts located in #Inclusionary Housing designated areas#, subject to the provisions relating to such designated areas, and in all other R10 Districts, subject to the provisions of Section 23-941 (In R10 Districts other than Inclusionary Housing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

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

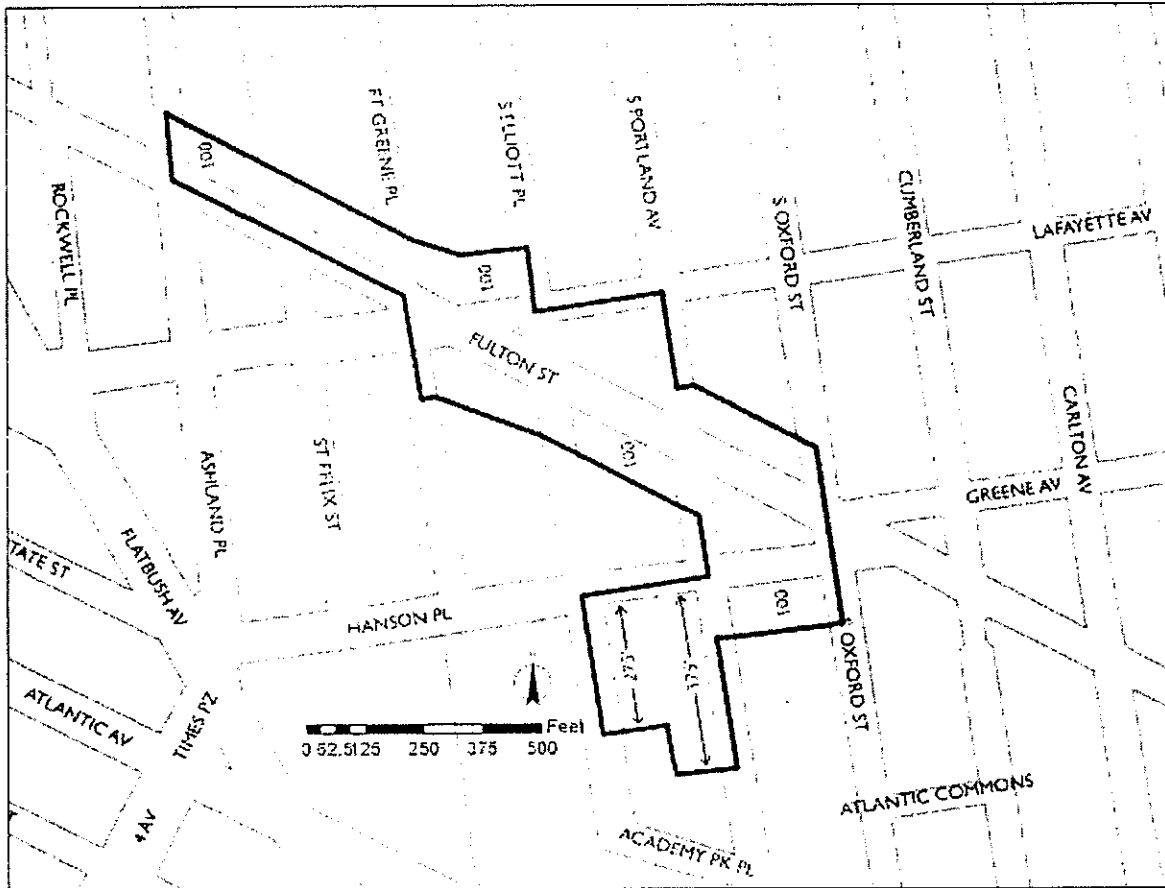
The Inclusionary Housing Program shall apply in the following areas:

* * *

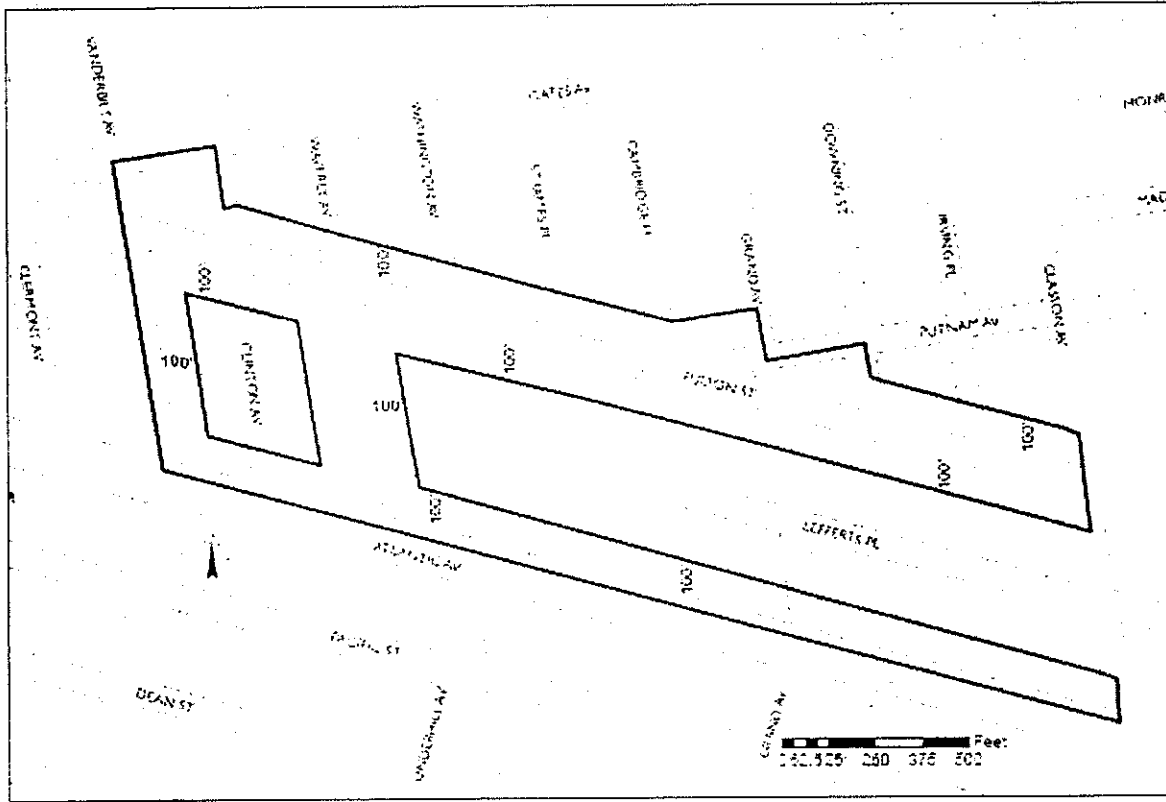
(e) In Community District 2, in the Borough of Brooklyn, in the R7A Districts within the areas shown on the following Maps 7, 8 and 9:



Map 7
Portion of Community District 2, Brooklyn



Map 8
Portion of Community District 2, Brooklyn



23-93
Definitions

For the purposes of the Inclusionary Housing program, matter in *italics* is defined either in Section 12-10 (DEFINITIONS) or in this Section.

Administering agent

The "administering agent" is the entity or entities identified in the #lower income housing plan# as responsible for ensuring compliance with such plan.

The #administering agent# shall be a not-for-profit organization, unless the Commissioner of Housing Preservation and Development finds that a good faith effort by the developer of the #compensated development# to secure a qualified not-for-profit organization as the #administering agent# was unsuccessful. However, in #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to City, State or Federal funding sources, to serve as the #administering agent# during such compliance period.

* * *

Fair rent

* * *

However, in #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, the Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of City, State or Federal programs assisting #lower income housing# will be considered #fair rent#, provided that such rents do not exceed 30 percent of #lower income household=s# income, as applicable, and provided further that upon expiration or termination of the requirements of the City, State or Federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable Section 8 Standard or the Rent Stabilization Standard.

* * *

In #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, at initial occupancy of any #lower income housing#, a portion of the #fair rents# may be for the payment of the principal or interest on debt, and such housing may secure debt, provided that, as of the date of the approval of the #lower income housing plan#, the Commissioner of Housing Preservation and Development finds that the total annual rent, when such interest and principal payments are deducted, is in compliance with the requirements of Section 23-95, paragraph(c), and provided that the lender agrees to enter into a written agreement which subordinates such debt to the provisions of the #lower income housing plan#.

Inclusionary Housing designated areas

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

Lower income household

* * *

In ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, #lower income households# shall also include all existing households in tenancy, provided such households occupy units that are within a #building# in which rents for all occupied units are regulated by City or State law, and the aggregate maximum permitted annual rent roll for such occupied units, divided by the number of occupied units, is less than 30 percent of the applicable income limit for a #lower income household# as provided in this Section. In determining the applicable income limit for such #lower income households#, the Commissioner of Housing Preservation and Development may make adjustments, consistent with U. S. Department of Housing and Urban Development regulations, for the number of persons residing in each unit.

Lower income housing

* * *

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

* * *

~~R6, R7 and R8~~ designated areas

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

* * *

23-941
In R10 Districts other than Inclusionary Housing designated areas

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

* * *

23-942
In ~~R6, R7 and R8~~ Districts Inclusionary Housing designated areas

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

* * *

23-951
On-site new construction option

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

* * *

In ~~#R6, R7 and R8~~ Inclusionary Housing designated areas#, if the #lower income housing# is subject to the requirements of City, State or Federal programs assisting the #lower income housing# that have size and distribution requirements conflicting with the size and distribution requirements of this paragraph, (b), then the size and distribution requirements of this paragraph, (b), may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#.

23-952

Substantial rehabilitation and off-site new construction options

To qualify for one or more of these options, the designated #lower income housing# shall meet the following requirements:

- (a) The #lower income housing# shall be located either:

* * *

Furthermore, in #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, the #administering agent# shall not be required to verify the income of households in tenancy, as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

* * *

23-953

Preservation option

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

- (a) The #lower income housing# shall be located either:

* * *

Furthermore, in #~~R6, R7 and R8~~ Inclusionary Housing designated areas#, the #administering agent# shall not be required to verify the income of households in tenancy, as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

* * *

24-161
Maximum floor area ratio for zoning lots containing community facility and residential uses

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas ~~Certain R6, R7 and R8 Districts~~), except within Waterfront Access Plan Bk-1, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

* * *

35-31
Maximum Floor Area Ratio for Mixed Buildings

* * *

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas ~~Certain R6, R7 and R8 Districts~~), except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

* * *

123-63
Maximum Floor Area Ratio and Lot Coverage Requirements for Residential Buildings in R6, R7, R8 and R9 Districts

* * *

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

Section 23-922 (~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas).

123-64

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

(a) Maximum #floor area ratio#

* * *

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

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

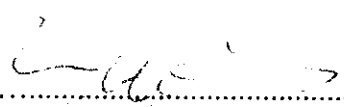
However, in the designated areas set forth in Section 23-922 (~~Certain R6, R7 and R8 Districts~~ Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, the #floor area ratios# of Section 23-942 shall apply.

* * *

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on July 25, 2007, on file in this office.


.....
City Clerk, Clerk of The Council

Michael McSweeney
1st Deputy & Acting City Clerk