



CITY PLANNING COMMISSION

October 19, 2011/ Calendar No 15

N 110387 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, Chapters I, II and IV, and Article XIII, Chapter 2, to establish the Special Fourth Avenue Enhanced Commercial District, in the Borough of Brooklyn, Community Districts 2, 6 and 7.

This application for an amendment to the Zoning Resolution was filed by the Department of City Planning on June 15, 2011. The proposed text amendment will establish the Special Fourth Avenue Enhanced Commercial District on 56 blocks of Fourth Avenue between Atlantic Avenue and 25th Street in the Borough of Brooklyn, Community Districts 2, 6 and 7.

RELATED ACTION

In addition to the amendment of the Zoning Resolution, which is the subject of this report (N 110387 ZRK), implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 110386 ZMK Zoning map change to map the Special District as “EC” on the zoning map.

BACKGROUND

A full background discussion and description of this project appears in the report on the related application for a zoning map amendment (C 110386 ZMK).

ENVIRONMENTAL REVIEW

This application (N 110387 ZRK) in conjunction with the related application (C 110386 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 11DCP147K. The lead is the City Planning Commission.

A summary of the environmental review appears in the report on the related application for a special permit (C 110386 ZMK).

PUBLIC REVIEW

This application (N 110387 ZRK) in conjunction with the applications for the related non-ULURP applications (C 110386 ZMK) was duly referred to Brooklyn Community Boards 2,6, and 7, and the Brooklyn Borough President on June 22, 2011 in accordance with the procedure for referring non-ULURP matters in conjunction with the related actions (C 110386 ZMK and) which were certified as complete by the Department of City Planning on June 22, 2011 in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Review

A summary of the votes and recommendations of community boards 2, 6, and 7 appears in the report on the related zoning map amendment application (C 110386 ZMK).

Borough Board Review

The Brooklyn Borough Board did not submit a recommendation.

Borough President's Review

A summary of the Borough President's recommendation appears in the report on the related application for a zoning map amendment (C 110386 ZMK).

City Planning Commission Public Hearing

On September 7, 2011 (Calendar No. 1), the City Planning Commission scheduled September 21, 2011, for a public hearing on this application (N 110387 ZRK). The hearing was duly held on September 21, 2011 (Calendar No. 5), in conjunction with the hearing on the related action (C 110386 ZMK).

There were a number of speakers, as described in the report on the related application for the zoning map amendment (C 110386 ZMK), and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment to the zoning text (N 110387 ZRK), as modified, is appropriate.

A full consideration and analysis of the issues and the reasons for approving this application, as modified, appear in the report on the related application for a zoning map amendment (C 110386 ZMK).

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment;

And be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this

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

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicate where unchanged text appears in the Zoning Resolution

Article I: General Provisions

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

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**11-12
Establishment of Districts**

* * *

**11-122
Districts established**

* * *

Special Purpose Districts

Establishment of the Special 125th Street District

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Establishment of the Special Fourth Avenue Enhanced Commercial District

In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 2, the #Special Fourth Avenue Enhanced Commercial District# is hereby established.

* * *

Chapter 2 - Construction of Language and Definitions

* * *

12-10

Definitions

* * *

Special 125th Street District

* * *

Special Fourth Avenue Enhanced Commercial District

The "Special Fourth Avenue Enhanced Commercial District" is a Special Purpose District designated by the letters "EC" in which special regulations set forth in Article XIII, Chapter 2 apply.

* * *

Chapter 4 – Sidewalk Café Regulations

* * *

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).

* * *

Brooklyn	#Enclosed Sidewalk Cafe#	#Unenclosed Sidewalk Cafe#
<u>Fourth Avenue Enhanced Commercial District</u>	<u>No</u>	<u>Yes</u>
Bay Ridge District	Yes	Yes
Coney Island District	No	Yes
Coney Island Mixed Use District	Yes	Yes
Downtown Brooklyn District	Yes	Yes
Mixed Use District-8 (Greenpoint-Williamsburg)	Yes	Yes
Ocean Parkway District*	Yes	Yes
Sheepshead Bay District	No	Yes

* #Sidewalk cafes# are not allowed on Ocean Parkway

* * *

Article XIII: Special Purpose Districts

* * *

Chapter 2

Special Fourth Avenue Enhanced Commercial District

ALL TEXT IN ARTICLE XIII, CHAPTER 2 IS NEW

132-00

GENERAL PURPOSES

The #Special Fourth Avenue Enhanced Commercial District#, in the Borough of Brooklyn, established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to enhance the character of the area by ensuring that ground floor space within buildings is occupied by establishments that promote a lively and engaging pedestrian experience along Fourth Avenue;
- (b) to limit the number of curb cuts along Fourth Avenue in order to minimize conflicts between vehicles and pedestrians; and
- (c) to promote the most desirable use of land in the area and thus preserve, protect and enhance the value of land and buildings and thereby protect City tax revenues.

132-01

Definitions

Ground floor level

For the purposes of this Chapter, “ground floor level” shall mean a #building’s# lowest #story# located within 30 feet of the Fourth Avenue #street wall# of the #building#.

132-10

GENERAL PROVISIONS

The provisions of this Chapter shall apply to all #buildings# with Fourth Avenue #street# frontage.

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

132-20

SPECIAL USE REGULATIONS

The special #use# regulations of this Section shall apply to the Fourth Avenue #street walls# of #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon Fourth Avenue.

For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to certain #uses#, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon Fourth Avenue.

The following shall be exempt from the #use# provisions of this Section:

- (a) #buildings# located in #Commercial Districts# on a #zoning lot# with a width of less than 20 feet, as measured along the Fourth Avenue #street line#, provided such #zoning lot# existed on (date of adoption); and
- (b) any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4.

132-21

Special Ground Floor Level Use Requirements in Commercial Districts

In #Commercial Districts#, the following #use# provisions shall apply to the #ground floor level# of a #building#. In addition to these provisions, permitted #uses# shall comply with the provisions of Sections 132-30 (SPECIAL TRANSPARENCY REGULATIONS), and 132-40 (SPECIAL PARKING REGULATIONS).

- (a) Mandatory #commercial uses# for a portion of the #ground floor level#

Mandatory #commercial use# regulations shall apply to an area of a #building's ground floor level# defined by an aggregate width equal to at least 50 percent of a #building's# Fourth Avenue #street wall# and a depth equal to at least 30 feet, as measured from the Fourth Avenue #street wall#. Such an area on the #ground floor level# shall be occupied by #commercial uses# listed in Use Groups 5, 6A, 6C excluding banks and loan offices, 7B, 8A, 8B, or 9A.

- (b) Remaining portion of #ground floor level#

The remaining portion of the #ground floor level# shall be occupied by any non-#residential use# permitted by the underlying district regulations, except that:

- (1) #residential# lobbies, and an associated vertical circulation core shall be permitted in such remaining area, provided that the #street wall# width of such lobbies shall not exceed 25 feet, as measured along the Fourth Avenue #street line#. In addition, the 30 foot depth requirement for #commercial uses# pursuant to paragraph (a) of this Section may be encroached upon where necessary to accommodate a vertical circulation core associated with such #residential# lobby; and
- (2) off-street parking spaces and entrances to such spaces shall comply with the provisions of Section 132-40 (SPECIAL PARKING REGULATIONS).

- (c) Location of #ground floor level#

The finished floor of the #ground floor level# shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent Fourth Avenue public sidewalk.

132-22

Special Ground Floor Level Use Requirements in Residence Districts

In #Residence Districts#, all #uses# permitted by the underlying district regulations are permitted on the #ground floor level#, provided such #uses# comply with the provisions of Sections 132-30 (SPECIAL TRANSPARENCY REGULATIONS), where applicable, and 132-40 (SPECIAL PARKING REGULATIONS).

132-30

SPECIAL TRANSPARENCY REGULATIONS

The special transparency regulations of this Section shall apply to the Fourth Avenue #street walls# of #developments# and to portions of #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon Fourth Avenue. For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to transparent materials, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon Fourth Avenue.

The following shall be exempt from the transparency provisions of this Section:

- (a) #buildings# located in #Residence Districts# where the #ground floor level# of such #buildings# contains #dwelling units# or #rooming units#; and
- (b) #buildings# located in #Commercial Districts# on a #zoning lot# with a width of less than 20 feet, as measured along the Fourth Avenue #street line#, provided such #zoning lot# existed on (date of adoption); and
- (c) any #community facility building# used exclusively for either a #school# or a house of worship.

132-31

Special Ground Floor Level Transparency Requirements

The #ground floor level street wall# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors, provided such transparent materials have a minimum width of two feet. Such transparency shall occupy at least 50 percent of the surface area of each such #ground floor level street wall# between a height of two feet, and 12 feet, or the height of the ground floor ceiling, whichever is higher as measured from the adjoining sidewalk. The lowest point of any transparency that is provided to satisfy the requirements of this Section shall not be higher than two feet, six inches above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers. In addition, the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet.

However, where an entrance to an off-street parking facility is permitted on Fourth Avenue in accordance with the provisions of Section 132-42 (Special Curb Cut Requirements), the transparency requirements of this Section shall not apply to the portion of the #ground floor level street wall# occupied by such entrance.

132-40

SPECIAL PARKING REGULATIONS

The provisions of this Section shall apply to all #buildings# with Fourth Avenue #street# frontage.

132-41

Special Location of Parking Spaces Requirements

All off-street parking spaces shall be located within a #completely enclosed building#.

Enclosed, off-street parking spaces shall be permitted on the ground floor of a #building# only where they are located beyond 30 feet of such #building's# Fourth Avenue #street wall#. Entrances to such spaces along Fourth Avenue shall be permitted only where a curb cut is allowed in accordance with the provisions of Section 132-42 (Special Curb Cut Requirements).

132-42

Special Curb Cut Requirements

For #zoning lots# with frontage along Fourth Avenue and another #street#, curb cuts accessing off-street parking spaces shall not be permitted along Fourth Avenue.

Curb cuts accessing off-street parking spaces shall be permitted on Fourth Avenue only where such curb cut is located on a #zoning lot# that:

- (a) is an #interior lot# fronting along Fourth Avenue;
- (b) existed on (date of adoption);
- (c) has a width of at least 60 feet, as measured along the Fourth Avenue #street line#; and
- (d) has a #lot area# of at least 5,700 square feet.

END

The above resolution (N 110387 ZRK), duly adopted by the City Planning Commission on October 19, 2011 (Calendar No. 15), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
RICHARD W. EADDY, Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
NATHAN LEVINTHAL, ANNA HAYES LEVIN, ORLANDO MARIN,
SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners