



## CITY PLANNING COMMISSION

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August 7, 2013/ Calendar No. 5

N 130212 ZRK

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**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, modifying Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in Portions of Community Districts 8 and 9, and concerning Appendix F (Inclusionary Housing Designated Areas) in Community District 8 in the Borough of Brooklyn.

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This application for an amendment to the Zoning Resolution was filed by the Department of City Planning on March 12, 2012. The proposed text amendment will establish a new Inclusionary Housing Areas to incentivize the creation and preservation of affordable housing on 15 partial blocks in Community District 8; and modify height and setback regulations in order to maintain consistency between the Zoning Resolution and the New York City Administrative Code in Community District 8 and 9, in the Borough of Brooklyn.

### **RELATED ACTIONS**

In addition to the amendment of the Zoning Resolution, which is the subject of this report (N 130212 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 130213 ZMK**      Zoning map amendment for an approximately 55-block area in Brooklyn Community District 8 to establish contextual zoning districts

### **BACKGROUND**

A full background discussion and description of this project appears in the report on the related application for a zoning map amendment (C 130213 ZMK).

## **ENVIRONMENTAL REVIEW**

This application (N 130212 ZRK) in conjunction with the related application (C 130213 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 12DCP156Y. The lead is the City Planning Commission.

A summary of the environmental review appears in the report on the related application for a zoning map amendment (C 130213 ZMK).

## **PUBLIC REVIEW**

This application (N 130212 ZRK) was duly referred to Brooklyn Community Boards 8 and 9, and the Brooklyn Borough President on March 20, 2013 in accordance with the procedure for referring non-ULURP matters, in conjunction with the related action (C 130213 ZMK) which were certified as complete by the Department of City Planning on March 20, 2013 in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Review**

Community Board 8 held a public hearing on this application (N 130212 ZRK) on May 9, 2013 and, on that day, by a vote of 35 in favor, 0 against, and no abstentions, adopted a resolution recommending approval of this application.

Community Board 9 did not issue a recommendation on this application (N 130212 ZRK).

A summary of the votes and recommendations of Community Board 8 appears in the report on the related zoning map amendment application (C 130213 ZMK).

### **Borough President's Review**

This application (N 130212 ZRK) was considered by the Borough President, who issued a recommendation approving the application with conditions on June 27, 2013.

A summary of the Borough President's recommendation appears in the report on the related application for a zoning map amendment (C 130213 ZMK).

### **City Planning Commission Public Hearing**

On June 19, 2013, Cal. No. 5, the Commission scheduled July 10, 2013 for a Public Hearing on this application (N 130212 ZRK). The hearing was duly held on July 10, 2013 (Calendar No.33), in conjunction with the hearing on the related actions (C 130213 ZMK).

There were a number of speakers, as described in the report on the related application for the zoning map amendment (C 130213 ZMK), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this amendment to the zoning text (N 130212 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 130213 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 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;

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

## **Article II RESIDENTIAL BULK REGULATIONS**

### **Chapter 3 RESIDENTIAL BULK REGULATIONS IN RESIDENCE DISTRICTS**

\* \* \*

#### **23-633**

##### **Street wall location and height and setback regulations in certain districts**

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

In the districts indicated, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#. The provisions of Sections 23-64 (Alternate Front Setbacks) and 23-65 (Tower Regulations) shall not apply, except as otherwise set forth for #buildings# in R9D and R10X Districts.

(a) #Street wall# location

R6A R7A R7D R7X R9D

(1) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the #street wall#

shall be located no closer to the #street line# than the closest #street wall# of an existing #building# to such #street line#, located on the same #block#, and within 150 feet of such #building#. However, a #street wall# need not be located further from the #street line# than 15 feet. On #corner lots#, these #street wall# location provisions shall apply along only one #street line#.

#### R6B R7B R8B

- (2) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the #street wall# of a #building# on a #zoning lot# with at least 50 feet of frontage along a #street line# shall be located no closer to the #street line# than the #street wall# of an adjacent existing #building#. On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#. For all #zoning lots#, the #street wall# need not be located further from a #street line# than 15 feet. On #corner lots#, the #street wall# along one #street line# need not be located further from the #street line# than five feet.

#### R8A R8X R9A R9X R10A R10X

- (3) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following #street wall# location provisions shall apply along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street#:
- (i) the #street wall# shall extend along the entire #street# frontage of a #zoning lot#;
  - (ii) at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and extend to at least the minimum base height specified in the table in this Section or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line# provided any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#; and
  - (iii) the #street wall# location provisions of paragraph (a)(3) of this Section, inclusive, shall not apply to houses of worship.

No #street wall# location provisions shall apply along any #narrow street# beyond 50 feet of their intersection with a #wide street#.

For the purposes of applying the provisions of paragraph (a) in this Section, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

\* \* \*

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT  
AND MAXIMUM BUILDING HEIGHT

| District <sup>5</sup>                    | Minimum<br>Base<br>Height | Maximum<br>Base<br>Height | Maximum<br>#Building<br>or<br>other<br>Structure#<br>Height |
|--|---------------------------|---------------------------|---|
| R6B                                      | 30                        | 40                        | 50  |
| R6 <sup>2</sup>                          | 30                        | 45                        | 55  |
| R6 <sup>1</sup> inside #Manhattan Core#  | 40                        | 55                        | 65  |
| R6 <sup>1</sup> outside #Manhattan Core# | 40                        | 60                        | 70  |
| R6A                                      |                           |                           |   |
| R7 <sup>1</sup> inside #Manhattan Core#  | 40                        | 60                        | 75  |
| R7 <sup>2</sup> R7B                      |                           |                           |   |
| R7 <sup>1</sup> outside #Manhattan Core# | 40                        | 65                        | 80  |
| R7A                                      |                           |                           |   |
| R7D                                      | 60                        | 85                        | 100   |
| R7X                                      | 60                        | 85                        | 125   |

|                                    |     |                 |                 |
|------------------------------------|-----|-----------------|-----------------|
| R8B                                | 55  | 60              | 75              |
| R8 <sup>2</sup>                    | 60  | 80              | 105             |
| R8 <sup>1</sup> R8A                | 60  | 85              | 120             |
| R8X                                | 60  | 85              | 150             |
| R9 <sup>2</sup> R9A <sup>2</sup>   | 60  | 95              | 135             |
| R9A R9 <sup>1</sup>                | 60  | 102             | 145             |
| R9D                                | 60  | 85 <sup>4</sup> | -- <sup>3</sup> |
| R9X <sup>2</sup>                   | 60  | 120             | 160             |
| R9X <sup>1</sup>                   | 105 | 120             | 170             |
| R10 <sup>2</sup> R10A <sup>2</sup> | 60  | 125             | 185             |
| R10 <sup>1</sup> R10A <sup>1</sup> | 125 | 150             | 210             |
| R10X                               | 60  | 85              | -- <sup>3</sup> |

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<sup>1</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

<sup>2</sup> For #zoning lots# on a #narrow street# except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

<sup>3</sup> #Buildings or other structures# may exceed a maximum base height of 85 feet in accordance with paragraph (c) of this Section

<sup>4</sup> For #buildings or other structures# that front upon an elevated rail line, the maximum base height shall be 25 feet

(a)

<sup>5</sup> Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

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**Article III  
COMMERCIAL DISTRICT REGULATIONS**

**Chapter 5  
BULK REGULATIONS FOR MIXED BUILDINGS IN COMMERCIAL DISTRICTS**

\* \* \*

**35-24  
Special Street Wall Location and Height and Setback Regulations in Certain Districts**

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D  
C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, for all #buildings or other structures#, and for #Quality Housing buildings# in other #Commercial Districts#, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

\* \* \*

(b) #Street wall# location

C1-6A C2-6A C4-2A C4-3A C4-4A C4-5A C4-5X

(1) In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B or R7X Districts, and for #Quality Housing buildings# in other #Commercial Districts# with a residential equivalent of an R6 or R7 District, at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be located beyond eight feet of the #street line#.

Existing #buildings# may be horizontally #enlarged# without regard to #street wall# location provisions, provided the amount of new #floor area# does not

exceed 50 percent of the amount of #floor area# existing on June 29, 1994, and the #enlarged# portion of the #building# does not exceed one #story# or 15 feet in height, whichever is less.

For #zoning lots# bounded by more than one #street line#, these #street wall# location provisions shall be mandatory along only one #street line#.

Where only one #street line# is coincident with the boundary of a #Commercial District# mapped along an entire #block# front, the #street wall# location provisions shall apply along such coincident #street line#. For all other #zoning lots#, the #street wall# location provisions shall apply along at least one #street line#.

C1-7A C1-8A C1-8X C1-9A C2-7A C2-7X C2-8A C4-4D C4-5D

(2) In the districts indicated, and in C1 or C2 Districts when mapped within R7D, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other C1 or C2 Districts with a residential equivalent of an R8, R9 or R10 District, the following #street wall# location provisions shall apply along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street#:

(i) The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. To allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

In C1 or C2 Districts when mapped within R9D Districts, to allow articulation of #street walls# at the intersection of two #street lines#, up to 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# may be unoccupied by a #building#. However, where one such #street line# fronts an elevated rail line, a minimum of 25 percent and a maximum of 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# shall be unoccupied by a #building#.

- (ii) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#.

Above a height of 12 feet above the #base plane#, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except to articulate the #street walls# as set forth in paragraph (b)(2)(i) of this Section.

- (iii) Where a continuous sidewalk widening is provided along the entire #block# frontage of a #street#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section.

No #street wall# location rules shall apply along #narrow streets# beyond 50 feet of their intersection with a #wide street#.

For the purposes of applying the provisions of paragraph (b) of this Section, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

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TABLE A  
 HEIGHT AND SETBACK FOR BUILDINGS  
 OR OTHER STRUCTURES  
 IN CONTEXTUAL DISTRICTS

| District <sup>5</sup>  | Minimum Base Height | Maximum Base Height | Maximum #Building# Height |
|------------------------|---------------------|---------------------|---------------------------|
| C1 or C2 mapped in R6B | 30                  | 40                  | 50                        |

|  |     |                 |                 |
|--|-----|-----------------|-----------------|
| C1 or C2 mapped in R6A<br>C4-2A C4-3A  | 40  | 60              | 70              |
| C1 or C2 mapped in R7B   | 40  | 60              | 75              |
| C1 or C2 mapped in R7A<br>C1-6A C2-6A C4-4A C4-5A  | 40  | 65              | 80              |
| C1 or C2 mapped in R7D<br>C4-5D  | 60  | 85              | 100             |
| C1 or C2 mapped in R7X<br>C4-5X  | 60  | 85              | 125             |
| C1 or C2 mapped in R8B   | 55  | 60              | 75              |
| C1 or C2 mapped in R8A<br>C1-7A C4-4D C6-2A  | 60  | 85              | 120             |
| C1 or C2 mapped in R8X   | 60  | 85              | 150             |
| C1 or C2 mapped in R9A <sup>2</sup><br>C1-8A <sup>2</sup> C2-7A <sup>2</sup> C6-3A <sup>2</sup>  | 60  | 95              | 135             |
| C1 or C2 mapped in R9A <sup>1</sup><br>C1-8A <sup>1</sup> C2-7A <sup>1</sup> C6-3A <sup>1</sup>  | 60  | 102             | 145             |
| C1 or C2 mapped in R9D<br>C6-3D  | 60  | 85 <sup>4</sup> | -- <sup>3</sup> |
| C1 or C2 mapped in R9X <sup>2</sup><br>C1-8X <sup>2</sup> C2-7X <sup>2</sup> C6-3X <sup>2</sup>  | 60  | 120             | 160             |
| C1 or C2 mapped in R9X <sup>1</sup><br>C1-8X <sup>1</sup> C2-7X <sup>1</sup> C6-3X <sup>1</sup>  | 105 | 120             | 170             |
| C1 or C2 mapped in R10A <sup>2</sup><br>C1-9A <sup>2</sup> C2-8A <sup>2</sup> C4-6A <sup>2</sup><br>C4-7A <sup>2</sup> C5-1A <sup>2</sup> C5-2A <sup>2</sup><br>C6-4A <sup>2</sup> | 60  | 125             | 185             |
| C1 or C2 mapped in R10A <sup>1</sup><br>C1-9A <sup>1</sup> C2-8A <sup>1</sup> C4-6A <sup>1</sup> C4-7A <sup>1</sup><br>C5-1A <sup>1</sup> C5-2A <sup>1</sup> C6-4A <sup>1</sup>    | 125 | 150             | 210             |
| C1 or C2 mapped in R10X<br>C6-4X   | 60  | 85              | -- <sup>3</sup> |

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- 1 For #zoning lots# or portions thereof within 100 feet of a #wide street#
- 2 For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#
- 3 #Buildings# may exceed a maximum base height of 85 feet in accordance with paragraph (d) of this Section
- 4 For #buildings or other structures# that front upon an elevated rail line, the maximum base height shall be 25 feet
- 5 Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

TABLE B  
HEIGHT AND SETBACK FOR BUILDINGS  
IN NON-CONTEXTUAL DISTRICTS

| District <sup>3</sup>   | Minimum<br>Base<br>Height | Maximum<br>Base<br>Height | Maximum<br>#Building#<br>Height |
|---|---------------------------|---------------------------|---------------------------------|
| C1 or C2 mapped in R6 <sup>2</sup><br>C4-2 <sup>2</sup> C4-3 <sup>2</sup>   | 30                        | 45                        | 55                              |
| C1 or C2 mapped in R6 <sup>1</sup> inside<br>#Manhattan Core#<br>C4-2 <sup>1</sup> inside #Manhattan Core#<br>C4-3 <sup>1</sup> inside #Manhattan Core# | 40                        | 55                        | 65                              |
| C1 or C2 mapped in R6 <sup>1</sup> outside  | 40                        | 60                        | 70                              |

|   |     |     |     |
|---|-----|-----|-----|
| #Manhattan Core#  |     |     |     |
| C4-2 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C4-3 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C1 or C2 mapped in R7 <sup>2</sup>  | 40  | 60  | 75  |
| C1 or C2 mapped in R7 <sup>1</sup> inside<br>#Manhattan Core#   |     |     |     |
| C1-6 <sup>2</sup> C1-6 <sup>1</sup> inside #Manhattan Core#   |     |     |     |
| C2-6 <sup>2</sup> C2-6 <sup>1</sup> inside #Manhattan Core#   |     |     |     |
| C4-4 <sup>2</sup> C4-4 <sup>1</sup> inside #Manhattan Core#   |     |     |     |
| C4-5 <sup>2</sup> C4-5 <sup>1</sup> inside #Manhattan Core#   |     |     |     |
| C6-1 <sup>2</sup> C6-1 <sup>1</sup> inside #Manhattan Core#   |     |     |     |
| C1 or C2 mapped in R7 <sup>1</sup> outside<br>#Manhattan Core#  | 40  | 65  | 80  |
| C1-6 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C2-6 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C4-4 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C4-5 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C6-1 <sup>1</sup> outside #Manhattan Core#  |     |     |     |
| C1 or C2 mapped in R8 <sup>2</sup>  | 60  | 80  | 105 |
| C1-7 <sup>2</sup> C4-2F <sup>2</sup> C6-2 <sup>2</sup>  |     |     |     |
| C1 or C2 mapped in R8 <sup>1</sup>  | 60  | 85  | 120 |
| C1-7 <sup>1</sup> C4-2F <sup>1</sup> C6-2 <sup>1</sup>  |     |     |     |
| C1 or C2 mapped in R9 <sup>2</sup>  | 60  | 95  | 135 |
| C1-8 <sup>2</sup> C2-7 <sup>2</sup> C6-3 <sup>2</sup>   |     |     |     |
| C1 or C2 mapped in R9 <sup>1</sup>  | 60  | 102 | 145 |
| C1-8 <sup>1</sup> C2-7 <sup>1</sup> C6-3 <sup>1</sup>   |     |     |     |
| C1 or C2 mapped in R10 <sup>2</sup>   | 60  | 125 | 185 |
| C1-9 <sup>2</sup> C2-8 <sup>2</sup> C4-6 <sup>2</sup> C4-7 <sup>2</sup> C5 <sup>2</sup> C6-4 <sup>2</sup> C6-5 <sup>2</sup><br>C6-6 <sup>2</sup> C6-7 <sup>2</sup> C6-8 <sup>2</sup> C6-9 <sup>2</sup>    |     |     |     |
| C1 or C2 mapped in R10 <sup>1</sup>   | 125 | 150 | 210 |
| C1-9 <sup>1</sup> C2-8 <sup>1</sup> C4-6 <sup>1</sup> C4-7 <sup>1</sup> C5 <sup>1</sup> C6-4 <sup>1</sup> C6-5 <sup>1</sup><br>C6-6 <sup>1</sup> C6-7 <sup>1</sup><br>C6-8 <sup>1</sup> C6-9 <sup>1</sup> |     |     |     |

<sup>1</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

<sup>2</sup> For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#

<sup>3</sup> Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

Note: In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered ~~#narrow streets#~~ for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

\* \* \*

## APPENDIX F Inclusionary Housing Designated Areas

The boundaries of #Inclusionary Housing designated areas# are shown on the maps listed in this Appendix F. The #Residence Districts# listed for such areas shall include #Commercial Districts# where #residential buildings# or the #residential# portion of #mixed buildings# are governed by the #bulk# regulations of such #Residence Districts#. Where #Inclusionary Housing designated areas# are mapped in #Commercial Districts#, the residential district equivalent has instead been specified for each map.

Table of  
Inclusionary Housing Designated Areas  
by Zoning Map

| Zoning Map | Community District | Maps of Inclusionary Housing Designated Areas |
|------------|--------------------|---|
| 16c        | Brooklyn CD 2      | Maps 1-3                                      |
| 16c        | Brooklyn CD 3      | Map 1   |

|            |                      |              |
|------------|----------------------|--------------|
| 16c        | Brooklyn CD 6        | Map 1        |
| <u>16c</u> | <u>Brooklyn CD 8</u> | <u>Map 1</u> |
| 16d        | Brooklyn CD 7        | Map1         |
| <u>16d</u> | <u>Brooklyn CD 8</u> | <u>Map 1</u> |
| 16d        | Brooklyn CD 14       | Map 2        |
| 17a        | Brooklyn CD 3        | Maps 1-5     |
| <u>17a</u> | <u>Brooklyn CD 8</u> | <u>Map 1</u> |
| <u>17b</u> | <u>Brooklyn CD 8</u> | <u>Map 1</u> |
| 17b        | Brooklyn CD 14       | Map 2        |

\* \* \*

**Brooklyn**

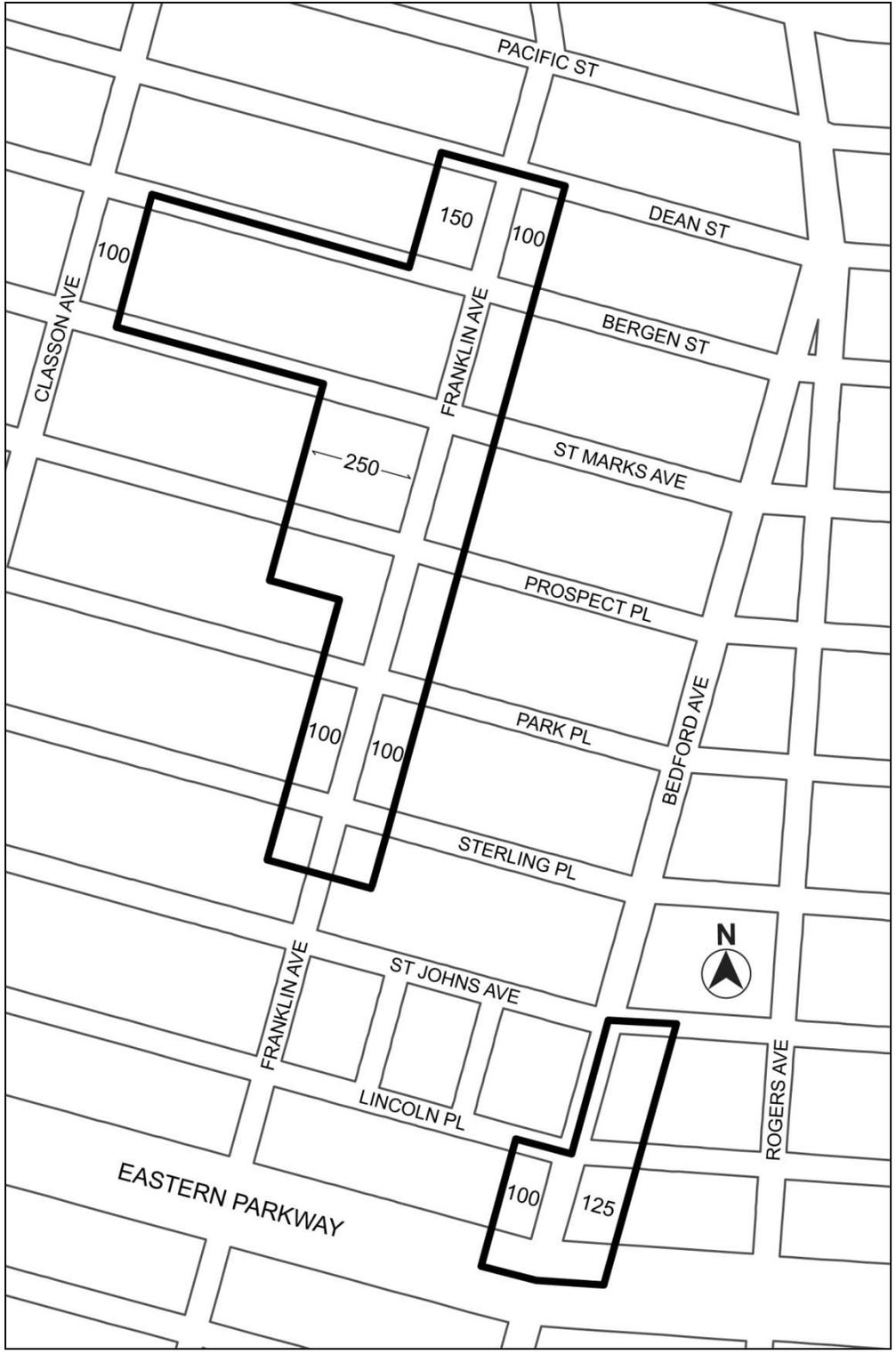
\* \* \*

**Brooklyn Community District 8**

In the R7A and R7D Districts within the areas shown on the following Map 1:

Map 1

New Map



Portion of Community District 8, Brooklyn

The above resolution (N 130212 ZRK), duly adopted by the City Planning Commission on August 7, 2013 (Calendar No. 5), 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

**KENNETH J. KNUCKLES, *ESQ.***, Vice Chairman,

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, PE,**

**ALFRED C. CERULLO, *III*, BETTY Y. CHEN, MICHELLE R. DE LA UZ,**

**MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY,**

**ANNA HAYES LEVIN, ORLANDO MARIN,** Commissioners







Marty Markowitz  
Borough President

# COMMUNITY BOARD NO. 8

1291 ST. MARKS AVENUE • BROOKLYN, NEW YORK 11213

TEL.: (718) 467-5620 • FAX: (718) 778-2979

Nizjoni Granville  
Chairperson

Robert Matthews  
Chairperson Emeritus

Michelle T. George  
District Manager

May 28, 2013

**Brooklyn Community Board 8 Recommendation  
in Support of Uniform Land Use Review Application (C 130213ZMK)  
for the Crown Heights West Rezoning and  
the related non-ULURP text amendment (N 130212 ZRK)**

On May 9, 2013, Brooklyn Community Board 8 held its public hearing on the Uniform Land Use Review Application (C-130213 ZMK) for the Crown Heights West Rezoning and the related non-ULURP text amendment (N 130212 ZRK). Twelve attendees gave testimony with 10 in support of the proposal notwithstanding their reservations regarding the efficacy of the Inclusionary Housing Program.

As recommended by the Housing/ULURP Committee (which had voted to support the proposal at its April 4, 2013 meeting), the 35 appointed Community Board 8 members in attendance at the May 9, 2013 public hearing voted unanimously to adopt the proposal as Department of City Planning (DCP) had undertaken the project in 2005 at the request of CB 8.

Brooklyn CB 8 has been vocal and committed in its pursuit of affordable housing for the District. While recognizing that the effectiveness of existing programs aimed at creating affordable housing is not within the full or sole control of the DCP, testimony provided by the Association for Neighborhood and Housing Development at the hearing in review of this proposal claims that the voluntary aspect of the Inclusionary Housing Program (IHP) has not ensured production of the expected quantum of affordable housing units in other localities and in other communities within the City. This testimony is sufficient to put CB 8 on notice to take a closer look. With the assistance of DCP, CB 8 hopes for guarantees of permanently affordable housing from those developers and property owners benefitting from the rezoning. We hope that DCP can provide clarification to the testimony regarding the effectiveness of the IHP.

In order to achieve the substantial and near-term protections from out-of-context development that the current proposal provides, the full Board voted to support it, and hopes that the request below will be understood in that context.

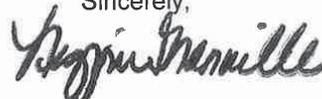
#### Request for Follow-up Corrective Action

Based on comments received from the community, and to realize the full potential of the work and time City Planning and this community has invested in this project, we request the follow-up corrective actions listed below:

1. Revise the Zoning Text, maps, pertinent codes and rules to make the Inclusionary Housing Program in Brooklyn CD 8 mandatory for any buildings taller than 60 feet;
2. Require that the affordable units be built on-site, or entirely within Brooklyn CD 8;
3. Require that the affordable units have a 50% preference for CD 8 residents of five years or more; and
4. Adjust the income requirements to reflect the average median income of Brooklyn CD 8.

Thank you in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "Nizjoni Granville". The signature is fluid and cursive, with the first name being more prominent.

Nizjoni Granville  
Chairperson



## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

22 Reade Street, New York, NY 10007

FAX # (212) 720-3356

### INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 130212 ZRK - 130213 ZMK

Crown Heights West Rezoning

In the matter of applications submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for a Zoning Map and Text amendment for an area of approximately 55 blocks in the western part of the Crown Heights North neighborhood that will include the creation of new Inclusionary Housing Designated Areas in Community District 8. The zoning proposal aims to preserve neighborhood scale and character from out-of-scale development by replacing non-contextual zoning districts with contextual zoning districts with modified height and setback regulations; allow for modest residential growth including incentives for affordable housing along parts of Franklin Avenue and Bedford Avenue; and tailor commercial overlays in the area to better reflect existing commercial uses while preventing possible intrusion of commercial activity onto residential side streets.

COMMUNITY DISTRICT NO. 8

BOROUGH OF BROOKLYN

### RECOMMENDATION – 130212 ZRK - 130213 ZMK

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

  
\_\_\_\_\_  
BOROUGH PRESIDENT

June 27, 2013

\_\_\_\_\_  
DATE

# **RECOMMENDATION FOR THE PROPOSED AMENDMENT OF THE ZONING TEXT & ZONING MAP 130212 ZRK; 130213 ZMK**

These applications by the Department of City Planning (DCP) request an approval for amendments to the Zoning Map in order to facilitate the contextual rezoning of the western section of Crown Heights North of Community District 8 (CD 8). The Borough President commends DCP for the time and effort put in by staff with this rezoning, as with all of its rezoning applications, including consultation with Community Board 8 and affected local elected officials to reach a consensus. He thanks DCP Director Amanda Burden, Brooklyn Office Director Purnima Kapur, Deputy Director Winston Von Engel and Project Manager Sanmati Nik for their thorough review of the neighborhood and crafting this proposal for the community.

## **PUBLIC HEARING**

On May 15, 2013 the Borough President held a public hearing on the applications submitted by the Department of City Planning which proposed a rezoning for a 55 block area in the western section of the Crown Heights community.

The representative for DCP briefly explained that the new contextual zoning proposed through these applications would establish limits on the heights of new buildings, prevent commercial encroachment through reductions to the commercial overlays, as well as provide incentives for affordable housing while allowing for moderate growth.

Speakers for the applications generally supported the proposal though noting a few concerns inherent to the plan. Representatives from Association of Neighborhood Housing Development, the Crown Heights Assembly and Council Member Leticia James provided testimony about the lack of assurances with the voluntary component of the Inclusionary Housing Program. Speakers called for a follow-up corrective action as a means to ensure that mandatory affordable housing measures would be implemented subsequent to the approval of this rezoning.

## **CONSIDERATION**

Community District 8 (CD 8) voted to approve these applications and submitted a request for a follow-up corrective action to address community concerns. These actions include revising the zoning text and map to make the Inclusionary Housing Program in CD 8 mandatory for any building taller than 60 feet; require the affordable units to be built on-site or entirely within CD 8; require the affordable units to have a 50% preference for CD 8 residents of five years or more; and, to adjust the income requirements to reflect the average median income found in CD 8.

In recent years, the Crown Heights North community has seen significant investment, raising concern for inappropriate development as the neighborhood continues to be a destination for people throughout the city. The existing zoning for the western section of the community has allowed for development that is out of scale or character with blocks that are predominately developed with row houses and small apartment buildings typically 3 – 4 stories. DCP, with input from CD 8, has developed a rezoning proposal that intends to ensure that future development reflects the character of the Crown Heights North/Crow Hill community, while still providing areas in which growth can occur. The proposal will also provide a means to encourage the inclusion of affordable housing.

It is the Borough President's policy to support appropriate rezoning actions that are consistent with the community's needs and that preserve the character and scale of Brooklyn's neighborhoods. It is also his policy to support land use changes that increase the supply of housing for Brooklyn residents, especially when such projects result in affordable housing.

The Borough President generally supports the contextual rezoning proposal for the western section of Crown Heights North. It is his firm belief that developers should provide housing for those who are being priced out of Brooklyn, especially vulnerable populations such as seniors. He believes that plans to grow the residential housing stock of a neighborhood are deficient when they do not increase or preserve the supply of affordable housing. The proposed zoning provides an opportunity to address his concern.

While the Borough President is generally supportive of these applications, he does have concerns. First, he has questions pertaining to the adequacy of the affordable housing incentive to achieve such housing. The Borough President also questions whether zoning could do more to address the potential for tenant displacement. Furthermore, he questions the extent of whether the proposed zoning could become more consistent with the objectives of the Crow Hill Association to obtain historic district designation; and, whether more could be done to support the emerging retail corridor along Franklin Avenue.

## **Affordable Housing**

### Lack of Affordable Housing Production

The Borough President concurs with the representatives of ANHD, PACC and Crown Heights Assembly that there are too many cases in which areas where the Inclusionary Zoning floor area incentive program is in effect, development proceeds only to the base floor area – without any affordable housing.

The Borough President had been a leading proponent for establishing a zoning mechanism to provide for the development of affordable housing, and was greatly pleased that it was established in 2005 as part of the Williamsburg-Greenpoint Rezoning. However, it is his belief that the regulations, as established and recently modified, still warrant enhancements. Based on development trends of the inland sites of that 2005 rezoning, he believes participation in the City's Inclusionary Housing Program (IHP) has been lacking. The same goes for participation in additional areas where he was able to leverage IHP-eligible zoning districts along Fourth Avenue in South Slope/Greenwood Heights.

The Borough President believes that the factors in the decision of developers to refrain from IHP participation in areas where utilization has been disappointing would remain the case in areas where program eligibility has subsequently been achieved through rezoning.

With the scarcity of land, each time the IHP is not utilized, an opportunity to generate affordable housing is lost forever. That is why the Borough President continues to seek modifications to the program that might entice nearly full participation in IHP.

In response to testimony seeking to establish districts where affordable housing would be mandated, the Borough President has concerns that such regulations – when combined with the standards of 20 percent of the floor area designated as affordable housing for households

not exceeding 80 percent of Federal income standards for the New York City Metropolitan Area – it could lead to the absence of development. Given the interest of households wanting to be in neighborhoods such as Crow Hill/Crown Heights North, without such development there would likely be more pressure exerted on the existing building stock to accommodate higher income earning households – thus resulting in even more displacement.

Therefore, the Borough President believes it is a more appropriate strategy to best entice developers as a business decision to always choose to utilize the affordable housing floor area incentive.

However, given the track record of the IHP to date, the Borough President has concern that there is not a sufficient guarantee that the proposed R7D IZ and R7A IZ districts would result in the production of affordable housing but rather a mere economic windfall due to the increased base FAR offered when compared to the existing zoning.

#### Retain C8-2 and sections of Bedford Avenue and Franklin Avenue R6 until Inclusionary Text Modified

The proposal to rezone the C8-2 District to R7D would result in an increase of as-of-right FAR from 2.0 for commercial use to a combined residential use with some ground floor retail at 4.2 FAR. Zoning the one block frontage of Bedford Avenue from R6 to R7D would increase as-of-right residential floor area from 3.0 FAR to 4.2, while also increasing permitted height to 100 feet. Finally, but for where Franklin Avenue intersects St. Mark's Avenue – a wide street, because of the small lot nature of most Franklin Avenue block fronts, rezoning this narrow street from R6 to R7A IZ would increase floor area from 2.2 FAR to 3.45 FAR.

Because of the Borough President's concern regarding the lack of developer participation in the IHP, rezoning these areas merely represents a windfall to property owners without a sufficient expectation of public benefit. Establishing upzonings with IHP should not represent merely a private financial benefit that leads to a taller development than what is typically found in the neighborhood. In the case of Franklin Avenue, the rezoning also does not assure the existing retail use would be recreated in a new development. Therefore, because of the lack of guaranteed public benefit, the Borough President believes that this is not the appropriate time to rezone most of these frontages – thus the C8-2 and R6 designations should remain until such time as the IHP is modified to entice greater developer participation.

#### Retain Franklin Avenue R6 at the Former Nassau Brewery Site Unless Affordable Housing Commitment Provided

The property along the west side of Franklin Avenue between Dean and Bergen Streets is apparently owned by Crow Hill Development LLC and affiliated with Montague Square Development. Based on a Letter of Understanding between the Crow Hill Community Association and Crow Hill Development, dated June 6, 2011, there is a non-binding commitment to build a contextual development. Because the property was purchased according to R6 zoning regulations with a commitment to use, in essence, Quality Housing narrow street provisions, changing the zoning to R7A IZ would result in a nearly 57 percent increase of development rights with no guarantee that affordable housing would be achieved.

It is the Borough President's policy to obtain a written commitment or explanation that conveys a suitable assurance that affordable housing will be included as part of any residential development facilitated by rezoning. Without a commitment from the property owner to file

legal instruments to bind the property to the provision of affordable housing, the Borough President believes that it is not in the public interest to rezone this block at this time.

The Borough President believes that as a condition of the City Council approving this property for R7A IZ designation, a legal instrument be filed on that property that binds affordable housing development or else City Council should retain R6 zoning.

#### Link Permitted Height to Inclusionary Housing

The R7D permits development up to 100 feet in height (ten stories) without regard to whether the development fully utilizes the IHP floor area bonus or merely is developed to the much lower as-of-right floor area standard. By permitting this height with 33 percent less floor area, developers might replicate the slender towers that the community has deemed out-of-context without public benefit. In addition, developers might utilize the added volume by increasing floor to ceiling heights, increasing the cost of construction and the developer's expectation of how much more an apartment might sell for. Excessive ceiling height could further lead to subsequent illegal construction of mezzanine space.

The Borough President believes that developers do not need to be rewarded with the extra height pursuant to the IHP without the provision of affordable housing. As the standard R7A, which permits a floor area ratio (FAR) of 4 times the lot size with a height not exceeding 80 feet, the Borough President believes that the 4.2 FAR of the R7D, with its mandatory retail, would be adequately accommodated within the height limit of 80 feet.

Linking the additional height to the utilization of the Inclusionary Housing floor area bonus is consistent with the Special Permit granted by the City Planning Commission in regards to the New Domino proposal where the special permit was conditioned on the utilization of the IHP bonus. In addition, with regards to the Williamsburg Greenpoint rezoning for waterfront sites, pursuant to ZR 62-354 (b) (2), for developments that provide affordable housing pursuant to Section 62-352 (Inclusionary Housing), the increased floor area permitted for developments facilitating affordable housing permit the towers to exceed the height of the district by an additional 70 feet. These examples reward developers that provide affordable housing with extra height to not only accommodate the additional 33 percent more floor area, but also with taller buildings with more commanding views that potentially increase the market value of units above the height of 80 feet.

The Borough President believes future mapping of R7D in Brooklyn deserves consistent consideration with these other examples as an added means to encourage developers to utilize the Inclusionary Housing option. He believes that the maximum building height for R7D developments not according to the IHP, should not exceed eight stories. Ten stories should be restricted to developments pursuant to the Inclusionary Housing provisions.

#### Reduce Base Floor Area Ratio When Rezoning Non-Residential Districts and Upzoning Residential Districts Fronting Narrow Streets

The Borough President believes that it is appropriate to provide more certainty that the voluntary affordable housing bonus would be utilized and where appropriate, yield even more affordable housing than existing standards of the IHP. He believes that there should be a higher percentage of affordable housing in R7D districts that were changed from C8-2 districts. The as-of-right base floor area ratio (FAR) should be reduced to the ratio permitted by the existing zoning, substantially increasing the bonus segment of the floor area from 33 percent for all

zoning districts to 180 percent in the R7D and 84 percent in the R7A Narrow Street. And, the portion of the affordable housing floor area should be increased from 20 percent to 35 percent for R7D.

By linking a substantial amount of market rate floor area to the bonus, it provides a much greater incentive for a developer to use the zoning bonus and thus provide the publicly desired affordable housing. The existing standard provides just seven percent more market rate floor area when providing affordable housing. Having 82 percent more market rate housing in R7D and 47 percent in R7A along Narrow Streets, is a much more substantial incentive to see that the affordable housing is achieved.

The table below further clarifies how the Zoning Resolution’s 23-922 “Inclusionary Housing Program” should be further modified to increase the percentage of affordable housing and decrease the proportion of market-rate floor area that can be developed.

| Zone              | Base FAR | BBPO Base FAR | Bonus Affordable FAR (20%) | Bonus FAR | BBPO Bonus Affordable FAR |
|-------------------|----------|---------------|----------------------------|-----------|---------------------------|
| R7D (C8-2)        | 4.2      | 2.0           | .112                       | 5.6       | 1.96 (35%)                |
| R7A Narrow Street | 3.45     | 2.5           | .92                        | 4.6       | 1.38 (20%)                |

Creating Permanent Affordable Housing to address Displacement and Tenant Harassment

The Borough President acknowledges the interest in having affordable housing produced because of concern that residents are being priced out of the community with few alternatives to remain. The new residential development is not alleviating the demand for housing in the neighborhood because such dwelling accommodations are sold or rented at prices that are typically more expensive than the existing housing stock and merely enhances the desirability of such neighborhoods. This places even more pressure on the existing stock to remain affordable as landlords seek to raise rents of unregulated units to what the market will achieve. In addition, though the environmental assessment does not depict displacement, the Borough President believes that several smaller buildings are likely to be deemed attractive for development based on the proposed zoning, including some that would result in displacing existing tenants.

While the Borough President recognizes production of affordable housing as a potential resource to those at risk of being displaced, he believes that there might be additional measures that could be put in place that might enhance tenant protection. These include preserving housing stock in perpetuity through the City’s IHP; establishing anti-harassment areas; and, limiting development rights as a means to reduce the incentive to redevelop.

The IHP provides three methods to satisfy the affordable housing floor area requirement. The options are to include the units either on site or off-site in newly-constructed buildings, or through the preservation of existing units. The off-site units must be either in the same community district or within one-half mile of the new development site that would benefit from the additional floor area bonus. The preservation option of IHP provides an important opportunity to keep tenants from being displaced. In addition, the existing rents at the time

apartments become part of the IHP allow the program to benefit households of lesser financial means.

Establishing anti-harassment areas are another technique intended to preclude displacement. Such areas have not been established in the last several years because the Administration apparently believes that when the City Council enacted the Tenant Protection Act (Local Law 7 of 2008), it served the purpose of having anti-harassment areas, leaving no need to designate more areas. Tenant advocates believe that TPA was never conceived as a “cure-all” for the harassment of tenants and was certainly not meant to substitute for establishing more anti-harassment areas. The Borough President agrees with this position and believes that his the City Council, with the Office of the Borough President, should take appropriate consideration and determine if the further protection of tenants should be pursued.

#### Modifying the Provisions of 421-a to be in Harmony with the Inclusionary Housing Incentive

The rules for the City of New York governing tax exemptions, under Section 421-a of the Real Property Law of New York State, was amended in response to concern that too often the benefit was not necessary to promote development. In certain geographic areas obtaining 421-a benefits require placement of affordable housing units on the zoning lot and that such housing be priced to house those with incomes not exceeding 60 percent of Area Median Income (AMI). These changes are not consistent with Zoning Resolution Sections 23-911 (Definitions) and diminish the attractiveness of provisions of 23-94(a) (Methods of Providing Affordable Housing). As a result, too many developers seem to have determined that it does not make sense to obtain 421-a benefits and thus no affordable housing is produced.

The Borough President believes that developers should have optimum enticement to provide affordable housing pursuant to the IHP. Therefore, the City Council should consider amending the 421-a tax exemption to be consistent with the Zoning Resolution. Such flexibility would make it easier to utilize the incentive on smaller sites by achieving affordable housing elsewhere in the Community District or within one-half mile of the development with affordable housing provided in new construction or by preserving units within existing developments – which would prevent displacement.

#### **Preservation**

##### Preservation-based zoning

The preservation and/or contextual development strategies included in this proposal called for R5B, R6B and R6A for blocks zoned R6 and R6B, R6A and R7A for blocks zoned R7. The mapping of R7 to R7A increases the permitted height by five feet, with the permitted floor area being nearly identical. The mapping of R6A for existing R6 mapped properties fronting narrow streets actually results in an increase of residential floor area from 2.2 FAR to 3.0 FAR and an increase of permitted height by an additional 15 feet. The R6A designation for retail streets such as sections of Bedford, Rogers and Nostrand Avenues also supports limited growth in a manner that would encourage full lot coverage of the ground floor for the benefit of retail development.

It is the policy of DCP to decrease the number of buildings that are legally non-compliant when it undertakes comprehensive, area-wide rezoning analysis. Though, in doing so, many buildings that haven't had any additional building rights, since the enactment of the 1961 Zoning, would gain such rights with the adoption of the proposed zoning. While extra zoning rights might

facilitate home improvements such as kitchen enlargements and additional bedrooms and bathrooms, it is possible that some buildings might see one or two additional floors. There is also the inadvertent possibility that a lesser developed building could be demolished to make way for new construction.

Many buildings in Crown Heights North/Crow Hill proposed for R6A are three- to- four stories with basements, which makes it less obvious to the casual observer that certain lots exceed the amount of permitted floor area. It is not uncommon to find lot depths less than 100 feet, some less than 80 feet. In addition, several lots have buildings that cover a substantial portion of the lot with only minimal rear yard area. As a result, many of the buildings in the area where R6A is proposed have more floor area than permitted by the regulations governing the existing R6 district, thus became legal non-compliant buildings in 1961 and retained such status even when contextual zoning regulations were adopted in 1987. Buildings with this status are not permitted to have building additions.

Given that much of the proposed R6A is within the boundaries where the Crow Hill Community Association is seeking historic district designation, it is important to understand what the proposed zoning could permit. The height permitted by R6A is not consistent with the general development pattern of the neighborhood. The possibility of Crow Hill achieving historic district status might take several years. The question then is whether the proposed R6A might result in inconsistent development during the interim before possible historic designation.

There are few vacant sites in the proposed R6A, with perhaps a dozen small lots without structures. There might be 50-60 mostly small buildings that would be considered significantly under-built/under-utilized, based on the proposed residential floor area ratio that could be attractive for demolition in a strong housing market or for the addition of one or two floors to many properties. Several such buildings have already been placed in historic districts with the designation of the Crown Heights North I and II historic districts. Few buildings in condominium or cooperative ownership would be expected to pursue construction, given the complications of constructing above occupied units and the logistics to secure construction financing. The more likely circumstance of enlargement occurring would be when a building is sold with leases not renewed and it is highly unlikely that a significant number of such buildings would change hands during the time prior to historic district possibly being achieved. Even so, the Borough President believes there are a few locations where it might serve the community to retain the zoning and/or provide for subsequent modifications.

#### Retaining R6 where appropriate as an interim measure

Alternatives to R6A with less development potential might include retaining the R6 with its practical height limit for small lots of 55 feet for certain areas. However, by leaving some areas as R6, there is additional non-residential floor area potential that provides for ground floor space to be converted to community facility use as a means to gain more residential floor area. Community facility uses can be somewhat commercial in nature. The various types of ambulatory medical facilities in some instances do not rely on the neighborhood as its clientele, therefore, such uses may increase competition for parking in the area and might be supplemented by ambulate service. The community needs to assess its preferred quality-of-life concerns as the process continues through the City Planning Commission and City Council to provide guidance in terms of whether any of the proposed R6A should remain R6, or in the case where zoning is C4-3 today, be changed to R6. The Borough President believes there are several locations that might merit R6 designation as an interim measure that could be followed

up by subsequent rezoning to R6B should the section of Crown Heights North east of Nostrand Avenue proceed as a zoning study. Community Board 8 could consider reviewing these areas and advise the City Planning Commission and the City Council whether in lieu of the proposed R6A it would prefer to retain R6 (or where C4-3 now exists, proposed R6) for the location noted in the recommendation of the Borough President.

#### Subsequent Mapping Narrow Street Frontages R6A and R7A Inclusionary Districts

While R6 can be retained where appropriate, other strategies that might result in achieving/retaining contextual development would require a subsequent rezoning action that would likely be beyond the resources of DCP to undertake during the remainder of this Mayoral Administration.

Given that much of the R6 properties fronting narrow streets proposed for R6A would not have been over-built if designated R6B, the only other Residence District option that could have been considered with less base floor area than R6A is R6A IZ – a district that provides for inclusionary housing opportunities. While both districts permit an extra fifteen feet of height when compared to small lot development fronting narrow streets in R6 districts, the base floor area ratio would be 2.7 as compared to R6A's 3.0, which is approximately 36 percent more than what is permitted for residential development fronting narrow streets. Because R6A IZ permits approximately 23 percent more residential development than R6 fronting narrow streets, but 10 percent less than R6A, it is likely that less properties would be redeveloped or enlarged following rezoning.

Beyond the added benefit of potential for neighborhood preservation, there is the ability for some of the mid- to larger sites to be developed according to the City's IHP, especially if legislative changes were adopted that would be in harmony with the IHP's off site preservation and new construction options.

For properties in the proposed R7A district fronting narrow streets, the residential potential when compared to R7, increases by 16 percent. If these properties were subsequently rezoned to R7A IZ, the base floor area would be essentially the same as is achievable pursuant to the R7 for residential development – 3.45 FAR compared to 3.44. Thus, R7A IZ would be neutral in terms of whether redevelopment might occur and would generally retain the degree of bulk compliance. In addition, there would be the incentive to produce affordable housing.

Traditionally when DCP introduces IZ districts to encourage affordable housing production, the base FAR increases since a decrease is believed to not be sound policy. In the case of changing R6 properties fronting narrow streets, the net effect seems consistent with prior IZ designations as the base residential FAR increases approximately 23 percent. While there is essentially no increase in designating R7 properties fronting narrow streets as R7A IZ, it is still not a decrease in the base FAR as it still provides development opportunities to offer additional market rate floor area as part of the 33 percent floor area increase incentive.

Therefore, the Borough President believes that to both support neighborhood preservation while encouraging affordable housing production, should there be a follow-up rezoning study of Crown Heights North east of Nostrand Avenue, the R6A and R7A districts fronting narrow streets should be considered for R6A IZ and R7A IZ designations.

### Enlarging and Establishing Additional R6B Districts

The Borough President believes that there are groupings of buildings that would have excess development rights according to the proposed R6A to a point where rezoning to R6B would seem more appropriate. Many of these locations suited for R6B are where the Borough President believes CD 8 should consider retaining the existing R6 as a means to make perfectly sound buildings less attractive for redevelopment given the interest of the Crow Hill Community Association to obtain historic district status. Where R6B is already proposed, boundaries could be extended to incorporate comparable development including where side street zoning lot patterns seem to support R6B being extended to the north-south street. Several of these locations suitable for mapping R6B are along the north-south streets, including north-south streets that are narrow streets. There are also mid-blocks along Pacific and Dean Streets that seem more appropriate for R6B designation.

The Borough President believes that should there be a follow-up rezoning study of Crown Heights North east of Nostrand Avenue, locations noted in his recommendation section should be given consideration for rezoning to R6B.

### Consider Establishing a Special Enhanced Commercial District along Franklin Avenue

Franklin Avenue is an emerging street for retailing, though it is possible that the proposed R7A zoning could tempt developers or property owners to redevelop sites that are substantially under-built, resulting in a significant amount of redevelopment. More than half the properties would be developed to less than 50 percent of the proposed base floor area and thus even small lots could potentially be attractive for investors. Without requirements to mandate retail or other active use for the ground floor, developers might opt to construct entirely residential condominium developments and not include active use on the ground floor.

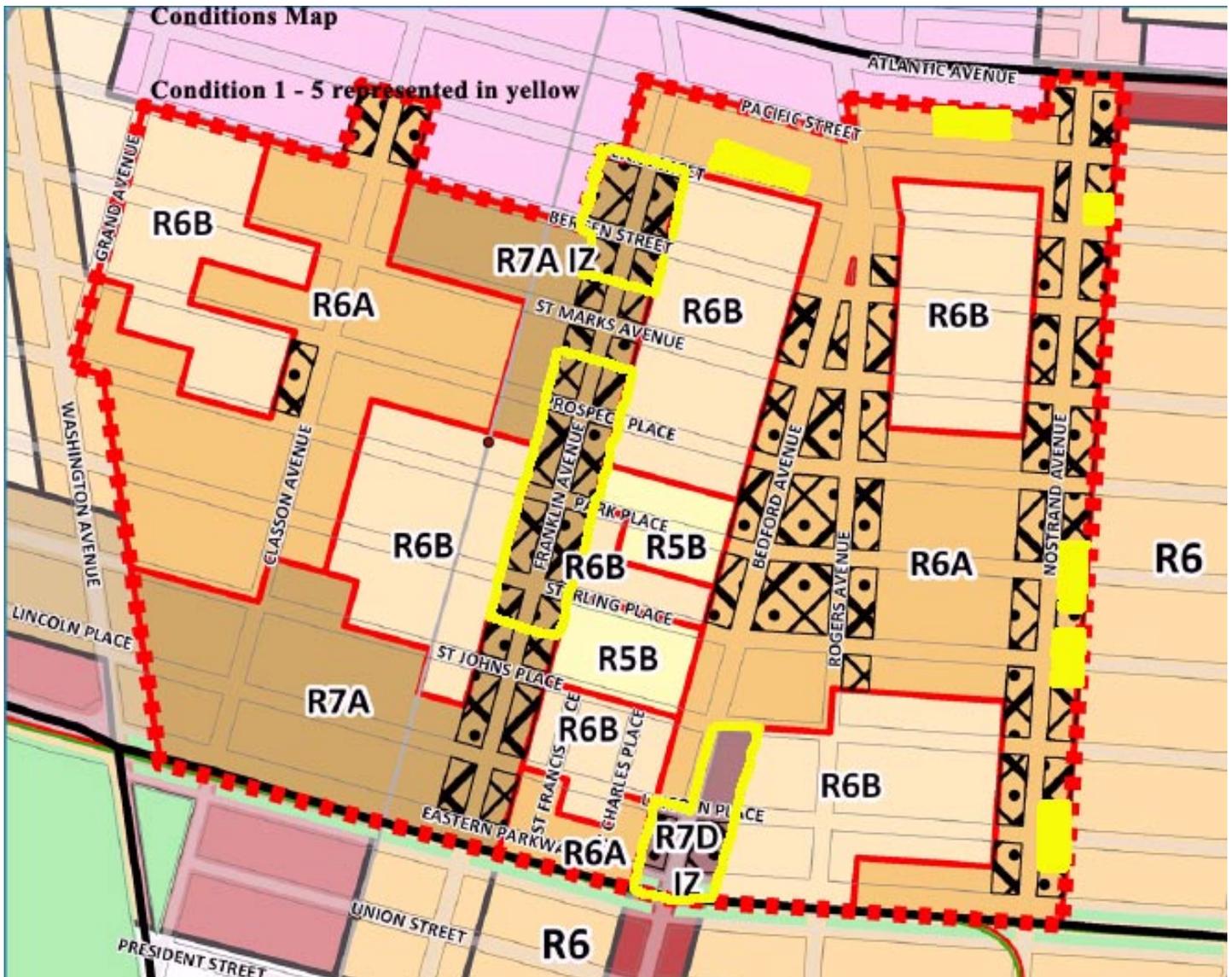
The Borough President believes that any loss of retail frontage along Franklin Street could be detrimental for the entire corridor. He believes that this commercial street would benefit from being regulated by the Special Enhanced Commercial District regulations and believes DCP should pursue such a study as part of any east of Nostrand Avenue rezoning for Crown Heights North.

### **RECOMMENDATION**

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve based on the following conditions:

- 1) The proposed R7D along Bedford Avenue between Lincoln Place and Eastern Parkway remain C8-2.
- 2) The proposed R7D along Bedford Avenue between St. John's Place and Lincoln Place remain R6.
- 3) The proposed R7A IZ along Franklin Avenue between Dean Street and the mid-block south of Sterling Place, but for within 100 feet of St. Mark's Avenue and the west side of the Street between Dean and Bergen Streets, remain R6.
- 4) The proposed R7A IZ along the west side of Franklin Avenue between Dean and Bergen Street, remain R6 unless the property owner provides a commitment of satisfaction to the City Council that the site would be redeveloped pursuant Building Department application that includes use of the Inclusionary Housing Program.

- 5) That, subject to a recommendation from Community Board 8 as to whether, in lieu of the proposed R6A, it would prefer to retain R6 (or where C4-3 now exists, proposed R6) for the locations as follows:
- West side of Classon Avenue between Sterling Place and St. John's Place
  - North side of Dean Street between 200 feet east of Franklin Avenue and 200 feet west of Bedford Avenue
  - North side of Pacific Street between 300 feet east of Bedford Avenue and 150 feet west of Nostrand Avenue
  - East side of Nostrand Avenue at: Dean Street (north side – Crown Heights North I Historic District), Park Place (north side – Crown Heights North II Historic District), Sterling Place (Crown Heights North II Historic District) and Lincoln Place (Crown Heights North II Historic District)



**Be it further resolved that:**

- That during the next Administration, the Department of City Planning undertake a zoning text study to consider the following:
  - Zoning Resolution Section 35-24 Table A pertaining to Height and Setback for Buildings or Other Structures in Contextual Districts as it pertains to C1 or C2 mapped in R7D zoning

districts to be amended as follows: for #zoning lots# developed according to ZR 23-90 Inclusionary Housing, the maximum #building# height shall be 100 feet or ten #stories#, whichever is less, for all other zoning lots, the height and setback be pursuant to R7A District standards (maximum building height for developments to not exceed eight stories).

- 2) For existing C8-2 districts being rezoned to R7D, the base FAR pursuant to section ZR 23-952 "Inclusionary Housing Program" (the affordable housing floor area bonus) be further modified to increase the percentage of affordable housing and decrease the proportion of market-rate floor area by establishing the Base FAR at 2.0 (in lieu of 4.2 FAR) and increasing the affordable housing component of the floor area to be 35 percent (1.96 FAR in lieu of 1.12 FAR).
  - 3) That for R7A districts when Zoning Lots have frontage solely on Narrow Street, the base FAR pursuant to section ZR 23-952 "Inclusionary Housing Program" (the affordable housing floor area bonus) be further modified to decrease the proportion of market-rate floor area by establishing the Base FAR at 2.5 (in lieu of 3.45 FAR).
- B. That the Rules of the City of New York pertaining to the Rules governing tax exemptions under Section 421-a of the Real Property Law of New York State pertaining to limits of Area Median Income and placement of affordable housing units should be amended to be consistent with Zoning Resolution Sections 23-911 (Definitions) and 23-94(a) (Methods of Providing Affordable Housing)
- C. That the City Council, with the Office of the Borough President, should review anti-harassment measures of Zoning Resolution Sections 23-90 and 93-90 and The Tenant Protection Act (Local Law 7 of 2008) to determine the best means of protecting the tenants of Crown Heights North from harassment that could arise as a result of the threat of displacement that may result from the adoption of this zoning map amendment. The City Council should then take appropriate action to protect tenants in Crown Heights North, including advocating for anti-harassment designation or amendments to Local Law 7.
- D. That should the Department of City Planning undertake a zoning study for the section of Crown Heights North east of Nostrand Avenue:
- 1) That for R6A zoned properties not fronting wide streets, should be re-designated as R6A IZ (reducing base as-of-right floor area from 3.0 FAR to 2.7 FAR)
  - 2) That for R7A zoned properties not fronting wide streets, should be re-designated as R7A IZ (reducing base as-of-right floor area from 4.0 FAR to 3.45 FAR)
  - 3) That unless adequately addressed by subsequent Historic District Designation, such study should include the following:
    - i. Proposed to be zoned R6A properties should be given consideration for R6B zoning designation, as follows:
      - a. West side of Classon Avenue between Sterling Place and St. John's Place
      - b. North side of Dean Street between 200 feet east of Franklin Street and 200 feet west of Bedford Avenue
      - c. North side of Bergen Street, west of Bedford Avenue
      - d. South side of St. Mark's Avenue, west of Bedford Avenue
      - e. North side of St. Mark's Avenue east of Rogers Avenue
    - f. North side of Pacific Street between 300 feet east of Bedford Avenue and 150 feet west of Nostrand Avenue
  - 4) That for Franklin Avenue frontages in R7A IZ zoning district be considered for designation as a Special Enhanced Commercial District.