

# COMMUNITY BOARD 7 Manhattan

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March 7, 2019

Honorable Marisa Lago  
Chair  
NYC Planning Commission  
120 Broadway  
New York, NY 10271

**Re: Residential Tower Mechanical Voids Text Amendment**

Dear Chair Lago,

On Tuesday, March 5<sup>th</sup>, Community Board 7/Manhattan passed a resolution on the Residential Tower Mechanical Voids Text Amendment and a second resolution requesting a moratorium on all excessively tall buildings to take effect immediately until the issues have been resolved.

We look forward to working with the Planning Commission on this important issue.

Respectfully submitted,



Roberta Semer, Chair

Hon. Bill De Blasio, Mayor  
Hon. Corey Johnson, Speaker, New York City Council  
Hon. Scott Stringer, Comptroller  
Hon. Gale Brewer, Manhattan Borough President  
Hon. Jerrold Nadler, Congressman, District 10  
Hon. Helen Rosenthal, Council Member, District 6  
Hon. Mark Levine, Council Member, District 7  
Hon. Ben Kallos, Council Member, District 5  
Hon. Linda Rosenthal, Assemblymember, District 67  
Hon. Dick Gottfried, Assemblymember, District 75  
Hon. Daniel O'Donnell, Assemblymember, District 69  
Hon. Brad Hoylman, State Senator, District 27  
Hon. Robert Jackson, State Senator, District 31  
Hon. Jose Serrano, State Senator, District 15  
Hon. Brian Benjamin, State Senator, District 30  
Manhattan Community Boards

**RESOLUTION**

**Date: March 5, 2019**

**Committee of Origin: Land Use**

**Re: Residential Tower Mechanical Voids Text Amendment. Department of City Planning’s proposed amendment.**

**Full Board Vote: 38 In Favor 1 Against 0 Abstentions 0 Present**

*Committee: 10-0-0-0. Non-Committee Board Members: 6-0-0-0.*

Community Boards throughout the city are aware that the NYC Zoning Resolution is inadequate to address the phenomenon of “supertalls” and their proliferation, which are jarringly out-of-context with the existing neighborhoods. Regardless of their location, these buildings will inevitably inflict some degree of unacceptable shadow conditions on nearby parks, playgrounds and open space as well as create intolerable environmental conditions, including wind tunnel effects at the bases of these buildings, inhibiting pedestrian friendly retail uses and preventing trees from thriving in (?) dark and windswept corridors.

These residential “supertall” buildings are ultra-luxury apartments, catering to the elite and ultra-wealthy that may never actually live there. In order to achieve maximum height, the apartment floor to ceiling heights are taller than conventional pre-war apartment buildings, even those pre-war buildings that line Central Park West and portions of Broadway or West End Avenue and Riverside Drive. Unlike their predecessors, they also contain far fewer units and do not count towards alleviating the City's housing shortage.

Our Community Board Land Use Committee studied the various means incorporated into the “supertalls” to construct buildings that heights not contemplated in any previous editions of the Zoning Resolution and not anticipated by its drafters. Some of the most egregious interpretations now in play include:

- Large voids (the current maximum void at 36 West 66<sup>th</sup> Street is 161 feet), which contain no floor area for zoning purposes;
- Apartment ceiling heights up to 20 feet;
- Zoning Lot Mergers which enable a developer to stack the bulk of a building’s volume in a tower covering only a fraction of the lot area.

This resolution is in response to the Department of City Planning Text Amendment for Residential Tower Mechanical Voids distributed for comment on January 28, 2019. While this text amendment is commendable, it is inadequate to fully and effectively address the problem and the accompanying diagrams show weaknesses in the suggested vertical distance in the placement of the mechanical voids that do little to reduce overall height and are likely unnecessary to support mechanical equipment at such interval frequency. This resolution includes nine essential areas that need reconsideration to alleviate misuse or misinterpretation of excessive mechanical voids used principally to increase building height as follows:

**A. Height of each mechanical Void:**

While the DCP did report on their survey of mechanical spaces in existing buildings, mostly pre-war, they did find anomalies in a few special buildings with taller equipment rooms. The majority of the mechanical equipment and boiler rooms appears to be closer to fifteen feet (15'-0"). In lieu of the proposed twenty-five foot height (25'-0") "mechanical" void or inaccessible space ("void") only up to twenty feet (20'-0") should be exempt from zoning floor area. Those buildings that require a taller mechanical floor could be required to need a Special Permit.

*Land Use Committee: 8-1-0-0. Non-Committee Board Members: 5-2-0-0.*

**B. Vertical Frequency of Void Placement:**

In lieu of zoning floor area free voids every seventy-five feet (75'-0") of building height, CB7 suggests that this be limited to no more than a total of forty (40'-0") vertical feet of void exempt from allowable floor area count, however distributed within a building.

*Land Use Committee: 10-0-0-0. Non-Committee Board Members: 8-0-0-0.*

**C. Maximum Void Floor Area**

The City Planning proposal provides that zoning floor area is increased for every 25 feet (or rounded off fraction) of void over and above the initial twenty-five feet (25'-0"). Thus, a one hundred twenty-five foot (125'-0") void, over and above the initial twenty-five feet (25'-0") would consume floor area equal to five times the area of the void.

This formula needs to be modified to include floor area added for every fifteen feet (15'-0") of vertical height of a void in excess of twenty feet (20'-0"). For a one hundred twenty-five foot (125'-0") void above the initial twenty feet (20'-0"), nine times the area of the void would be counted as zoning floor area.

*Land Use Committee: 10-0-0-0. Non-Committee Board Members: 6-0-1-0.*

**D. Floor Area of the Void**

As the current proposal will endeavor to measure zoning floor area by the area of the void, this would permit a developer to reduce floor area by creating a "skinny" or lollipop stick void. This stratagem would reduce the amount of floor area attributed to the void.

This also needs to be revised so that the calculation of floor area of the voids is an average of the floor area of all floors in the building, excluding any base, thereby eliminating any advantage to creating a skinny void space.

*Land Use Committee: 10-0-0-0. Non-Committee Board Members: 8-0-0-0.*

**E. Unenclosed Voids**

The current Residential Mechanical Void text amendment does not address voids that are not enclosed. An unenclosed void, on stilts of unlimited height would not be counted as floor area. All voids, whether they are enclosed or unenclosed should be counted as floor area.

*Land Use Committee: 10-0-0-0. Non-Committee Board Members: 7-0-0-0.*

**F. Maximum Residential Ceiling Heights**

The current Residential Mechanical Void text amendment does not address dwelling unit ceiling heights.

Given that the excessive floor to ceiling height is a component of overall building height, any floor to ceiling heights in excess of fifteen feet (15'-0") in dwelling units count against allowable floor area in the ratio calculated by dividing 15 feet by the floor-to-ceiling height in excess of 15 feet. (For example, if a ceiling height is 18 feet, an additional 20% (3/15<sup>th</sup>) would be added to zoning floor area.)

*Committee: 8-2-0-0. Non-Committee Board Members: 5-2-0-0.*

**G. Regulation of Excessively Tall Lobbies & Unassigned Amenity Space**

The current Residential Mechanical Void text amendment neither addresses nor penalizes lobbies and amenities of unlimited height.

As lobbies and amenity space are now including a variety of indoor sports facilities (basketball, climbing walls etc.) or vanity spaces, the text amendment should stipulate the minimum requirements and any other limitations as to sub-divisions or insertion of mezzanines that would otherwise add floor area at a later date.

*Committee: 10-0-0-0. Non-Committee Board Members: 7-0-0-0.*

**H. Impact on Increased Height as a Result of Zoning Lot Mergers**

The current Residential Mechanical Void text amendment does not address other features contributing to super-tall building heights. In particular, the proposed amendment does not address the additional permissible height generated by zoning lot mergers.

Limitations and minimal requirements to justify the additional height of buildings generated by zoning lot mergers needs to be part of the public review process and presented before the affected Community Board.

*Committee: 10-0-0-0. Non-Committee Board Members: 7-0-0-0.*

**I. Other Residential & Mixed Use Residential Buildings**

The current Residential Mechanical Void text amendment does not include hotels and other types of residential facilities including but not limited to mixed use buildings which are less than 25% commercial. The proposal would have no application in Community Board 5 which does not contain any of the zoning classifications affected by the proposal. As a consequence, the proposal does not protect against additional "too-talls" in the 57th street area which will cast long shadows onto Central Park.

The limitation the use of voids to increase building heights in these variant types of residential buildings should apply to all commercial and mixed use buildings, and should apply to all zoning classifications in all community districts.

*Committee: 10-0-0-0. Non-Committee Board Members: 6-0-0-0.*

Based upon the foregoing, THEREFORE, BE IT RESOLVED THAT, that Community Board 7/Manhattan **approves** the Residential Mechanical Void text amendment contained in the DCP document dated January 28, 2019, **subject to the comments and specific recommendations identified above.**

## RESOLUTION

**Date: March 5, 2019**

**Committee of Origin: Land Use**

**Re: Moratorium on Too-Tall Buildings.**

**Full Board Vote: 31 In Favor 2 Against 6 Abstentions 0 Present**

*Committee: 10-0-0-0. Non-Committee Board Members: 6-0-0-0.*

On January 28, 2019, the NYC Department of City Planning (DCP) announced a proposed text Amendment for “Residential Tower Mechanical Voids.” This focuses on one aspect of the Supertall phenomenon, and only one of many “loopholes.” Community Board 7/Manhattan finds that the proposed amendment is commendable but incomplete as it does not fully and effectively address the problem.

Community Board 7, requests that the DCP revise and expedite any proposed amendments to the Zoning Resolution based on feedback from Community Boards in Manhattan and elsewhere in the City that share a common concern, that the current DCP proposal is inadequate to mitigate against negative effects created by these buildings.

If, however, City Planning is unable or unwilling to address these issues promptly, we call upon the New York City Council to impose a moratorium on the issuance of building permits for projects involving any of the following:

1. Unoccupied interior spaces, whether enclosed or unenclosed, including mechanical spaces exceeding, in total, 20 feet in height (voids);
2. Ceiling heights in excess of average height (10-15) feet as a typical floor to ceiling height);
3. Zoning lot mergers resulting in projects with building heights more than 10% higher than would be permissible absent the merger.

The moratorium should last for either two years, subject to renewal, and subject to an application to the Board of Standards and Appeals for a Special Permit; or until DCP’s revised requisite zoning text amendment(s) are approved and go into effect.

The City Council has in the past imposed moratoria where substantial interests of New Yorkers are in conflict with the perceived interests of landowners, even where the landowners are proposing projects not otherwise prohibited by the Zoning Resolution. Such moratoria have been enacted to prevent the creation of adult establishments, the conversion of transient and SRO hotels.

Absent prompt action by DCP or a City Council enacted moratorium, the New York City may witness over the next few years the construction of dozens of buildings with heights which are out of context with existing adjacent buildings, which will inflict unacceptable shadow conditions on nearby parks, playgrounds and open space, waste energy resources, create wind tunnels at their bases, inhibiting pedestrian friendly retail uses and will prevent trees from thriving in dark and windswept corridors. We are now aware that these Supertalls also impact fire and life safety requirements due to the large cavernous unoccupied spaces that are difficult to easily access or protect by conventional sprinkler and other early warning smoke detection devices currently in use.