NYSCEF DOC. NO. 38

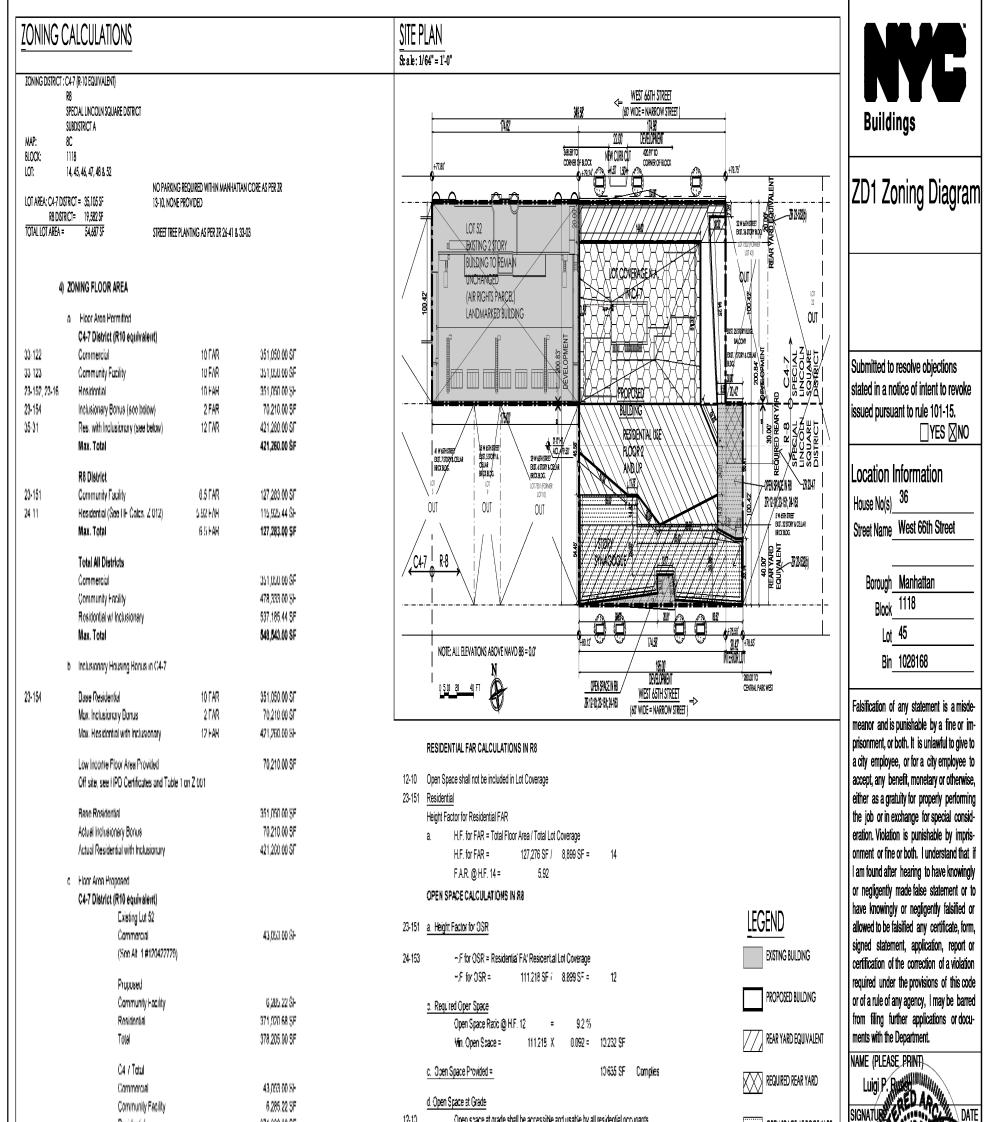


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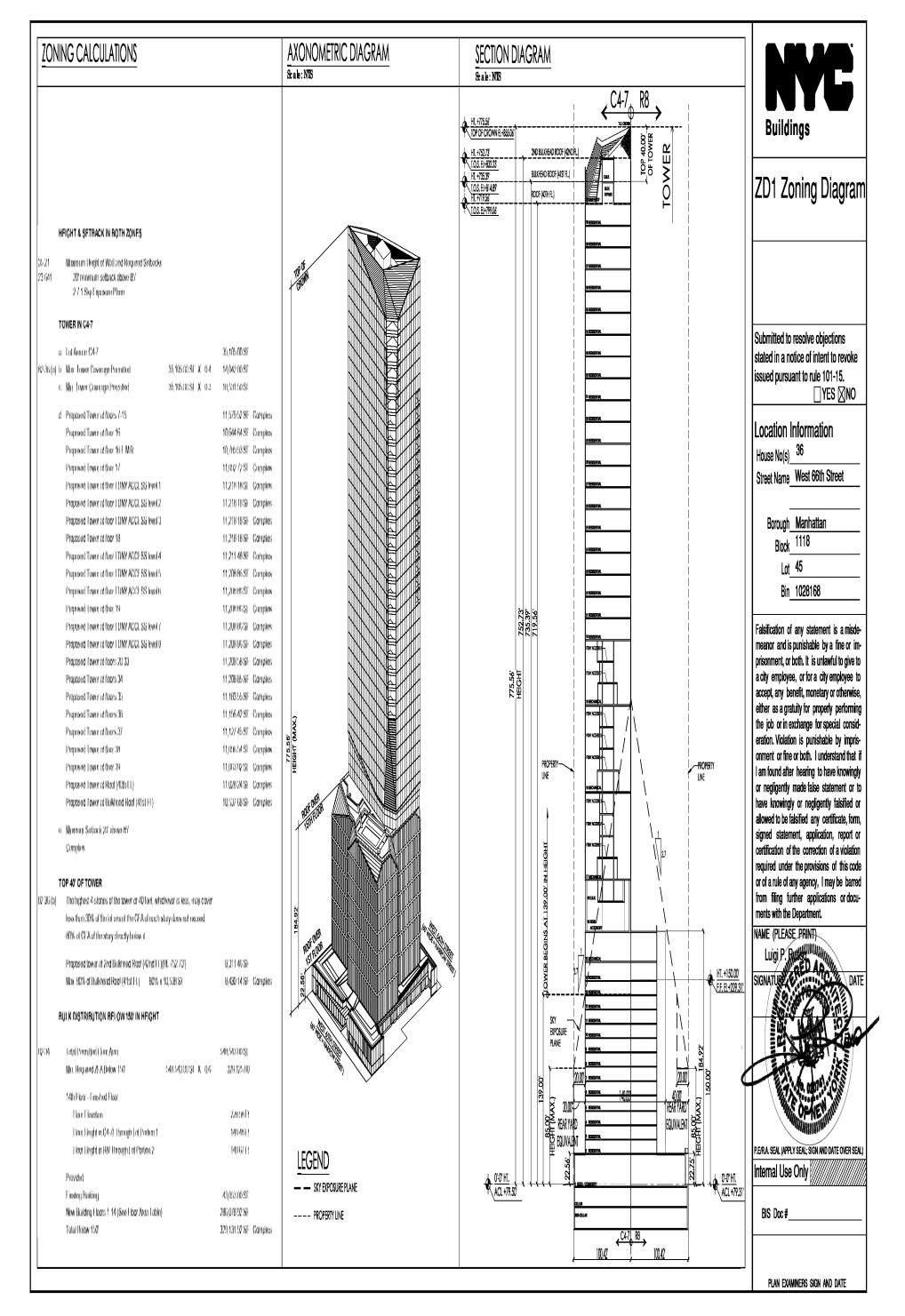
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INDEX NO. 160565/2020



Residential	371,920.68 SF	12-10 Open space at grade shall be accessible and usable by all les denial occupants. OPEN SPACE AT ROOF	NR8
Total	421,258.90 SF	e. Open Space on Roof	
R8 District		12-10 • Open Space on roof in R8 need not be accessible OPEN SPACE AT GRADI	
Proposed / R8 Total		12-10 - No omension less than 25' except that area adjoining street line or rear	
Community Facility	16,058.87 SF	yard min. depth 9' and max. length min. 2 times depth (or full width of	INR8
Rosidential	111,217 62 SF	zoning ict or 50°, whichever is less).	
Total	127,276.49 SF	24-15 Open Space permitted on roof of community facility	
Total both Zonos			
		ZONING LOT LINE	AMMANIN'
Proposed Belly Zones Tetal			P.E.R.A. SEAL (APPLY SEAL; SIGN AND DATE OVER SE
Community Facility	22,344.09 SF	24.14 New 2507 Community Courses in DR Zone	Internal Use Only
Residential	483,138.30 SF	24-11 Max, 65% Community Facility Coverage in R8 Zone	
Total	505,482.39 SF	19,582 SF X 65 % = 12,728 SF	
C	40.050.00.05	Provided 0 SF Complies PROPERTY LINE	BIS Doc#
Commercial Historical Keth Jones Letal	43,053.00 SF	······································	
Proposed Both Zones Total Total	505,482.39 SF 548,535.39 SF	24-12 Community Facility use below 23' may be exlouded from Lot Coverage	
I VLMI	440,040,40 AL	· · · · · · ·	<u> </u>
			plan examiners sign and date

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R. 001069



ZD1 Zoning Diagram

Must be typewritten. Sheet _____ of _____

1	Applicant information	Required for all applications						
	Last Name Russ	60	First Name Luigi	Middle Initial				
	Business Name SLC	Business Name SLCE Architects, LLP		Business Telephone (212) 979-8				
	Business Address 1355	Broadway, 14th Floor		Business Fax (212) 979-83				
	City New	York State NY	Zip 10018	Mobile Telephone				
	E-Mail Iruss	o@sicearch.com		License Number 020741				
2	Additional Zoning Characteristics Required as applicable.							
	Dwelling Units 127	Parking area	sq. ft.	Parking Spaces: Total	Enclosed			
3	BSA and/or CPC Approval for Subject Application Required as applicable.							
	Board of Standards & A	ppeals (BSA)						
	Varian	Variance Cal. N		Authonizing Zoning Section 72-2	1			
	Special Permit Cal. N		0	Authorizing Zoning Section				
	General City Law Walver Cal. N		0,	General City Law Section				
	Cther	Cal. N	0					
	City Planning Commissi	lon (CPC)						
	Specia	I Permit ULURP No)	Authonizing Zoning Section				
	Author	ization App. No)	Authorizing Zoning Section	_			
	Certific	ation App. No)	Authorizing Zoning Section				
	Cither	Ann No.	0					

4 Proposed Floor Area Required for all applications. One Use Group per line.

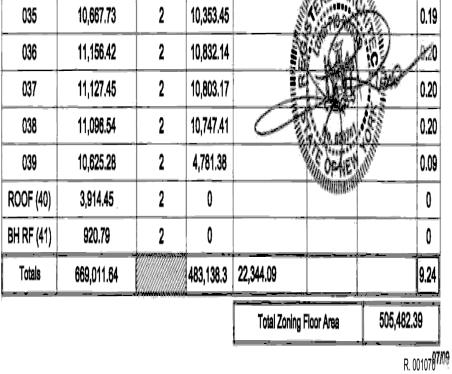
Floor Number	Buliding Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				
			Residential	Community Facility	Commercial	Manufacturing	FAR
SUB	27,754.56	2	0				0
SUB	9,359.07	4		0			0
CEL	28,108.47	2	0				0
CEL	9,004.88	4		Ö			0
001	9,384.46	2	8,989.42				0.1
001	22,344.09	4		22,344.09			0.4
MEZ1	1,604.41	2	969.95				0.0
MEZ1	2,002.10	4		0			0
002	20,478.30	2	19,510.36			1	0.3
003	20,478.30	2	19,515.75				0.3
004	20,478.30	2	19,516.25				0.3
005	20,478.30	2	19,513.47				0.3
006	20,478.30	2	19,526.06				0.3

ZD1

Sheet 3_of 3

4 Proposed Floor Area Required for all applications. One Use Group per line.

	Building Code Gross		Zoning Floor Area (sg. ft.)				
Floor Number	Floor Area (sq. ft.)	Use Group	Residential	Community Facility	Commercial	Manufacturing	FAF
007-008	40,956.60	2	39,052.12				0.7'
009-011	61,434.90	2	58,570.35				1.07
012-014	61,434.90	2	58,571.10				1.07
015	20,478.25	2	0				0
016	10,644.64	2	7,899.31				0.14
016 E.M.R.	1,967.77	2	1,279.99				0.02
017	10,216.56	2	0				0
FDNY AC 1	993.13	2	896.07				0.02
FDNY AC 2	993.13	2	892.47				0.02
FDNY AC 3	993.13	2	896.07				0.02
018	10,240.54	2	0				0
FDNY AC 4	993.13	2	892.47				0.0
FDNY AC 5	993.13	2	892,47				0.02
FDNY AC 6	993.13	2	892.47				0.02
019	10,917.09	2	0				0
FDNY AC 7	993.13	2	892.47				0.02
FDNY AC 8	1,317.38	2	1,216.71		_		0.02
020-026	75,402.50	2	72,769.87				1.33
027-030	43,087.15	2	41,495.43				0.78
031	10,771.79	2	10,372.49				0.18
032-033	21,543.58	2	20,747.98				0.38
034	10,173.91	2	9,849.63		PED 40	14	0.18
					15	1.12	





Thomas J. Fariello, RA Acting Commissioner

Martin Rebholz, RA Borough Commissioner mrebholz@buildings.nyc.gov

280 Broadway, 3rd Fl. New York, NY 10007 www.nyc.gov/buildings 212-393-2018 Tel 646-500-6170 Fax April 4, 2019

Luigi Russo SLCE Architects, LLP 1359 Broadway New York, NY 10018 (Applicant)

David Rothstein West 66th Sponsor, LLC 9911 Shelbyville Road Louisville, KY 40223-2987 (Owner)

Re:

RESCISSION OF INTENT TO REVOKE APPROVAL 36 West 66th Street, New York, NY 10023 Block: 1118, Lot 45 NB Job Application Number: 121190200 (the "Proposed Building")

To Whom It May Concern,

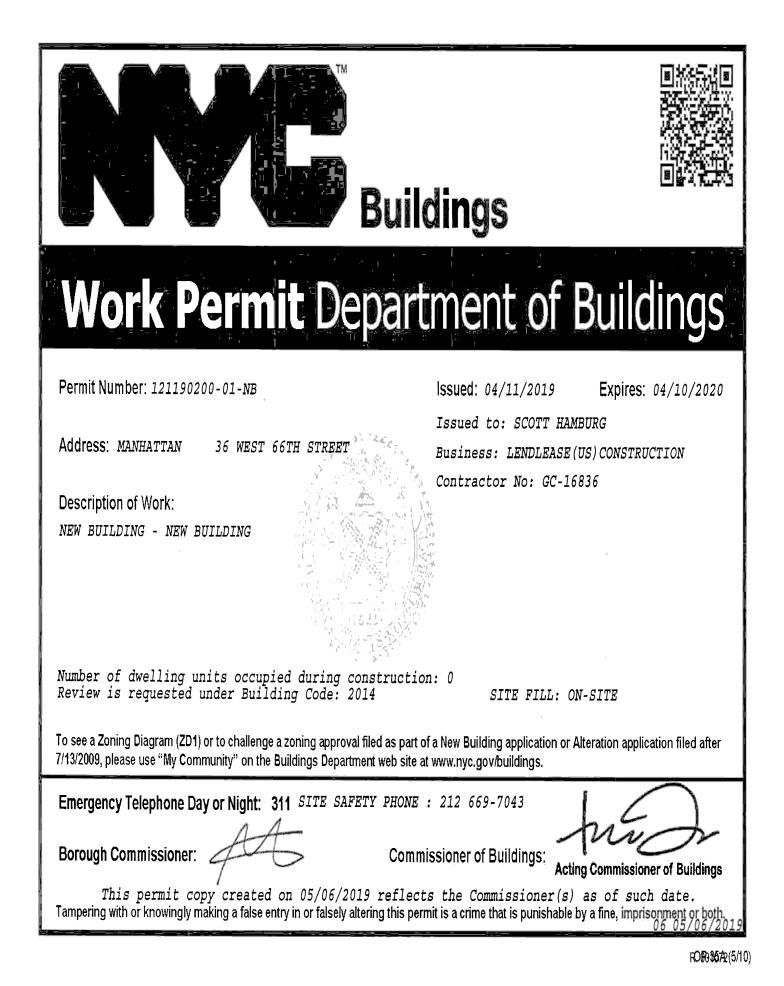
The Department of Buildings (the "Department) is in receipt of your response to the Department's January 14, 2019 Notice of Intent to Revoke the approval of the Zoning Diagram approved and posted on the Department's website on July 26, 2018 (the "July 2018 ZD1") On April 4, 2019, the July 2018 ZD1 was superseded by the approval of a subsequent ZD1 filed in connection with Post Approval Amendment 16. Since the July 2018 ZD1 has been superseded, the Department's January 14, 2019 Notice of Intent to Revoke is rendered moot, and hereby rescinded as well.

Sincerely

Martin Rebholz, R.A. Borough Commissioner Manhattan

MR/po

Cc: Audits File



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INDEX NO. 160565/2020 RECEIVED NYSCEF: 02/16/2021

CITY PLANNING COMMISSION

N 190230 ZRY

April 10, 2019, Calendar No. 11

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 Article II, Chapter 3 and related provisions of the Zoning Resolution of the City of New York, modifying residential tower regulations to require certain mechanical spaces to be calculated as residential floor area.

This application (N 190230 ZRY) for a zoning text amendment was filed by the Department of City Planning (DCP) on January 25, 2019 to discourage the use of excessively tall mechanical floors in high-density residential tower districts. The proposal would require that mechanical floors, typically excluded from zoning floor area calculations, would be counted toward the overall permitted floor area on the zoning lot if they are taller than new specified limits or overly concentrated in portions of the building. The proposed floor area requirements would apply to residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character. The provision would also apply to non-residential portions of a mixed-use building if the building contains a limited amount of non-residential floor area.

BACKGROUND

The New York City Zoning Resolution allows floor space containing mechanical equipment to be excluded from zoning floor area calculations, reflecting the recognition that these spaces perform important and necessary functions within buildings. The Resolution does not specifically identify a limit to the height of such spaces. In recent years, some developments have been built or proposed that use mechanical or structural floors that are taller than is usually necessary to meet functional needs, to elevate upper-story residential units above the surrounding context so as to improve the views from these units. These spaces have been commonly described as "mechanical voids." Following requests from communities and elected officials, DCP conducted a citywide analysis of recent construction to better understand the mechanical needs of residential buildings and to assess when excessive mechanical spaces were being used to inflate their overall height. DCP assessed the residential buildings constructed in R6 through R10 districts and their Commercial District equivalents over the past 10 years and generally found excessively tall mechanical voids to be limited to a narrow set of circumstances.

In R6 through R8 non-contextual zoning districts and their equivalent Commercial Districts, DCP assessed over 700 buildings and found no examples of excessive mechanical spaces. DCP attributes this primarily to existing regulations that generally limit overall building height and impose additional restrictions as buildings become taller through the use of sky exposure planes.

In R9 and R10 non-contextual zoning districts and their equivalent Commercial Districts, residential buildings can penetrate the sky exposure plane through the optional tower regulations, which do not impose an explicit height limit on portions of buildings that meet certain lot coverage requirements. In these tower districts, generally concentrated in Manhattan, DCP assessed over 80 new residential buildings and found that the mechanical floors of most towers exhibit consistent configurations. These typically included one mechanical floor in the lower section of the building located between the non-residential and residential portions of the building. In addition, taller towers tended to have additional mechanical floors midway through the building, or regularly located every 10 to 20 stories. In both instances, these mechanical floors range in height from 10 to approximately 25 feet. Larger mechanical spaces were generally reserved for the uppermost floors of the building in a mechanical ponthouse, or in the cellar.

In contrast to these typical scenarios, DCP identified seven buildings characterized by either a single, extremely tall mechanical space, or multiple mechanical floors stacked closely together. The height of these mechanical spaces varied significantly but ranged between approximately 80 feet to 190 feet in the aggregate. In districts where tower-on-a-base regulations apply, these

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spaces were often located right above the 150-foot mark, which suggests that they were intended to elevate as many units as possible while also complying with the 'bulk packing' rule of these regulations, which requires 55 percent of the floor area to be located below 150 feet. In other districts, these spaces were typically located lower in the building to elevate more residential units, which often also has the detrimental side effect of "deadening" the streetscape with inactive space.

Based on the results of this analysis, DCP is proposing a zoning text amendment for residential towers in R9 and R10 non-contextual zoning districts and their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character, to discourage the use of artificially tall mechanical spaces that disengage a building from its surrounding context. The amendment seeks to strike a balance between allowing functionally sized and reasonably distributed mechanical spaces in residential towers while providing enough flexibility to support changing technology and design expressions in these areas.

The amendment would require that floors occupied predominantly by mechanical spaces (those that occupy 50 percent or more of a floor) and are taller than 25 feet (whether singly or in combination) be counted as floor area. Taller floors, or stacked floors taller than 25 feet, would be counted as floor area based on the new 25-foot height threshold. A contiguous mechanical floor that is 132 feet tall, for example, would now count as five floors of floor area (132/25 = 5.28, rounded to the closest whole number equals 5). The 25-foot height is based on mechanical floors found in recently-constructed residential towers and is meant to allow the mechanical needs of residential buildings to continue to be met without artificially increasing the height of residential buildings. The provision would only apply to floors located below residential floor area. The provision would not apply to mechanical penthouses at the top of buildings where large amounts of mechanical space are typically located or to below-grade mechanical space.

Additionally, any mechanical spaces (those that occupy 50 percent or more of a floor) and are located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height would similarly count as floor area. This would address situations where non-mechanical floors are interspersed among mechanical floors in response to the new 25-foot height threshold, while still allowing sufficient mechanical space for different portions of a building. For example, a cluster of four fully mechanical floors in the lower section of a tower with a total combined height of 80 feet, even with non-mechanical floors splitting the mechanical floors into separate segments, would count as three floors of floor area, even when each floor is less than 25 feet tall and they are not contiguous. (80/25 = 3.2 rounded to the closest whole number equals 3).

The new regulation would also apply to the non-residential portions of a mixed-use building if the non-residential uses occupy less than 25 percent of the building. This would ensure that tall mechanical floors would not be attributed to non-residential uses occupying a limited portion of the building, solely to avoid the proposed regulation. The 25-foot height threshold would not apply to the non-residential portion of buildings with more than 25 percent of their floor area allocated to non-residential use, as the uses in such mixed buildings (for example, offices and community facilities) commonly have different mechanical needs than residential buildings. Finally, the regulations would also apply to floors occupied predominantly by spaces (those that occupy 50 percent or more of a floor) and are unused or inaccessible within a building. The Zoning Resolution already considers these types of spaces as floor area, but it does not provide explicit limits to the height that can be considered part of a single story within these spaces. This change would ensure that mechanical spaces and these types of unused or inaccessible spaces are treated similarly.

The proposal would apply to towers in R9 and R10 Residence Districts and their equivalent Commercial Districts. The proposal would also apply to Special Purpose Districts that rely on underlying tower regulations for floor area as well as height and setback regulations, and sections of the Special Clinton District and the Special West Chelsea District that impose special tower regulations. These Special Districts are:

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- Special West Chelsea District: Subdistrict A
- Special Clinton District: R9 District and equivalent Commercial Districts that do not have special height restrictions, as well as C6-4 Districts in the 42nd Street Perimeter Area
- Special Lincoln Square District: C4-7 Districts
- Special Union Square District: C6-4 Districts
- Special Downtown Jamaica District: "No Building Height Limit" area as shown on Map 5 of Appendix A in Article XI, Chapter 5
- Special Long Island City District: Court Square Subdistrict

ENVIRONMENTAL REVIEW

This application (N 190230 ZRY) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 19DCP110Y. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on January 28, 2019. On April 9, 2019, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes proposed City Planning Commission modifications to the Proposed Action. The Revised EAS concludes that the proposed CPC modifications would not result in any new or different significant adverse environmental impacts and would not alter the conclusions of the EAS. A Revised Negative Declaration was issued on April 9, 2019. The Revised Negative Declaration reflects the modifications assessed in the Revised EAS and supersedes the Negative Declaration issued January 28, 2019.

PUBLIC REVIEW

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This application (N 190230 ZRY) was duly referred on January 28, 2018, to 13 Community Boards (one in the Bronx, 10 in Manhattan, and two in Queens), to Manhattan and Queens Borough Boards, and to the Bronx, Manhattan and Queens Borough Presidents for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Review

All 13 Community Boards adopted resolutions regarding the proposed zoning text amendment, many of which included comments on the proposal and recommendations for modifications. The complete resolutions received from all Community Boards are attached to this report.

Bronx

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On March 6, 2019, Community Board 4 voted to recommend approval.

Manhattan

On February 26, 2019, Community Board 1 voted 37 in favor, 1 opposed and 0 abstention on a resolution to recommend approval with conditions.

On February 26, 2019, Community Board 2 voted unanimously on a resolution to disapprove with conditions.

On February 27, 2019, Community Board 3 voted on a resolution to recommend approval, with recommendations.

On March 7, 2019, Community Board 4 voted 37 in favor, 0 opposed and 1 abstention on a resolution to recommend disapproval with conditions.

On February 15, 2019, Community Board 5 voted 26 in favor, 0 opposed and 1 abstention on a resolution to recommend disapproval with conditions.

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On February 15, 2019, Community Board 6 voted 32 in favor, 0 opposed and 1 abstention on a resolution to recommend approval with recommendations.

On March 5, 2019, Community Board 7 voted 38 in favor, 1 opposed and 0 abstention on a resolution to recommend approval with conditions.

On February 22, 2019, Community Board 8 voted 39 in favor, 0 opposed and 1 abstention on a resolution to recommend approval with recommendations.

On February 21, 2019, Community Board 10 voted 25 in favor, 0 opposed and 0 abstention on a resolution to recommend approval.

On February 21, 2019, Community Board 11 voted 31 in favor, 0 opposed and 1 abstention on a resolution to recommend approval.

While this application was not referred out to Community Board 12, the Board passed a resolution on the matter on February 28, 2019 and voted 38 in favor, 0 opposed and 0 abstention to recommend approval.

Queens

On March 8, 2015, Community Board 2 voted 29 in favor, 0 opposed and 0 abstentions to recommend approval.

On March 20, 2019, Community Board 12 voted 35 in favor, 0 opposed and 0 abstentions on a resolution to recommend approval.

Most Community Boards expressed support for the proposed approach to limiting mechanical voids but maintained that more could be done to restrict their size and frequency within buildings. Around one-third of Community Boards voted to approve with conditions or

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recommendations that encouraged a stricter mechanical space height limit of 12 to 15 feet (versus 25 feet) and a more restrictive clustering interval of 100 to 200 feet (versus 75 feet). Some Community Boards called for additional restrictions to establish a percentage limit on the total amount of mechanical space permitted in a building. Three Community Boards indicated that the regulation should apply more broadly, to all zoning districts, mixed-use buildings, and commercial buildings. About half of the Community Boards indicated that the regulation should also apply to unenclosed voids (including, stilts, outdoor spaces, and terraces). Seven Community Boards, including those that denied with conditions, called for an expansion of the geographic scope of the regulation to include Central Business Districts and other Special Purpose Districts. Overall, these Boards were supportive of the proposal but wanted more limitations on mechanical spaces as part of a broader concern for building heights, as evidenced by discussion by some members about limiting floor to ceiling heights and amenity spaces.

Borough Board Review

This application (N 190230 ZRY) was referred to the Manhattan and Queens Borough Boards. The Manhattan Borough Board held a public hearing on February 21, 2019, to discuss the proposal but did not adopt a resolution. The Queens Borough Board did not adopt a resolution.

Borough President Review

This application (N 190230 ZRY) was referred to the Bronx, Manhattan, and Queens Borough Presidents. This application was considered by the Manhattan Borough President, who issued a letter dated March 8, 2019, recommending approval of the application with conditions to:

- Increase the clustering threshold to 90 feet from 75 feet.
- Remove the rounding provision for calculating the floor area for mechanical spaces that exceed the 25-foot threshold.
- Expand the applicability of the application to unenclosed voids.
- Expand the geographic scope to include the block bounded by West 56th Street, south side of West 58th Street, Fifth Avenue, and Sixth Avenue.

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The Bronx and Queens Borough Presidents did not issue recommendations.

City Planning Commission Public Hearing

On February 27, 2019 (Calendar No. 1), the City Planning Commission scheduled a public hearing on this application (N 190230 ZRY) for March 13, 2019. The hearing was duly held on March 13, 2019 (Calendar No. 40). There were 23 speakers in favor of the application and 18 speakers in opposition.

Speakers in favor included the Manhattan Borough President; the Manhattan District 5 Council Member; a representative of the Manhattan District 6 Council Member; a representative of the State Assembly Member for District 67; representatives from Manhattan Community Board 5 and 7; Manhattan neighborhood associations; landmark and cultural groups; community groups; Manhattan preservation groups; and Manhattan residents.

Speakers in opposition included industry practitioners such as engineers and architects; attorneys from land use law firms; representatives of industry associations; representatives of an Upper West Side Jewish congregation; and a Manhattan preservation group.

Both speakers in favor and those opposed expressed the sentiment that the overuse of mechanical space to create excessive voids of 80 to 190 feet is egregious and inappropriate. All speakers agreed that the issue of excessive voids could and should be addressed. Elected officials, Community Board representatives, neighborhood associations, and community groups supported the goal of this application but expressed that it could go further in limiting mechanical space, expanding applicability across the city, implementing an overall percentage cap on mechanical space, and including unenclosed voids. Many speakers expressed concern that the application would still provide opportunities for excessive mechanical voids and offered recommendations to reduce the 25-foot threshold to 12 feet, and to increase the clustering threshold from 75 feet to between 100 and 200 feet. A few stated that, based on the study data DCP provided, most mechanical spaces in existing buildings averaged 12 feet in height. Some community members stated that there was not

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enough justification for the 25 feet of mechanical height per 75 feet of building height provision in the application and therefore felt that the proposed regulations would not be restrictive enough to address the issue.

Industry professionals, including architects and engineers, said that they did not support excessive mechanical voids used solely to raise the height of buildings but many of them expressed concern that the proposed thresholds do not align with industry best practices. Experts stated that the 25foot threshold would be too limiting for efficient mechanical equipment needs and that oftentimes mechanical space needs compete with occupiable space needs. They stated that the 25-foot threshold would further strain the ability to ensure adequate space for mechanical equipment. One speaker from the Department of Buildings Mechanical Code Committee indicated that the NYC Energy Code requirements are moving toward greater building efficiency and energy conservation. He noted that for efficient use of heating and cooling systems, a building's heat recovery system requires large heat exchangers that transfer heat and moisture from the exhaust to the supply air. He and other speakers indicated that the ductwork and piping required for these systems could exceed 25 feet in height. Engineers who spoke also noted that traditionally mechanical spaces would only be located in the cellar or on the roof of buildings, but that industry practices are moving toward locating mechanical equipment throughout the building for better flood resiliency and energy efficiency. Speakers noted that high-efficiency boiler plants, fire protection water tanks, and stormwater recovery tanks are all examples of mechanical equipment that could require space taller than 25 feet. The majority of professionals, when asked, estimated that 30 to 35 feet would be a more reasonable threshold.

Some individuals who spoke in opposition indicated that the 30-day referral period was too short and that the Commission should take more time to engage with industry experts before moving forward with the text amendment. Further, representatives from an industry association expressed concern over the lack of a grace period or grandfathering provision for existing, ongoing projects. Representatives indicated that this proposal should take into consideration projects that would be affected in the midst of their development, having based their plans and investments on the

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mechanical space and floor area provisions in the Zoning Resolution today. A supplemental written testimony from this association stated that existing developments with mechanical voids have consistently complied with the Zoning Resolution as affirmed by Department of Buildings (DOB) interpretations and the Board of Standards and Appeals (BSA) decisions. The testimony also referenced a letter from DCP to BSA, confirming that the Zoning Resolution does not explicitly regulate the heights of mechanical space, in response to a specific building proposal before the BSA in 2017. The association further stated that ongoing and proposed development projects have appropriately relied on this precedent and should not be disrupted by this proposal.

The City Planning Commission received over 100 written comments and testimonies echoing support, concerns, and comments in line with those raised at the public hearing.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 18-161.

This action was determined to be consistent with the policies of the WRP.

CONSIDERATION

The City Planning Commission believes that this application for a zoning text amendment (N 190230 ZRY), as modified herein, is appropriate.

DCP's proposal is to limit the practice of constructing artificially tall mechanical spaces that disengage residential buildings from their surrounding context while also maintaining the flexibility needed to support reasonably sized and distributed mechanical spaces. The Commission

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agrees these are worthy goals and notes that even many who have raised concerns about the proposal have been supportive of its overall intent and approach. DCP undertook a yearlong study to review and analyze existing building conditions to inform this application. Therefore, the Commission finds that the proposal addresses community concerns while also recognizing the importance of design flexibility and architectural expression.

A primary issue raised by the Community Boards and members of the public, and echoed in written testimony, was that the proposed regulation does not fully address concerns that buildings may use mechanical spaces to be taller. Many called for stricter provisions and an overall cap on the percentage of mechanical space allowed in a building. The Commission notes that mechanical space is essential to the functionality of a building and requires flexibility based on a building's size and use. To implement a more restrictive or prohibitive rule to control the dimension or quantity of mechanical space would unduly hinder a building's capacity to operate and support occupants. The Commission finds that the approach to discourage excessive voids by providing a height and clustering threshold above which mechanical space will count as floor area is an appropriate mechanism to limit the nonproductive use of voids while allowing the flexibility to address mechanical needs. The Commission notes that this provision is not an outright prohibition on excessively tall mechanical space, rather it is an effective disincentive.

Many community groups and neighborhood associations called for a reduction of the 25-foot threshold of mechanical space excluded from floor area to 12 to 15 feet and an increase in the permitted 75-foot clustering interval to 90 to 200 feet. The Commission recognizes that the 25/75-foot thresholds were recommended by DCP based on industry expert consultations and extensive review of over 700 buildings permitted or constructed within the past 10 years. Overall, this study found that the thresholds offer reasonable flexibility while still addressing the excessive mechanical voids concern. The Commission also notes that the tallest voids, found in seven proposed or existing buildings in Manhattan, have heights ranging from 80 to 190 feet. The Commission recognizes that testimony by several engineers and an architectural association confirmed that it is highly unlikely that a residential building would need mechanical space that is

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more than around 30 to 35 feet tall. Therefore, the Commission does not find harm in limiting the opportunity to exempt artificially tall mechanical spaces. DCP also reviewed City-led affordable housing projects as an example of reasonable mechanical space clustering, finding that a 90-foot interval was used for building efficiency purposes rather than for increased building heights. The Commission therefore believes that the 75-foot interval clustering threshold would provide sufficient flexibility and is appropriate.

The Commission also heard testimony submitted by industry practitioners (including architects and engineers, industry associations, and a cultural and design organization) that indicated that the proposed 25-foot threshold was too restrictive. Practitioners noted that industry best practices for future energy conservation, resiliency, and sustainability require flexible mechanical space. The Commission heard that mechanical equipment needed for energy conservation practices may require more than 25 feet in height and that the engineering industry already competes for mechanical space within buildings. The Commission notes that practitioners do not support the overuse of mechanical space solely to artificially raise building heights, nor do they take issue with the proposed clustering threshold. However, the Commission recognizes the industry's concerns regarding the 25-foot threshold as too constraining for mechanical needs. The Commission also heard suggestions from practitioners and associations that a 30- to 35-foot threshold would allow reasonable flexibility for mechanical needs both today and in the future. The Commission believes that it is important that this text amendment not hinder a resilient or energy efficient building, and recognizes the need to maintain flexibility so that changes to NYC Energy or Building Code requirements are not impeded by this text amendment.

The Commission therefore modifies the proposed zoning text amendment to increase the 25-foot threshold to 30 feet before counting mechanical space toward floor area. This change will allow appropriate flexibility to meet energy efficient and resiliency standards without requiring a building to equally offset important occupiable space. The Commission notes that the zoning text amendment does not prohibit the use of mechanical space beyond 30 feet if necessitated by unique building circumstances. Mechanical space of any height is still permitted, though it will be counted

as floor area when exceeding the threshold. The preceding considerations account for this modification from 25 to 30 feet.

The Commission received written testimony and heard from some industry representatives who called for exempting structural support features, such as beams, braces, and trusses, that can be located within mechanical spaces. The Commission notes that these features can vary widely from building to building, and that exempting them could incentivize the use of larger support structures solely to inflate building heights. The Commission also notes that a typical floor height is measured from the top of a floor slab to the top of the floor slab above, whereas the mechanical space height in the proposed text amendment will be measured from the top of a floor slab bove. This allows for a clear 30-foot (formerly 25-foot) threshold that does not include portions of the floor slab above, which could reduce the amount of space available for mechanical equipment. The Commission therefore believes that the proposed mechanical space height measurement is appropriate and allows for optimal space to incorporate mechanical equipment and support structures without the need to create additional exemptions. Further, in response to suggestions from the Department of Buildings and practitioners, DCP has recommended a series of technical clarifications to the text amendment so that it more clearly meets the stated intent. The Commission agrees that these modifications are appropriate.

Some industry representatives expressed concern over the proposed formula for calculating the mechanical space in excess of the 30-foot threshold counted towards floor area. Representatives stated that the proposed text is too strict when counting mechanical space toward floor area by not allowing the first 30 feet to be excluded. The Commission believes that the formula as modified – to include the first 30 feet when a mechanical space exceeds the threshold, divided by 30 feet and rounded to the nearest integer – provides an appropriate disincentive to discourage any excessive contiguous set of mechanical floors. For example, if the mechanical space were 60 feet tall (30 feet above the threshold), which would be considered excessive based on DCP's study, the total number of floors to be counted as floor area is two under the proposed formula (60 feet/30 = 2 floors). However, if the first 30 feet were excluded from the total contiguous space of 60 feet, the

total number of floors to be counted would be one (60 feet - 30 feet/30 = 1). The Commission believes that excluding the first 30 feet would run counter to the goals of this proposal by reducing the disincentive to use artificially tall mechanical spaces. The Commission therefore supports the current proposal to count the first 30 feet when a mechanical floor exceeds the threshold.

Some industry practitioners and organizations expressed concern over the 30-day public referral period, deeming it too short to thoughtfully consider the details of this proposal. The Commission notes that all 13 Community Boards received presentations on the proposal and submitted resolutions. In addition, the Commission received over 100 written comments and testimony following the public hearing. The Commission notes that the development of this proposal involved significant public engagement with community groups and elected officials to understand the extent of the mechanical voids issue beginning in late 2017. DCP staff also met with industry associations and experts to understand the technical needs for mechanical spaces throughout the yearlong study period to inform the proposal. In addition to public outreach, the mechanical voids issue garnered significant attention through press coverage from late 2017 to the present. DCP also received over 200 letters during the year regarding mechanical voids and the proposed text amendment. The extensive public awareness and participation throughout the yearlong process made for an engaged referral period and therefore, the Commission believes that the 30-day referral period was appropriate.

In written testimony, a representative from an industry association called for a grace period or grandfathering provision to accommodate pre-development and ongoing projects that may contain mechanical spaces exceeding the proposed threshold. The testimony argues that these projects have relied on existing zoning regulations, DOB interpretations, and BSA decisions. The testimony also references a 2017 DCP letter to BSA. While previous interpretations did not prohibit the seven examples of excessive mechanical voids found in DCP's study, the Commission, upon analysis, finds this practice to serve no purpose other than to artificially elevate residential units above surrounding context in a way that is inconsistent with the intended purpose of excluding necessary mechanical space from floor area calculations. The Commission believes that the proposed zoning

text amendment addresses this practice in an appropriate way. Due to the extended period of engagement prior to the referral period as discussed above, land owners and practitioners have been aware of and informed that changes to the Zoning Resolution regarding mechanical space were imminent. The Commission therefore believes that a grace period or grandfathering provision is not necessary for this proposal.

The public also raised concerns about the proposal's geographic scope. Testimony and Community Board resolutions indicated that the text amendment should apply to residential and mixed-use buildings in currently excluded Special Purpose Districts, namely those that are considered central business districts. Other testimony and resolutions went further, recommending that the proposed regulation apply to non-residential buildings and other lower-density residential zoning districts. The Commission notes that DCP is evaluating residential buildings in central business districts throughout the city. The Commission further notes that the earlier study and consultations with industry experts confirmed that non-residential buildings include uses that vary widely, which requires a differing range of mechanical equipment needs that affect the size of mechanical floors in mixed-use buildings where residential uses are not the most prevalent use. Therefore, the Commission believes that this proposal is not appropriately applied to non-residential buildings. DCP's study focused on medium- to high-density residential zoning districts and their commercial equivalents, including R6 to R10 districts. The study found no use of excessive mechanical voids in R6 through R8 districts due to applicable existing bulk controls in the Zoning Resolution, including the sky exposure plane and lot coverage requirements. The Commission recognizes that, due to existing bulk limitations in R6 through R8 zoning districts, the construction of excessive mechanical spaces is highly unlikely, obviating a need to extend the proposal to these districts.

During the public review process, requests were submitted for the proposed regulation to include unenclosed voids. Mechanical spaces are captured by the basic definition of "floor area" and are then subject to a specific exclusion from floor area in the current Zoning Resolution, based on their mechanical function. The proposed text amendment effectively limits the terms of the specific exclusion for mechanical spaces. Unenclosed spaces – volumes that are not part of a building –

are not considered floor area under any circumstances. An effort to count unenclosed spaces as "floor area" would represent a fundamental shift in the concept of floor area, which is one of the most basic and consequential definitions in the Zoning Resolution. Unenclosed spaces exist in myriad shapes and configurations, serving a range of purposes including providing light, air, and open space. Unenclosed spaces have been used over the past century to enhance building design, as occurs in the Manhattan Municipal Building loggia, the landmarked Citicorp and Sony buildings, the recent buildings at the Domino site in Brooklyn, and many others. The Commission notes that changes intended to address concerns about tall unenclosed spaces would draw in a wide range of other, important considerations, and are beyond the scope of the proposed action.

Community Boards and community groups expressed concerns, outside the purview of this proposal, regarding tall building heights as a result of large floor-to-ceiling heights in residential units and amenity spaces, and through zoning lot mergers. The Commission notes that this proposal is not about building height; rather it addresses the recent practice of constructing artificially tall mechanical spaces in a manner that was never intended by the Zoning Resolution. The Commission agrees that mechanical voids are an appropriate issue to address through the Zoning Resolution by counting them as floor area over a specified threshold. However, residential units and amenity spaces are already regulated by floor area in the Zoning Resolution. The Commission does not believe it appropriate to regulate the heights of occupiable spaces within buildings that are already counted as floor area.

The Commission has carefully considered the recommendations and comments received during the public review of the application for the zoning text amendment (N 190230 ZRY), and believes that the proposed zoning text, as modified, is appropriate.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment; and be it further

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RESOLVED that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 the 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 <u>underlined</u> is new, to be added;

Matter struck out is to be deleted;

Matter within # # is defined in Section 12-10; * * * indicates where unchanged text appears in the Zoning Resolution.

ARTICLE II RESIDENCE DISTRICT REGULATIONS

Chapter 3 Residential Bulk Regulations in Residence Districts

* *

23-10 OPEN SPACE AND FLOOR AREA REGULATIONS

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

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Special #open space# and #floor area# provisions are set forth in Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) for <u>standard tower and</u> tower-on-a-base #buildings# in R9 <u>and R10</u> Districts, as well as for certain areas in Community District 7 and Community District 9 in the Borough of Manhattan, and Community District 12 in the Borough of Brooklyn. Additional provisions are set forth in Sections 23-17 (Existing Public Amenities for Which Floor Area Bonuses Have Been Received) and 23-18 (Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations).

* * *

23-16 Special Floor Area and Lot Coverage Provisions for Certain Areas

The #floor area ratio# provisions of Sections 23-14 (Open Space and Floor Area Regulations in R1 Through R5 Districts) and 23-15 (Open Space and Floor Area Regulations in R6 Through R10 Districts), inclusive, shall be modified for certain areas, as follows:

- (a) For standard tower and tower-on-a-base #buildings# in R9 and R10 Districts
 - (1) In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 100 percent on a #corner lot# and 70 percent on an #interior lot#.
 - (2) In R9 and R10 Districts, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 23-65 (Tower Regulations), inclusive, any floor space used for mechanical equipment provided pursuant to paragraph (8) of the definition of #floor area# in Section 12-10 (DEFINITIONS), and any floor space that is or becomes unused or inaccessible within a #building#, pursuant to paragraph (k) of the definition of #floor area# in Section 12-10, shall be considered #floor area# and calculated in accordance with the provisions of this Section, provided that such floor space:
 - (i) occupies the predominant portion of a #story#;
 - (ii) is located above the #base plane# or #curb level#, as applicable, and below the highest #story# containing #residential floor area#; and

(iii) exceeds an aggregate height of 30 feet in #stories# located within 75 vertical feet of one another within a #building#.

For the purpose of applying this provision, the height of such floor space shall be measured from the top of a structural floor to the bottom of a structural floor directly above such space. In addition, the number of #stories# of #floor area# such space constitutes within the #building# shall be determined by aggregating the total height of such floor spaces, dividing by 30 feet, and rounding to the nearest whole integer.

* * *

Chapter 4

Bulk Regulations for Community Facilities in Residence Districts

* * *

24-10 FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

24-112

Special floor area ratio provisions for certain areas

The #floor area ratio# provisions of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), inclusive, shall be modified for certain areas as follows:

- (a) in R8B Districts within Community District 8, in the Borough of Manhattan, the maximum #floor area ratio# on a #zoning lot# containing #community facility uses# exclusively shall be 5.10; and
- (b) in R10 Districts, except R10A or R10X Districts, within Community District 7, in the Borough of Manhattan, all #zoning lots# shall be limited to a maximum #floor area ratio# of 10.0-; and
- (c) in R9 and R10 Districts, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 23-65 (Tower

N 190230 ZRY

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Regulations), inclusive, the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (1) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (2) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* *

ARTICLE III COMMERCIAL DISTRICT REGULATIONS

Chapter 5 Bulk Regulations for Mixed Buildings in Commercial Districts

* * *

35-35 Special Floor Area Ratio Provisions for Certain Areas

* * *

<u>35-352</u> Special floor area regulations for certain districts

In C1 or C2 Districts mapped within R9 and R10 Districts, or in #Commercial Districts# with a residential equivalent of an R9 or R10 District, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 35-64 (Special Tower Regulations for Mixed Buildings), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (a) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (b) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

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ARTICLE IX SPECIAL PURPOSE DISTRICTS

Chapter 6 Special Clinton District

96-20 PERIMETER AREA

96-21 Special Regulations for 42nd Street Perimeter Area

* * *

(b) #Floor area# regulations

* * *

(2) #Floor area# regulations in Subarea 2

* * *

(3) Additional regulations for Subareas 1 and 2

In Subareas 1 and 2, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 35-64 (Special Tower Regulations for Mixed Buildings), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

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- (i) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (ii) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* * *

Chapter 8 Special West Chelsea District

* * *

98-20 FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

98-22 Maximum Floor Area Ratio and Lot Coverage in Subareas

* * *

<u>98-221</u> Additional regulations for Subdistrict A

In Subdistrict A, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 98-423 (Special Street wall location, minimum and maximum base heights and maximum building heights), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (a) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (b) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

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* *

The above resolution (N 190230 ZRY), duly adopted by the City Planning Commission on April 10, 2019 (Calendar No. 11), 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.

MARISA LAGO, Chair KENNETH J. KNUCKLES, Esq., Vice-Chairman DAVID BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III, MICHELLE R. de la UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, LARISA ORTIZ, RAJ RAMPERSHAD, Commissioners

ORLANDO MARIN, Commissioner, VOTING NO

NYSCEF DOC. NO. 38

COMMUNITY BOARD #1 – MANHATTAN RESOLUTION

DATE: FEBRUARY 26, 2019

COMMITTEE OF ORIGIN: LAND USE, ZONING & ECONOMIC DEVELOPMENT

COMMITTEE VOTE:	9 In Favor	0 Opposed	0 Abstained	0 Recused
PUBLIC VOTE:	2 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	37 In Favor	1 Opposed	0 Abstained	1 Recused

RE: Proposed Residential Tower Mechanical Voids Text Amendment N 190230 ZRY

- WHEREAS: The New York City Zoning Resolution currently allows floor space containing mechanical equipment to be excluded from zoning floor area calculations. The zoning does not specifically identify a limit to the height of such spaces. As a result, some developments have been built or proposed that use tall, inflated mechanical or structural floors to elevate upper-story residential units to improve their views. These spaces have been commonly described as "mechanical voids;" and
- WHEREAS: DCP has conducted a city-wide analysis to better understand the mechanical needs of residential buildings and to assess when excessive mechanical spaces were being used to inflate their overall height, specifically within R6 through R10 districts and their commercial equivalents over the past 10 years; and
- WHEREAS: DCP found that in R9 and R10 non-contextual zoning districts and their commercial district equivalents, residential buildings can penetrate the sky exposure plan through the optional tower regulations, which do not impose an explicit limit on height for portions of buildings that meet certain lot coverage requirements. DCP identified buildings that were characterized by either a single, extremely tall mechanical space, or multiple mechanical floors stacked closely together. The height of these mechanical spaces varied significantly but ranged between 80 feet to 190 feet in the aggregate; and
- WHEREAS: Based on the results of the analysis, DCP is proposing a text amendment for residential towers in R9 and R10 non-contextual zoning districts and their equivalent commercial districts to discourage the use of excessively tall enclosed mechanical spaces that disengage substantial amounts of building spaces from their surroundings; and
- WHEREAS: The amendment would require that enclosed floors occupied predominantly by mechanical space that are taller than 25 feet in height (whether singly or in combination) be counted as floor area. The provision would only apply to floors located below residential floor area to not impact mechanical penthouses found at the top of buildings where large amounts of mechanical space is typically located; and

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- WHEREAS: Additionally, any enclosed floors occupied predominantly by mechanical space located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height, would similarly count as floor area; and
- WHEREAS: The new regulation would also be applicable to the non-residential portions of a mixed-use building if the non-residential uses occupy less than 25 percent of the building; and
- WHEREAS: Finally, the regulations would also be made applicable to floors occupied predominantly by spaces that are unused or inaccessible within a building; and
- WHEREAS: The proposal would apply to towers in R9 and R10 residential districts and their equivalent commercial districts. The proposal would also apply to certain Special Purpose Districts that rely on the underlying tower regulations for floor area as well as height and setback regulations; and
- WHEREAS: DCP has stated that they will continue to study the issue of mechanical voids throughout NYC, including within central business districts like Lower Manhattan and Midtown, and announce their proposal for these areas in summer 2019; and
- WHEREAS: Community District 1 (CD1) has been experiencing unprecedented residential growth in the last two decades, characterized by the conversion and new construction of very tall residential and mixed-use towers, particularly in the Financial District. While the Financial District's zoning is designed to allow for high density and tall buildings, we are concerned about an over saturation of super-tall buildings in a way that blocks light and air and continues to over burden our community infrastructure; and
- WHEREAS: CD1 is home to some of the tallest towers in all of New York City. Certain areas of CD1 are historic and/or have contextual regulations with height limits and are therefore not applicable to this type of amendment, but we are highly concerned about areas like the Financial District where there are no height limits and where we have seen many new towers constructed, some with large mechanical voids; now

THEREFORE BE IT RESOLVED THAT:

- Community Board 1 (CB1) supports the spirit of this proposed zoning text amendment, which we view to be a corrective measure to close an existing loophole that allows for the use of excessive mechanical voids to inflate tower heights. We support the proposed Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY) with the following conditions:
- 1. In order to avoid leaving an unintentional loophole in the zoning, the proposed zoning text amendment must be amended so that it also applies to unenclosed mechanical voids
- 2. DCP must finalize the second phase of this proposal as soon as possible so that it also applies to central business district areas like the Financial District and other areas within CD1 where existing zoning regulations allow for excessive mechanical voids.

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Carter Booth, Chair Dan Miller, First Vice Chair Susan Kent, Second Vice Chair Bob Gormley, District Manager



Antony Wong, Treasurer Keen Berger, Secretary Erik Coler, Assistant Secretary

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899 www.cb2manhattan.org P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org Greenwich Village & Little Italy & SoHo & NoHo & Hudson Square & Chinatown & Gansevoort Market

February 26, 2019

Marisa Lago, Chair City Planning Commission 22 Reade Street New York, NY 10007

Dear Ms. Lago:

At its Full Board meeting on February 21, 2019, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

 *Discussion and resolution of the Residential Tower Mechanical Voids Text Amendment recently certified by City Planning Commission and presented by Sylvia Li of Dept. of City Planning.

Whereas:

- 1. Many of the new, tall buildings in New York City use empty "mechanical voids" in their design that are exempt from zoning floor area. These empty spaces can add hundreds of feet to the height of a building in order to create super-high apartments with better views stacked on top of light- and air-stealing, empty enclosed spaces.
- 2. The City has released a proposed zoning text amendment whose purpose is to limit how much of these mechanical voids would be exempt from restrictions on building size.
- The proposed changes would apply to residential towers in residential areas
 and would limit any one mechanical floor to no more than 25' in height, after
 which additional height would count towards building size limits.
- 4. Each mechanical floor would have to be separated from the next mechanical floor by 75' or it, too, would count toward zoning floor area.
- 5. For mixed-use buildings, non-residential mechanical space would be subject to the same 25'/75' limit, if non-residential uses occupy less than 25%.
- 6. A cluster of mechanical floors that totals 80' would count as three floors of zoning floor area, even when each floor is less than 25' and non-contiguous.
- 7. The City has made it clear that they will not apply these rules to unenclosed spaces, so if the void has no walls or is on stilts, the new restrictions won't

apply. Thus, developers can sidestep the text amendment by removing the walls from these structural voids.

- 8. It also does not appear that there would be anything to prevent a developer from making every few floors (separated by 75') a 25'-high mechanical floor and increasing the size and height of the building to get around limits that way.
- 9. A more effective way to achieve the stated goals and overall spirit of the measure would be to determine a maximum allowable percentage of overall building height that could be devoted to mechanical space.
- 10. The text amendment would apply to residential towers in non-contextual R9 and R10 residence districts and their commercial districts where residential towers are permitted.
- 11. Lower Fifth Avenue is zoned entirely R10, and while much of that street is in the historic district, the upper blocks within CB2 are not. Thus, only zoning limits the size and height of new development there.
- 12. The City should impose absolute height limits on new buildings in residential areas to ensure that they remain in context with their surroundings (as "contextual zoning" already does).

Therefore, CB2 recommends denial of this text amendment unless:

- 1. The text amendment is rewritten to apply to all void spaces—enclosed or not.
- 2. The City requires that non-FAR mechanical space be filled only with equipment necessary for the functioning of the building, and disallows any accompanying empty space as exempt from the FAR calculation.
- 3. The City creates a process for determining whether an interval of as little as 75' between voids is appropriate to most buildings.
- 4. The City establishes and enforces a limit on the percentage of allowable non-FAR mechanical space in residential buildings, and prohibits any other amount of empty space.

Vote: Unanimous, with 34 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,

Carter Booth Chair Community Board #2, Manhattan

Anita Brandt, Co-Chair Land Use & Business Development Committee Community Board #2, Manhattan

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Frederice Sigel

Frederica Sigel, Co-Chair Land Use & Business Development Committee Community Board #2, Manhattan

CB/jt

c:

Hon. Jerrold Nadler, Congressman
Hon. Carolyn Maloney, Congresswoman
Hon. Nydia Velasquez, Congresswoman
Hon. Brad Hoylman, State Senator
Hon. Brian Kavanagh, State Senator
Hon. Deborah Glick, Assemblymember
Hon. Yuh-Line Niou, Assemblymember
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council Speaker
Hon. Margaret Chin, Councilmember
Hon. Carlina, Rivera, Councilmember
Sylvia Li, Dept. of City Planning

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THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3 59 East 4th Street - New York, NY 10003 Phone (212) 533-5300 www.cb3manhattan.org - info@cb3manhattan.org

Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

February 27, 2019

Marisa Lago, Director Department of City Planning 120 Broadway, 31st Floor New York, New York 10271

At its February 2019 monthly meeting, Community Board 3 passed the following resolution:

TITLE: Resolution in Support of Department of City Planning's Proposed Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY)

WHEREAS, in recent years, some buildings have been completed using tall, inflated mechanical or structural floors to elevate upper story units above the surrounding context and improve their views;

WHEREAS, the NYC Zoning Resolution presently allows floor space containing mechanical equipment to be excluded from floor area calculation and does not specifically identify a limit to the height of such spaces;

WHEREAS, the Department of City Planning (DCP) conducted a city wide analysis of recent construction to better understand the mechanical needs of residential buildings and assess when excessive mechanical spaces were being used to inflate building height in R6 through R10 districts and their equivalent Commercial Districts;

WHEREAS, to discourage use of extremely tall mechanical floors that elevate upper-story residential units above the surrounding context the DCP has proposed Zoning Text Amendment (N 190230 ZRY) for residential buildings in high-density districts;

WHEREAS, with regard to residential buildings the proposed amendment states:

- Mechanical floors, typically excluded from floor area calculation, would be counted toward the overall permitted floor area on the zoning lot if they are taller than 25 feet or overly concentrated in portions of the building;
- Mechanical floors distributed within 75 feet of each other would be counted cumulatively toward overall permitted floor area, regardless of the height of each floor;

WHEREAS, the proposed amendment also includes floor area requirements for residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts, as well as

Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character;

WHEREAS, the proposed amendment would require non-residential portions of mixed use buildings that occupy less than 25% of the building to be subject to the same 25 foot/75 foot rule as residential buildings while non-residential space that occupies more than 25% of residential floor space, are not subject to the proposed amendment;

WHEREAS, the proposed amendment, while effective for curtailing the use of mechanical voids to add to building height, will be ineffective for voids consisting of outdoor spaces, amenities, and other building areas not used for accessory building mechanicals that have vast floor-to-floor heights;

THEREFORE, BE IT RESOLVED that Manhattan Community Board 3 supports DCP's proposed zoning text amendment for distribution of mechanical space in residential towers;

BE IT FURTHER RESOLVED that Manhattan Community Board 3 supports additional amendments to the Zoning Resolution to close other known zoning loopholes used to the same effect as mechanical voids. These include outdoor spaces under buildings (terraces), stilt buildings, and accessory or other building uses with floor-to-floor heights in excess of 25 feet in residential buildings;

BE IT FURTHER RESOLVED that Manhattan Community Board 3 supports further amendments to the Zoning Resolution to expand the geographic areas covered by the proposed amendment, and any future amendments to close zoning loopholes.

Sincerely,

Alipha Quis-Coleman

Alysha Lewis-Coleman, Chair Community Board 3

CC: Matthew Pietrus, Department of City Planning Bob Tuttle, Department of City Planning Office of Councilmember Margaret Chin Office of Councilmember Carlina Rivera Office of Manhattan Borough President Gale brewery Office of NYS Assemblymember Yuh-line Niou Office of NYS Assemblymember Harvey Epstein Office of NYS Assemblymember Deborah Glick Office of NYS Senator Brian Kavanagh Office of NYS Senator Brad Hoylman

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CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036 tel: 212-736-4536 fax: 212-947-9512 www.nyc.gov/mcb4

Burt Lazarin Chair

Jesse R. Bodine District Manager

March 7, 2019

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

Re: Proposed Residential Tower Mechanical Voids Text Amendment

Dear Chair Lago,

On January 28, 2019, the Department of City Planning (DCP) referred out the Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY), beginning the public review process. At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee meeting on February 13, 2019 and the Chelsea Land Use Committee meeting on February 21, 2019, members reviewed and discussed this proposed text amendment.

By a vote of 37 in favor, 0 opposed, 1 abstaining, and 1 present but not eligible to vote, the Board voted to deny this zoning text amendment unless the following conditions are met:

- Inclusion of the west side of Eighth Avenue from West 42nd and West 45th Streets in the proposed text amendment
- Inclusion of the Special Hudson Yards Subdistricts D1, D2, and D3 in the proposed text amendment
- Inclusion of certain R8 Districts within Manhattan Community District 4 that are outside of a Special Zoning District in the proposed text amendment
- Exclusion of Special Garment Center District Subarea-A2 with a C6-4M zoning from the proposed text amendment
- DCP to immediately undertake the Phase II text amendment proposal to restrict excessive mechanical voids within commercial districts

• DCP to further study and refine the definition of excessive height within mechanical spaces

Background

The New York City Zoning Resolution allows floor space containing mechanical equipment to be excluded from zoning floor area calculations. The Resolution does not specifically identify a limit to the height of such spaces. In recent years, developments have been built or proposed that use tall, inflated mechanical floors to elevate upper-story residential units above the surrounding context and improve their views. These spaces have been commonly described as "mechanical voids."

Renderings of a proposed residential tower on the Upper East Side released in 2018 showed four mechanical floors creating an additional height of approximately 150 feet in the middle of the building and raising its overall height to over 500 feet, far above other buildings in the surrounding area built under the same regulations. In response to this type of building form, Mayor De Blasio requested that DCP examine the issue of excessive mechanical voids that are used in ways not anticipated or intended by the zoning.

Proposed Text Amendment

DCP proposes a city-wide Zoning Text Amendment for residential buildings in high-density districts to discourage the use of excessively tall mechanical floors that elevate upper-story residential units above the surrounding context. Mechanical floors are normally excluded from the FAR calculations. However, if the mechanical floor heights are taller than the new specified height limit or clustered in a portion of the building, these mechanical floors would now be counted as floor area. The proposed text amendments are as follows:

• Floor Height of Mechanical Space

Floors occupied predominantly by mechanical spaces that are taller than 25 feet in height (whether singly or in combination) will be counted as floor area. Taller floors, or stacked floors taller than 25 feet, would be counted as floor area based on the new 25-foot height threshold as well.

• Clustering of Mechanical Space

Floors occupied predominantly by mechanical space located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height would similarly count as floor area. This amendment would address situations where non-mechanical floors are interspersed among mechanical floors in response to the new 25-foot height threshold, while still allowing buildings to provide needed mechanical space for different portions of a building.

- Height of Mechanical Space in Predominantly Residential Mixed-Use Buildings If the non-residential uses occupy less than 25 percent of a mixed-use building, the nonresidential portions of the building that are taller than 25 feet in height will be counted as floor area.
- Floor Height of Unused or Inaccessible Space Floors occupied predominantly by spaces that are unused or inaccessible within a building that are taller than 25 feet in height will be counted as floor area.

The proposed floor area requirements would apply to residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character. The provision would also apply to non-residential portions of a mixed-use building if the building contains a limited amount of non-residential floor area.

MCB4 Response

Over the past two decades, the City has undergone massive rezonings with attendant development and redevelopment of entire neighborhoods. Change is the nature of our City, wholesale change of entire districts and neighborhoods at such a pace, that is has been difficult for many New Yorkers to manage. New zoning regulations have caused a major change in various neighborhoods in Manhattan Community District 4 (MCD4).

MCD4 has the densest mapped zoning in the City of New York¹. While the City becomes denser, MCB4 is dedicated to insuring a balance between technological advances in engineering and architecture, alongside building neighborhood context. MCB4 recognizes the need for density to achieve important public policy goals, such as increasing the supply of housing, both market rate and affordable. However, such policy goals cannot be at the expense of additional height, completely out of scale with the existing neighborhood and the existing zoning and built environment.

MCB4 acknowledges that the proposed text amendments will address a specific unintended type of development; however, the proposed text amendment does not address the overall issue of total building height. The broader development community continues to take advantage of various zoning loopholes, which have resulted in various types of unregulated development:

- building 'stilts' or building floors with less than four covering walls,
- oversized mechanical floors built on the lower floors which result in quality of life disturbances,
- the installation of oversized mezzanines,
- excessive building floor to ceiling heights.

¹ The Special Hudson Yards District has mapped FAR ranging between 13 and 33 FAR

These matters must be addressed in future zoning text amendment regarding mechanical voids.

MCB4 requests the following matters be addressed in the proposed Zoning Text Amendments:

West Side of Eighth Avenue from West 42nd and West 45th Streets

This area has a C6-4 zoning, which is an R10 equivalent that allows for residential developments to a maximum of 12 FAR. This area is 150 feet west of Eighth Avenue between the above referenced blocks. DCP has excluded from their proposed text amendment a portion of the Special Clinton District that overlaps with the Special Midtown District. MCB4 proposes that the proposed text amendment be applied in this district for developments where non-residential uses occupy less than 25 percent of the building.

Special Hudson Yards Subdistricts Mapped with Commercial Zoning but Producing Predominantly Residential Buildings

Subdistricts D1 and D2 within the Special Hudson Yards District are currently redeveloped as predominantly residential buildings, with the zoning allowing a total FAR of up to 15 and 13 FAR respectively. These subdistricts have an underlying C2-8 zoning, which are R10 equivalents and allow for residential developments to a maximum of 12 FAR.

Subdistrict D3 within the Special Hudson Yards District is also currently redeveloped as predominantly residential buildings, with the zoning allowing a total FAR of up to 12 FAR. This subdistrict has an underlying C6-3 zoning, which is an R9 equivalent that allows for residential developments to a maximum of 7.5 FAR.

Given the zoning equivalencies, MCB4 requests that the proposed void restrictions also be applied to Special Hudson Yards Subdistricts D1, D2, and D3.

Given the R9 & R10 zoning equivalency, MCB4 proposes that the proposed text amendment be applied in this district for developments where non-residential uses occupy less than 25 percent of the building.

R8 Districts

DCP conducted a survey of new residential buildings across the City and concluded that the most egregious examples of excessive mechanical voids are in non-contextual R9 and R10 districts. It was recognized that no such excessive voids are being built in other residential zones with lesser density. Furthermore, certain Special Zoning Districts with height and setback restrictions would take precedence over bulk restrictions.

MCB4 notes that, although the use of unregulated mechanical voids in R8 districts has not yet occurred, it is not prevented. The proposed text amendment will not regulate mechanical voids in

R8 districts. MCB4 requests the inclusion of certain R8 Districts², the majority are in Chelsea, and not in a Special Zoning District.

MCB4 proposes that the proposed text amendment be applied to R8 zoning districts.

Unnecessary Application within the Special Garment Center District, Subdistrict A2

DCP has included a portion of the Special Garment Center District within its proposed text amendment. This area is bounded 100 feet west of Eighth Avenue and 100 feet east of Ninth Avenue, between West 35th and West 39th Streets. This area has a C6-4M zoning.

MCB4 proposes that this area not be included, as there is already an existing 250 feet height restriction within the zoning resolution.

Study of Commercial Districts

DCP has excluded most Special Districts within its analysis, under the assumption that Special Districts, especially those considered Central Business Districts, consist of commercial buildings that encompass a larger and more complex need for mechanical voids, which are not studied within this analysis.

While MCB4 understands the reasoning for this exclusion, MCB4 urges DCP to immediately undertake the next text amendment proposal phase to restrict excessive mechanical voids within Hudson Yards, West Chelsea, Garment Center³, and Clinton Special Districts. Many of MCB4 residential neighborhoods are adjacent to such districts and the quality of life of our residents is directly impacted by developments in central business districts.

Definition of Excessive Height

DCP is proposing a formula using a 25-foot finished ceiling height, which comes from current experience of the average ceiling height of most buildings being 12-feet, and simply doubling that number.

MCB4 encourages DCP to provide a more technical reasoning and definition of necessary height for mechanical floors and provide empirical evidence to support its claims. There are standards about boiler clearance, water tank dimensions, and efficient space for exhaust, yet none of these formulas are used to justify an exact amount of space necessary for mechanical areas. Discussions during the committee meetings also turned to the fact that new technologies have dramatically reduced the size of mechanical equipment and are providing efficiencies creating a lesser need for mechanical space in buildings.

² See attachment

³ The portion of the SGCD along Eighth Avenue from West 35th to West 39th Streets not covered the height limits in Subdistrict A2

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DOB Internal Guidance Memo

MCB4 requests the Department of Buildings (DOB), subsequent to the final adoption of the proposed text amendment by the City Council to issue an Internal Guidance document for both DOB plan examiners and the professional and development community. This action will prevent misinterpretations and provide a clear path for development of mechanical spaces in the City.

MCB4 applauds the efforts of DCP to restrict excessive and unnecessary mechanical voids in buildings solely developed to provide additional height and revenue for developers at the expense of neighborhood context and public policy goals. However, MCB4 requests a more finely tuned approach to regulate such mechanical spaces and ensure no further unintended consequences.

Sincerely,

Burt Lazarin Chair Manhattan Community Board 4

Betty Mackindoch

Betty Mackintosh Co-Chair Chelsea Land Use Committee

Enclosure

Jean-Daniel Noland Chair Clinton/Hell's Kitchen Land Use Committee

Alucion

Lee Compton Co-Chair Chelsea Land Use Committee

Cc: Hon. Jerry Nadler, U.S Congress
Hon. Corey Johnson, Speaker, New York City Council
Hon. Gale Brewer, Manhattan Borough President
Hon. Helen Rosenthal, City Council
Hon. Brad Hoylman, New York State Senator
Hon. Linda Rosenthal, New York State Assembly
Hon. Richard Gottfried, New York State Assembly
Thomas Fariello, Acting Commissioner, DOB
Martin Rebholz, Borough Commissioner, DOB
Patrick Wehle, Assistant Commissioner, DOB



Charge For the most up to date zoning information for this map, visit the Zoning section of the Department of City Planning website www.nys.gov/planning or contact the Zoning Information Desk at increased. (212) 720-3291

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

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MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109 New York, NY 10123-2199 f-212.465.1628 212.465.0907

Wally Rubin, District Manager

February 15, 2019

Hon. Marisa Lago Chair of the City Planning Commission 22 Reade Street New York, NY 10007

Application by Department of City Planning to modify residential tower floor area provisions in Re: ZR 23-16

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, January 17, 2019, the following resolution passed with a vote of 26 in favor; 0 opposed; 1 abstaining, 1 present but not entitled:

WHEREAS, The Department of City Planning has proposed a Zoning Text Amendment to ZR 23-16 to address the issue of excessively large, contiguous or clustered, residential mechanical voids in towers; and

WHEREAS, The proposed amendment would limit the use of artificially tall residential mechanical voids; and

WHEREAS, We recognize the need for reasonably sized and distributed mechanical spaces in residential buildings, and continue to support design flexibility; and

WHEREAS. The proposed amendment would count mechanical voids that exceed the height of 25 feet as "zoning floor area" (EXAMPLE: If a mechanical void is 132 feet in height, that space would count as 5 floors of "zoning floor area" (132'/25' = 5.28, rounded to 5); and

WHEREAS, If any mechanical floors are located within 75' of each other they would all count as "zoning floor area," regardless of the height of each floor (EXAMPLE: A cluster of mechanical floors which total 80 feet would count as 3 floors of "zoning floor area," even when each floor is less than 25 feet and noncontiguous (80' / 25' = 3.2 rounded to 3); and

WHEREAS, Mechanical penthouses above the highest residential floor would not be subject to this regulation; and

WHEREAS, For mixed-use buildings, non-residential mechanical spaces would also be subject to the same "25foot/75-foot rule," if non-residential floor space occupies less than 25% of a building; and

WHEREAS, For mixed-use buildings with substantial amount of non-residential floor space (i.e. more than 25%), non-residential mechanical voids would not be subject to this proposal; and

WHEREAS, Residential tower developments located within non-contextual Commercial Districts and Special Districts and their R10 and R9 equivalent rely on the underlying FAR as there is no height regulation; and

WHEREAS, The proposal would also include portions of Special Districts that impose special tower regulations; and

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WHEREAS, In their survey, DCP found that 4 of the 7 buildings built with mechanical voids in the past 10 years are located in CB5; and

WHEREAS, For the past 10 years, Community Board Five has alerted the Department of City Planning, the City Planning Commission, the NY City Council and the Mayor to the grave impacts of supertall towers on our district, including One 57 (1,005'), 432 Park (1,396'), 220 Central Park South ((953'), 111 57th Street aka Steinway Tower (1,428'), Nordstrom Tower (1550'), 53W53 (950'); and

WHEREAS, Our advocacy has been derided as futile, ignored and dismissed, while supertalls have grown along Central Park South, creating a wall of towers that cast shadows reaching as far as East 72nd Street; and

WHEREAS, Contrary to what was asserted by the Department of City Planning at a meeting of our Land Use, Housing and Zoning Committee on February 6th, 2019, the Midtown Special District sky plane exposure requirements will not protect CB5 from supertall buildings or buildings with mechanical or structural voids; and

WHEREAS, CB5 is gravely concerned that DCP declared to us that their role is not to plan the city; and

WHEREAS, As of February 2019, there are four identified extremely soft sites in the southern vicinity of Central Park between 5th and 6th Avenues that would be allowed to proceed with development of supertall towers with mechanical voids absent being immediately added to the map covered by the proposed amendment; they include:

- 1 10-18 West 57th Street (Developer Solow)
- 2 31 West 57th Street (Developer LeFrak and Vornado)
- 3 Park Lane Hotel (Developer Witkof)
- 4-41-43 West 57th Street (Developer Sedesco); and

WHEREAS, The week following the certification by DCP of their zoning text amendment, according to DOB, five demolition permits were filed for buildings on West 57th Street between 5th and 6th Avenues, showing the extreme vulnerability of our blocks to redevelopment, as well as the extreme urgency for protection to apply to our district; and

WHEREAS, CB5 was Ground Zero for the toxic trend of using structural voids to increase building heights; and

WHEREAS, Megatowers along Central Park and other areas of our district are casting massive shadows onto our parks and open spaces rendering them less usable in winter months; and

WHERES, Community Board Five commends the proposal as a good first step, but feels that the amendment is lacking the specific elements to effectively address the issue of mechanical voids around the city and in our district; and

WHEREAS, Community Board Five has concerns that the ratio of 25' to every 75' for mechanical voids is excessive and should be reduced to be less than 25' (closer to its average of 12' to 15') and more than 75' from each other (closer to its average of 100' to 150'); and

WHERES, The zoning text amendment would not apply to significant portions of CB5 which are at heightened risk of mechanical voids artificially increasing the height of developments; and

WHEREAS, The amendment doesn't address the issue that future developers will just use this as a guideline to include more mechanical space than originally planned to increase the height of upper floors for purely inflated real estate value, while creating a skyline of floating towers; and

WHEREAS, The amendment does not address other types of structural voids, such as open space, terraces and patios located within the core of a tower; and

WHEREAS, In its current form, the zoning text amendment is a codification of a loophole rather than an elimination of the loophole; therefore, be it

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RESOLVED, Community Board 5 recommends denial UNLESS the following modifications are made to the proposed Zoning Text Amendment to ZR 23-16:

- (1) Reduce the maximum allowed floor height for mechanical floors to be less than 25' (closer to its average of 12' to 15') and to have a separation more than 75' from each other (closer to its average of 100' to 150');
- (2) Revise the Zoning Map to include all eligible R9-R10 Zoning Lot Districts in CB5;
- (3) Revise the amendment so that this will apply to any mixed-use building that has any residential units;
- (4) Revise the amendment to apply to all structural voids and not only mechanical voids; and be it further

RESOLVED, Community Board Five demands that the Department of City Planning immediately include Community Board Five in the current iteration of the Zoning Text Amendment so that all residential and mixeduse development sites are addressed simultaneously by this proposed zoning amendment.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero Chair

Cc: Hon. Bill de Blasio Deputy Mayor Alecia Glen Speaker Corey Johnson Borough President Gale A Brewer Hon. Brad Hoylman Hon. Liz Krueger Hon. Richard Gottfried Hon. Carolyn Maloney Hon. Carlina Rivera Hon. Keith Powers

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Layla Law-Gisiko Acting Chair, Land Use, Housing & Zoning Committee

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MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109 New York, NY 10123-2199 212.465.0907 f-212.465.1628 Wally Rubin, District Manager

February 15, 2019

Hon. Marisa Lago Chair of the City Planning Commission 22 Reade Street New York, NY 10007

Re: A call for Zoning Resolution amendments addressing the rise of supertall buildings and a moratorium on supertalls until the City properly addresses their negative impacts

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, February 14, 2019, the following resolution passed with a vote of 26 in favor; 0 opposed; 1 abstaining, 1 present but not entitled:

WHEREAS, A boom in luxury development has heralded the rapid rise of supertall buildings that have changed the city's skyline; and

WHEREAS, These buildings, at least 600 feet in height and often significantly taller than that, raise a number of important concerns;

WHEREAS, They are typically out of context with the surrounding neighborhood, irreversibly altering the scale and streetscape of the area; and

WHEREAS, In 2014, Community Board Five, created the Central Park Sunshine Task Force to assess the negative impacts of these supertall buildings; and

WHEREAS, The Central Park Sunshine Task Force produced a report identifying a significant number of issues and concerns brought about by these supertall structures, including:

1 - Their shadow impact to public open space, including parks and playgrounds

2 - Their impact on historic resources and our aging infrastructure

3 - Their impact on fire and construction safety; and

WHEREAS, Community Board Five passed a resolution in May 2015 recommending the introduction of amendments to the Zoning Resolution addressing these concerns, as well as new CEQR evaluations and mitigations; and

WHEREAS, In 2019 our calls for the Department of City Planning to make these amendments to the zoning text on an expedited basis still go unheeded; and

WHEREAS, In 2015, we recommended that a moratorium be adopted on any new supertalls until the zoning text and CEQR manual address these negative impacts; and

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WHEREAS, 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; and

WHEREAS, Such moratoria have been enacted to prevent the creation of adult establishments, the conversion of SRO hotels, and the conversion of transient hotels; and

WHEREAS, Absent prompt action by City Planning or a moratorium, New York City may witness the construction over the next few years of dozens of buildings with heights and massing which are incompatible with existing nearby buildings, which will inflict unacceptable shadow conditions on nearby parks, open spaces and playgrounds, and have many other environmental impacts; therefore be it

RESOLVED, Community Board Five joins Community Board Seven in **recommending** that a **moratorium** be adopted by the New York City Council on the issuance of building permits for projects involving any of the following:

1- unoccupied structural spaces, whether enclosed or unenclosed, including mechanical spaces exceeding, in total, 30 feet in height ("voids");

2 - ceiling heights in excess of average height (ie. 10 to 12 feet)

3 - zoning lot mergers resulting in projects with building heights more than 10% higher than would be permissible absent the merger, or 10% denser in areas that don't have a height restriction; and be it further

RESOLVED, The moratorium should last 24 months, subject to renewal, and subject to an application to the Board of Standards and Appeals for a special permit or variance.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero Chair

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Layla Law-Gisiko Acting Chair, Land Use, Housing and Zoning Committee

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Molly Hollister Chair

CLAUDE L. WINFIELD, FIRST VICE CHAIR AHSIA BADI, SECOND VICE CHAIR



JESÚS PÉREZ DISTRICT MANAGER

BRIAN VAN NIEUWENHOVEN, TREASURER BEATRICE DISMAN, ASST. TREASURER KATHY THOMPSON, SECRETARY AMELIA ACOSTA, ASST. SECRETARY

THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD SIX 211 EAST 43RD STREET, SUITE 1404 NEW YORK, NY 10017

VIA E-MAIL

February 15, 2019

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

Resolution in support of Department of City Planning's Proposed Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY)

At the February 13, 2019 Full Board meeting of Manhattan Community Board Six, the Board adopted the following resolution:

WHEREAS, in recent years, some buildings have been completed using tall, inflated mechanical or structural floors to elevate upper story units above the surrounding context and improve their views;

WHEREAS, the NYC Zoning Resolution presently allows floor space containing mechanical equipment to be excluded from floor area calculation and does not specifically identify a limit to the height of such spaces;

WHEREAS, the Department of City Planning (DCP) conducted a city wide analysis of recent construction to better understand the mechanical needs of residential buildings and assess when excessive mechanical spaces were being used to inflate building height in R6 through R10 districts and their equivalent Commercial Districts;

WHEREAS, to discourage use of extremely tall mechanical floors that elevate upper-story residential units above the surrounding context the DCP has proposed Zoning Text Amendment (N 190230 ZRY) for residential buildings in high-density districts;

WHEREAS, with regard to residential buildings the proposed amendment states:

- Mechanical floors, typically excluded from floor area calculation, would be counted toward the overall permitted floor area on the zoning lot if they are taller than 25 feet or overly concentrated in portions of the building
- Mechanical floors distributed within 75 feet of each other would be counted cumulatively toward overall permitted floor area, regardless of the height of each floor;

WHEREAS, the proposed amendment also includes floor area requirements for residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character;

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WHEREAS, the proposed amendment would require non-residential portions of mixed use buildings that occupy less than 25 % of the building to be subject to the same 25 foot/75 foot rule as residential buildings while non-residential space that occupies more than 25% of residential floor space, are not subject to the proposed amendment;

WHEREAS, the proposed amendment, while effective for curtailing the use of mechanical voids to add to building height, will be ineffective for voids consisting of outdoor spaces, amenities, and other building areas not used for accessory building mechanicals that have vast floor-to-floor heights;

WHEREAS, the proposed amendment omits the Special Midtown District;

THEREFORE, BE IT RESOLVED that Manhattan Community Board Six supports DCP's proposed zoning text amendment for distribution of mechanical space in residential towers;

BE IT FURTHER RESOLVED that Manhattan Community Board Six supports additional amendments to the Zoning Resolution to close other known zoning loopholes used to the same effect as mechanical voids. These include outdoor spaces under buildings (terraces), stilt buildings, and accessory or other building uses with vast floor-to-floor heights;

BE IT FURTHER RESOLVED that Manhattan Community Board Six supports further amendments to the Zoning Resolution to expand the geographic areas covered by the proposed amendment, and any future amendments to close zoning loopholes, to cover the Special Midtown District.

VOTE: 32 in Favor o Opposed 1 Abstention o Not Entitled

Best regards,

Jesús Pérez District Manager

Cc: Hon. Gale Brewer, Manhattan Borough President Hon. Keith Powers, Council Member Hon. Carlina Rivera, Council Member Hon. Ben Kallos, Council Member Bob Tuttle, City Planner, New York City Department of City Planning Scott Williamson, City Planner, New York City Department of City Planning Sandro Sherrod, Chair, CB6 Land Use & Waterfront Committee

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COMMUNITY BOARD 7



Manhattan

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 5th, 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,

Sonpi

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

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COMMUNITY BOARD 7



Manhattan

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. 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 ultrawealthy 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 66th 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:

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Date: March 5, 2019 Committee of Origin: Land Use Re: Residential Tower Mechanical Voids Text Amendment. Full Board Vote: 38 In Favor 1 Against 0 Abstentions 0 Present

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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. 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.

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Date: March 5, 2019 Committee of Origin: Land Use Re: Residential Tower Mechanical Voids Text Amendment. Full Board Vote: 38 In Favor 1 Against 0 Abstentions 0 Present

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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% $(3/15^{th})$ 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. 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**.

250 West 87th Street New York, NY 10024-2706 *Phone:* (212) 362-4008 *Fax:* (212) 595-9317 Web site: nyc.gov/mcb7 e-mail address: office@cb7.org

NYSCEF DOC. NO. 38

INDEX NO. 160565/2020 RECEIVED NYSCEF: 02/16/2021

COMMUNITY BOARD 7



Manhattan

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 is 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.

> 250 West 87th Street New York, NY 10024-2706 *Phone:* (212) 362-4008 *Fax:*(212) 595-9317 Web site: nyc.gov/mcb7 e-mail address: office@cb7.org

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Alida Camp Chair

Will Brightbill District Manager



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505 Park Avenue, Suite 620 New York, N.Y. 10022 (212) 758-4340 (212) 758-4616 (Fax) info@cb8m.com – E-Mail www.cb8m.com – Website

The City of New York Community Board 8 Manhattan

February 22, 2019

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

RE: Application by Department of City Planning to modify residential tower floor area provisions in ZR 23-16 relating to Mechanical Voids in Residential Towers (N 190230 ZRY)

Dear Chair Lago,

At the Land Use and Full Board meeting of Community Board 8 Manhattan held on February 20, 2019, the board **approved** the following resolution by a vote of 39 in favor, 0 opposed, 1 abstentions, and 1 not voting for cause.

WHEREAS, in recent years, several buildings have been completed using tall, inflated mechanical or structural floors to elevate upper story units above the surrounding context and improve their views; and

WHEREAS, the NYC Zoning Resolution presently allows floor space containing mechanical equipment to be excluded from the floor area calculation and does not specifically identify a limit to the height of such spaces; and

WHEREAS, at the urging of local elected officials, Community Boards, and advocacy organizations, the Department of City Planning (DCP) conducted a city-wide analysis of recent construction to better understand the mechanical needs of residential buildings and assess when excessive mechanical spaces were being used to inflate building height in R6 through R10 districts and their equivalent Commercial Districts; and

WHEREAS, the Department of City Planning has proposed a Zoning Text Amendment to ZR 23-16 to address the issue of excessively tall, contiguous, or clustered residential mechanical voids in towers; and

WHEREAS, the proposed amendment would limit the use of residential mechanical voids; and

WHEREAS, CB8 recognizes the need for proportionately and contextually sized and distributed mechanical spaces in residential buildings; and

WHEREAS, the proposed amendment would count mechanical voids that exceed the height of 25 feet as "zoning floor area"; and

WHEREAS, if any mechanical floors are located within 75' of each other, they would all count as "zoning floor area"; and

WHEREAS, the mechanical penthouse above the highest residential floor would not be subject to this regulation; and

WHEREAS, for mixed-use buildings, non-residential mechanical spaces would also be subject to the same "25-foot/75-foot rule" if non-residential floor space occupies less than 25% of the building; and

Page 1 of 2

WHEREAS, for mixed-use buildings with a substantial amount of non-residential floor space (i.e. more than 25%), the non-residential mechanical voids would not be subject to this proposal; and

WHEREAS, the proposed amendment, while effective for curtailing the use of mechanical voids to add to building height, will be ineffective for voids consisting of outdoor and unenclosed spaces, amenities, and other building areas not used for accessory building mechanicals that have inappropriate floor-to-floor heights

WHEREAS, CB8 has concerns that the ratio of 25' to every 75' for mechanical voids is excessive and should be reduced to be less than 25' (closer to the average of 12-15 feet) and more than 75' from each other (closer to the average of 100-150 feet); and

WHEREAS, the proposed amendment does not address other types of structural voids, such as open space, terraces, and patios located within the core of the tower, and

WHEREAS, the proposed amendment does not address the use of stilts or unenclosed voids to elevate residential floors; and

WHEREAS, the proposed amendment does not address the issue of gerrymandered zoning lot mergers that have allowed developers to side-step the Zoning Resolution's provisions; and

WHEREAS, the proposed amendment does not address the issue of oversized floor-to-floor heights in residential floor area, which is another way developers have increased the height of their buildings dramatically; and

WHEREAS, Community Board 8 believes that contextual height limits would eliminate or minimize the use of loopholes in our neighborhood;

THEREFORE, BE IT RESOLVED THAT Community Board 8 approved DCP's proposed zoning text amendment N 190230 ZRY as phase one of the process of closing the zoning loopholes that have allowed developers to inflate the height of new buildings; and,

BE IT FURTHER RESOLVED THAT Community Board 8 supports additional amendments to the Zoning Resolution to close other known zoning loopholes used to the same effect as mechanical voids, including outdoor spaces under and within buildings (terraces), stilt buildings, gerrymandered zoning lot mergers, and accessory or other building uses with vast floor-to-floor heights; and

BE IT FURTHER RESOLVED THAT Community Board 8 supports further amendments to the Zoning Resolution to expand the geographic areas covered by the proposed amendment, and to also include mechanical voids in mixed-use buildings with a substantial amount of non-residential floor area, and any future amendments to close zoning loopholes, and that such amendments cover both residential and commercial districts.

Sincerely,

Honorable Bill de Blasio, Mayor of the City of New York cc: Honorable Carolyn Maloney, 12th Congressional District Representative Honorable Gale Brewer, Manhattan Borough President Honorable Liz Krueger, NYS Senator, 28th Senatorial District Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District Honorable Ben Kallos, NYC Council Member, 5th Council District Honorable Keith Powers, NYC Council Member, 4th Council District

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CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD 10

215 West 125th Street, 4th Floor—New York, NY 10027

T: 212-749-3105 F: 212-662-4215

CICELY HARRIS Chairperson

SHATIC MITCHELL District Manager

March, 11th 2019

Marisa Lago, Director Department of City Planning 120 Broadway, 31st Floor New York, New York 10271

Resolution in support of Department of City Planning's Proposed Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY)

WHEREAS, DCP is proposing a zoning text amendment for residential towers in R9 and R10 noncontextual zoning districts and their equivalent Commercial Districts to discourage the use of excessively tall mechanical spaces that disengage substantial amounts of building spaces from their surroundings. The amendment also seeks to recognize the need for reasonably sized and distributed mechanical spaces in residential towers, as well as the virtue of providing overall flexibility to support design excellence in these areas.

WHEREAS, the Department of City Planning (DCP) conducted a city wide analysis of recent construction to better understand the mechanical needs of residential buildings and assess when excessive mechanical spaces were being used to inflate building height in R6 through R10 districts and their equivalent Commercial Districts;

WHEREAS, to discourage use of extremely tall mechanical floors that elevate upper-story residential units above the surrounding context the DCP has proposed Zoning Text Amendment (N 190230 ZRY) for residential buildings in high-density districts;

WHEREAS, with regard to residential buildings the proposed amendment states:

• Mechanical floors, typically excluded from floor area calculation, would be counted toward the overall permitted floor area on the zoning lot if they are taller than 25 feet or overly concentrated in portions of the building

• Mechanical floors distributed within 75 feet of each other would be counted cumulatively toward overall permitted floor area, regardless of the height of each floor;

WHEREAS the city's zoning text currently makes an allowance for spaces used to house mechanical equipment such as boiler, elevator machinery, and other such equipment to not count against the total floor area (FAR) that is permitted to be built on a lot;

WHEREAS, developers have frequently abused this allowance for mechanicals to build outsized floors of exceptional height and volume beyond that required to house the mechanicals.

WHEREAS, the proposed amendment would require non-residential portions of mixed use buildings that occupy less than 25% of the building to be subject to the same 25 foot/75 foot rule as residential buildings while non-residential space that occupies more than 25% of residential floor space, are not subject to the proposed amendment;

WHEREAS, Manhattan Community Board 10 (CB10) which presently has two areas being considered in the Department of City Planning's (DCP) proposed voids amendment. The two areas in our District are located at 110th Street and Frederick Douglass Circle and another on Frederick Douglass Boulevard between 134th and 135th Streets.

WHEREAS we are aware that in the future new development will demand more height and density that we will have to address. We are concerned that future developers will use this loophole to include more mechanical space that originally planned to increase the height of upper floors for purely inflate real estate value, while creating a skyline of huge towers. Historically Central Harlem has been known for low density and heights. There are now indications that this is slowly changing with new developments that are coming before the board's land use committee.

WHEREAS CB10 believes that occupation of light and air ought to be reserved for productive space used for commercial, manufacturing, community facility, or residential use

WHEREAS, the proposed amendment, while effective for curtailing the use of mechanical voids to add to building height, will be ineffective for voids consisting of outdoor spaces, amenities, and other building areas not used for accessory building mechanicals that have vast floor-to-floor heights;

THEREFORE, BE IT RESOLVED that Manhattan Community Board 10 supports DCP's proposed zoning text amendment for distribution of mechanical space in residential towers. On March 6^{th} 2019 at our General Board Meeting CB10 voted <u>25</u> yes <u>0</u> no <u>0</u> abstentions.

Cicely Harris Chair Manhattan Community Board 10

Alon N. Deaton

Stanley Gleaton Chair Land Use Committee

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COMMUNITY BOARD ELEVEN

B O R O U G H O F M A N H A T T A N 1 6 6 4 P A R K A V E N U E N E W Y O R K, N Y 1 0 0 3 5 T E L : 2 1 2 - 8 3 1 - 8 9 2 9 F A X : 2 1 2 - 3 6 9 - 3 5 7 1 w w w . c b 1 1 m . o r g

Nilsa Orama Chair

Angel D. Mescain District Manager

February 21, 2019

Marisa Lago Director New York City Department of City Planning 120 Broadway, 31st Floor New York, NY 10271

Re: Recommendation on Land Use Application No. N 190230 ZRY

Dear Director Lago,

On February 19, 2019, Community Board 11 (CB11) voted on land use application, N 190230 ZRY, submitted by the New York City Department of City Planning ("the applicant") with respect to a proposed zoning text amendment which would discourage the use of excessively tall mechanical floors that elevate upper-story residential units above the surrounding context. The proposed change would apply to residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts. This proposal was presented by the Department of City Planning to our Land Use, Landmarks & Planning Committee on February 6, 2019.

Project Description

DCP is proposing a zoning text amendment for residential towers in R9 and R10 non-contextual zoning districts and their equivalent Commercial Districts to discourage the use of excessively tall mechanical spaces that disengage substantial amounts of building spaces from their surroundings. The amendment also seeks to recognize the need for reasonably sized and distributed mechanical spaces in residential towers, as well as the virtue of providing overall flexibility to support design excellence in these areas.

The amendment would require that floors occupied predominantly by mechanical space that are taller than 25 feet in height (whether singly or in combination) be counted as floor area. Taller floors, or stacked floors taller than 25 feet, would be counted as floor area based on the new 25-foot height threshold. A contiguous mechanical floor that is 132 feet in height, for example, would now count as five floors of floor area (132/25 = 5.28, rounded to the closest whole number equals 5). The 25-foot height is based on mechanical floors found in recently constructed residential towers and is meant to allow the mechanical needs of residential buildings to continue to be met without increasing the height of residential buildings to a significant degree. The provision would only apply to floors located below residential floor area to not impact mechanical penthouses found at the top of buildings where large amounts of mechanical space is typically located.

Additionally, any floors occupied predominantly by mechanical space located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height would similarly count as floor area.

This would address situations where non-mechanical floors are interspersed among mechanical floors in response to the new 25-foot height threshold, while still allowing buildings to provide needed mechanical space for different portions of a building. For example, a cluster of four fully mechanical floors in the lower section of the tower which total 80 feet in height, even with non-mechanical floors splitting the mechanical floors into separate segments, would count as three floors of floor area, even when each floor is less than 25 feet tall and they are not contiguous. (80' / 25' = 3.2 rounded to the closest whole number equals 3).

The new regulation would also be applicable to the non-residential portions of a mixed-use building if the non-residential uses occupy less than 25 percent of the building. This would ensure that tall mechanical floors could not be assigned as mechanical space to non-residential uses in the building, and therefore not be subject to the rule. The 25-foot height threshold would not apply to the non-residential portion of buildings with more than 25 percent of their floor area allocated to non-residential use as the uses in mixed buildings like this (offices, community facilities, etc.) commonly have different mechanical needs than residential buildings. Finally, the regulations would also be made applicable to floors occupied predominantly by spaces that are unused or inaccessible within a building. The Zoning Resolution already considers these types of spaces as floor area, but it does not provide explicit limits to the height that can be considered part of a single story within these spaces. This change would ensure that mechanical spaces and these types of spaces are treated similarly.

The proposal would apply to towers in R9 and R10 Residence Districts and their equivalent Commercial Districts. The proposal would also apply to Special Purpose Districts that rely on the underlying tower regulations for floor area as well as height and setback regulations, as well as sections of the Special Clinton District and the Special West Chelsea District that impose special tower regulations.

Community Board Recommendation

Community Board 11 (CB11) recommends approval of Land Use Application N 190230 ZRY for proposed Residential Tower Mechanical Voids Text Amendment as presented by the Department of City Planning.

Full Board Vote: 31 in favor; 0 opposed, 1 abstained

If you have any questions regarding our recommendation, please contact Angel Mescain, District Manager, at 212-831-8929 or amescain @cb11m.org.

Sincerely,

Nilsa Orama Chair Community Board 11

cc: Hon. Gale A. Brewer, Manhattan Borough President (via email) Hon. Diana Ayala, New York City Council (via email) Hon. Bill Perkins, New York City Council (via email) Hon. Ben Kallos, New York City Council (via email)

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Hon. Keith Powers, New York City Council (via email)
Hon. Jose M. Serrano, New York State Senate (via email)
Hon. Brian Benjamin, New York State Senate (via email)
Hon. Robert Rodriguez, New York State Assembly (via email)
Hon. Inez Dickens, New York State Assembly (via email)
Calvin Brown, NYC Department of City Planning (via email)
Steven Villanueva, Community Board 11 (via email)
Judith Febbraro, Community Board 11 (via email)

EAST HARLEM * HARLEM * EL BARRIO * SPANISH HARLEM * RANDALL'S & WARDRS001\$31AND

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Community Board 12 - Manhattan Washington Heights & Inwood 530 West 166th St. 6th Floor, New York, NY 10032

530 West 166th St. 6th Floor, New York, NY 10032 Phone: (212) 568-8500, Fax: (212) 740-8197 Website: <u>www.nyc.gov/mcb12</u>

Richard R. Lewis, Chairperson Ebenezer Smith, District Manager

February 28, 2019

Hon. Melisa Lago, Chair Department of City Planning 120 Broadway, 31st Floor New York, NY 10271

Re: Resolution supporting The Residential Tower Void Mechanical Void Zoning Amendment proposed by The Department of City Planning.

Dear Chair Lago:

Please be advised that Community Board 12, Manhattan, passed a resolution with 38 votes in favor, 0 opposed, 0 abstentions, 0 not voting, at its Tuesday, February 26, 2019, General Meeting, supporting the Department of City Planning's proposed Residential Tower Mechanical Void Zoning Text Amendment.

- Whereas: The Department of City Planning ("DCP") is proposing a zoning text amendment ("Land Use Review Application N190230 ZRY" or the "Text Amendment") in high-density zoning districts to discourage the use of excessively tall mechanical floors that elevate upper-story residential units above the surrounding context. The proposed change would apply to residential towers in non-contextual R9 and R10 zoning districts and their equivalent commercial zoning districts and to Special Purpose Districts that rely on the underlying tower zoning regulations for floor area, height and set-back as well as to sections of the Special Clinton District and the Special West Chelsea District. The public review process for the Text Amendment began on January 28, 2019; comments are due no later than March 8, 2019; and
- Whereas: The New York City Zoning Resolution (the "ZR") allows floor space containing mechanical equipment to be excluded from zoning floor area ratio ("FAR") calculations. The ZR does not specifically identify a height limit for mechanical spaces. In recent years some developments have been built or proposed that use tall, inflated mechanical or structural floors to elevate the upper-story residential units above the neighboring buildings to

Hon. Marisa Lago February 28, 2019 Page2

improve views. These spaces are commonly referred to as mechanical voids ("Mechanical Voids"); and

Whereas: In 2018, renderings of a residential tower proposed for the Upper East Side showed four mechanical floors taking up a total of approximately 150 feet (roughly 15 stories) in the middle of the building and raising its overall height to over 500 feet, significantly taller than neighboring buildings built under the same zoning regulations. In response to this proposal, Mayor de Blasio requested that DCP examine the issue of Mechanical Voids of excessive height that are used in ways not anticipated nor intended by the ZR; and

- Whereas: DCP conducted a citywide analysis of recent construction to better understand the mechanical needs of residential buildings and to assess when excessive Mechanical Voids were being used to inflate their overall height. Based on the results of the analysis, DCP is proposing the Text Amendment to discourage the use of excessively tall mechanical spaces that architecturally and contextually disconnect substantial portions of building spaces from their surroundings, while also seeking to recognize the need for reasonably sized and distributed mechanical spaces in residential towers, and to support flexibility and excellence of design; and
- Whereas: The Text Amendment would require floors occupied predominantly by mechanical space that are taller than 25 feet in height, singly or in combination, be counted as floor area. The 25-foot height is based on mechanical floors found in recently constructed residential towers and is meant to allow the mechanical needs of residential buildings to be accommodated without increasing building height to a significant degree. The Text Amendment would also require any floors occupied by mechanical spaces located within 75 feet of another that, in aggregate, add up to more than 25 feet in height also count as floor area. The Text Amendment would be applicable to non-residential portions of a mixed-use building if the non-residential uses occupy less than 25 percent of the building. The Text Amendment would not apply to commercial and community facility buildings, which typically have different mechanical needs than residential buildings, or to mixed-use buildings where the non-residential uses occupy more than 25 percent of the building; and
- Whereas: Currently there are no R10 zoning districts in Washington Heights and Inwood and only one R9 zoning district, which is included in the Inwood Special Zoning District and subject to restrictions. It nonetheless is in the interest of Community Board 12-Manhattan ("CB12M") to opine on the Text Amendment because it is possible that R9 and R10 zoning districts may be introduced to the community district at some future date and because CB12M wishes to support best practices in city planning and urban design; and

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Hon. Marisa Lago February 28, 2019 Page3

Whereas: DCP presented the Text Amendment to CB12M's Executive Committee at its February 19, 2019 meeting, which was attended by representatives of Manhattan Borough President Gale Brewer. Now, therefore, be it

Resolved: Community Board 12-Manhattan supports the Department of City Planning's proposed Residential Tower Mechanical Void Zoning Text Amendment.

incerel

Richard R. Lewis Chairperson

Hon. Bill de Blasio, Mayor
 Hon. Gale Brewer, Manhattan Borough President
 Hon. Jumaane Williams, Public Advocate
 Hon. Scott Stringer, Comptroller
 Hon. Adriano Espaillat, Congressman
 Hon. Robert Jackson, State Senator
 Hon. Brian Benjamin, State Senator

Hon. Al Taylor, Assembly Member Hon. Carmen De La Rosa, Assembly Member Hon. Ydanis Rodríguez, Council Member Hon. Mark Levine, Council Member Orlando Rodríguez, Esq., Senior Urban Planner MBPO Hon. Kenneth J. Knuckles, Esq., Vice Chair

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Borough President	City Planning Commission			
Recommendation	120 Broadway, 31 st Floor, New York, NY 10271 Fax # (212) 720-3488			
INSTRUCTIONS 1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.	 Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification. 			
Applications: N190230ZRY				
Docket Description:				
The Department of City Planning (DCP) proposes a city-wide Zor tower districts to discourage the use of excessively tall mechanic surrounding context. The proposed change would apply to reside and their equivalent Commercial Districts.	al floors that elevate upper-story residential units above the			
COMMUNITY BOARD NO: Citywide	BOROUGH: Manhattan			
RECOMMENDATION				
APPROVE	2			
APPROVE WITH MODIFICATIONS/CONDITIONS (Lis	t below)			
DISAPPROVE				
DISAPPROVE WITH MODIFICATIONS/CONDITONS	(Listed below)			
EXPLANATION OF RECOMMENDATION - MODIFICATION	/CONDITIONS (Attach additional sheets if necessary)			
See Attached				
Pal PRANER	March 8 2019			

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Office of the President Borough of Manhattan The City of New York 1 Centro Street, 19th floor, New York, NY 10007 (212) 669-8300 p (212) 669-4306 f 431 West 125th Street, New York, NY 10027 (212) 531-1609 p (212) 531-4615 f www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

March 8, 2019

Recommendation on Non-ULURP Application No. N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment By the New York City Department of City Planning

PROPOSED ACTIONS

The New York City Department of City Planning ("DCP" or the "Applicant") is seeking an amendment to the Zoning Resolution (ZR) to change regulations regarding the location and height of mechanical space in residential towers pursuant to ZR § 23-16, § 24-112, and § 35-35. The proposed zoning text aims to discourage the creation of mechanical and unused or inaccessible floors that are over 25 feet in height as well as the clustering of such floors within a tower. The proposed text would apply to residential buildings and mixed-use buildings in R9 and R10 districts and their commercial equivalents as well as certain Special Purpose Districts. However, the text will not apply to the Special Lower Manhattan, Special Hudson Yards, and Special Midtown Districts—all of which are considered central business districts. The Applicant has committed to addressing those districts in a follow-up action that will be announced in the summer of 2019.

In evaluating the proposed zoning text amendment, this office must consider if the proposed language meets the underlying purpose of the Zoning Resolution to promote the general health, safety and welfare of the city and whether the proposed development or developments it would facilitate would be appropriate to the neighborhood and borough.

BACKGROUND

In 2017, the City began to see proposed developments that were drastically out of character with their surrounding neighborhoods. These buildings, which were extensively covered in the press, represented a significant departure from the spirit of the local zoning—particularly regarding building height. Some of the first examples of such developments include 432 Park Avenue and 220 Central Park South. In various instances, mechanisms were used to augment the height of buildings beyond what was intended in the zoning. One of the main purposes of achieving a greater height seemed to be the elevation of residential units, which, with higher, unobstructed views, could be sold for more money. Several of these developments were located in zoning districts that are governed by tower regulations. Tower regulations do not impose height limits; rather they use bulk, height, and setback controls to ensure predictable development. Many of the mechanisms used to make buildings taller involved the inclusion of spaces in the building that did not count as floor area and therefore evaded the zoning controls in these districts.

On August 16, 2018, the City Council's Manhattan Delegation and the Manhattan Borough President sent a letter to the Applicant to request that they address the issue of "zoning

N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment Page 2 of 7

loopholes." Some of the mechanisms that have been used by developers to augment building heights include:

Mechanical Voids

Under the Zoning Resolution, mechanical spaces are not counted as floor area. This rule has been exploited in several ways. Developers have proposed a greater number of mechanical floors in new developments and they have also included mechanical floors that are excessively taller than what is customarily seen in residential and commercial construction. In other instances, mechanical floors have been clustered in the lower portion of a building.

Structural Voids

This example is sometimes referred to as "stilts"—essentially raising a building or the upper floors of a building to achieve greater height without expending floor area. Terraces, which are also excluded from floor area calculations, have been proposed in the middle floors of towers at heights that are excessively taller than typical terraces.

• Gerrymandered Zoning Lots

Some developers have shaped zoning lots by assembling a larger zoning lot (by merging with portions of other lots) in order to obtain maximum floor area and build a taller building. In other instances, developers have "carved out" small, undevelopable portions of zoning lots in order to evade zoning restrictions that aim to encourage contextual developments.

• Floor-to-Floor Heights

There are currently no maximum floor to floor heights in the City of New York. As such, where residential developments once contained 10 to 12 foot floor-to-floor heights, new and proposed developments include floor-to-floor heights that are 20 feet and beyond.

The table below lists some of the developments that have submitted plans or published renderings that have proposed or still propose to use zoning loopholes:

Address	Status	Proposed Zoning Loopholes	Height (in feet) ¹	Stories 1
520 Park Avenue	TCO Issued	• Mechanical voids in first 7 floors	725	51
432 Park Avenue	TCO Issued	• Contains 19 floors of mechanical and structural voids	1,396	84
220 Central Park South	TCO Issued	• Mechanical voids in floors 3 through 7	1,031	65
217 West 57 th Street	In Construction	Structural voids 350 feet in height	1,548	88
15 East 30 th Street	In Construction	Mechanical voids totaling 132 feet	843	56

Buildings that Have Proposed to Use Zoning Loopholes

¹ Height and number of stories were obtained from DOB filings and news articles.

N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment Page 3 of 7

50 West 65 th Street	In Construction	Mechanical void totaling 160 feet	775	69
200 Amsterdam Avenue	In Construction	• Gerrymandered zoning lot made up of bits and pieces of tax lots	668	51
249 East 62nd Street	In Construction	 Mechanical voids totaling 150 feet Structural void that is classified as outdoor space 	540	28
111 West 57 th Street	In Construction	 Enclosed void at ground level; approximately 58 feet Excessive floor-to-floor heights 	1,400	82
180 East 88 th Street	In · Construction	 Zoning lot carve-out to avoid zoning restrictions Enclosed void - 150 feet 	524	31
262 Fifth Avenue	In Construction	• Enclosed void - top story is over 70 feet in height	1,043	54
1059 Third Avenue	In Construction	• Excessive floor-to-floor heights of up to 16 feet	466	30
430 East 58 th Street	In Construction	Excessive floor-to-floor heightsMechanical voids	850	67
394 Third Avenue	In Construction	• Zoning lot carve-out to evade zoning restrictions	191	19
249 Cherry Street	Proposed	• Structural void - approximately 100 feet and located in the lower portion of building	1,008	77
80 South Street	Proposed	• Structural voids	1,436	Not available

PROPOSED ZONING TEXT AMENDMENT

The proposed zoning text amendment would make the following changes to mechanical floor space requirements in residential buildings in R9 and R10 districts and their commercial equivalents as well as the Special Clinton, Special Lincoln Square, Special Union Square, and Special West Chelsea Districts:

- Any enclosed floor space that is occupied by mechanical equipment or is or becomes unused or inaccessible will be counted as floor area if such floor space is over 25 feet in height.
 - The portion of the floor space that is dedicated to mechanical equipment or is inaccessible must occupy a majority of that floor in order for this provision to apply.
 - The total height of each floor will be divided by 25 and the resultant number will be counted as floor area. For example, a 135 foot floor would count as 5 floors of floor area $(135 \div 25 = 5.4;$ rounded down to 5).
- When any given 75-foot segment of a building contains more than one enclosed floor space that is occupied by mechanical equipment or is or becomes unused or inaccessible, all such floors will be counted as floor area.

N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment Page 4 of 7

• The floor area will be calculated based on the number of all such floors or their collective height divided by 25, whichever figure is higher.

These proposed restrictions would apply to new construction as well as building enlargements. Furthermore, the following exemptions are outlined in the proposed text:

- For mixed-use buildings in which commercial floor area encompasses less than 25 percent of the total floor area, the restrictions will apply to only the residential portion of the building.
- Floor height and clustering restrictions would only apply to floors that are below any residential floor area. This provision is intended to accommodate mechanical penthouses, which often house large mechanical equipment with ventilation needs.

COMMUNITY BOARD RESOLUTIONS

The Application was referred to ten of Manhattan's Community Boards: 1, 2, 3, 4, 5, 6, 7, 8, 10, and 11. Of those ten Community Boards, nine passed resolutions regarding the application. Manhattan Community Board 10 did not receive a presentation from the Applicant and as such did not pass a resolution on the matter. Additionally, although the Application was not referred to Manhattan Community Board 12, that board passed a resolution on the matter.

Seven Manhattan Community Boards voted in favor of the Application, while three voted against it. Of the Boards that passed resolutions, a majority—eight Boards—included conditions or comments regardless of whether they voted to recommend approval or disapproval of the proposed text amendment. Below are some of the conditions that Community Boards have set forth:

- Expand the application of the proposed zoning text to limit the use of unenclosed spaces, which include terraces and outdoor spaces and have also been called structural voids and stilts (requested by seven Community Boards).
- Expand the application of the proposed zoning text to include a broader geography. Although this request varied depending on the Board, it generally pointed the Applicant to districts that did not meet the proposed geographic criteria but were nonetheless likely to see out-of-context development that could employ tactics like mechanical voids to achieve a greater height (requested by five Community Boards).
- Expand the application of the proposed zoning text to include amenity spaces and accessory uses (requested by four Community Boards).
- Make changes to the 25 foot and 75 foot thresholds to make the provisions more restrictive (requested by three Community Boards).

N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment Page 5 of 7

BOROUGH BOARD HEARING

On February 21, 2019, the Manhattan Borough Board held a public hearing on the proposed text amendment. In addition to Community Board members, the hearing was attended by local preservation groups.

Much of the discussion was in relation to the Applicant's decision to allow mechanical and unused or inaccessible floors to be up to 25 feet in height and setting a clustering threshold of 75 feet. Many of those present at the hearing noted that the "formula", as currently proposed, was not restrictive enough. In response, the Applicant recognized that during its study of residential development, it found that mechanical floors were at a minimum 9 stories—or roughly 90 feet—apart. Nonetheless, they noted that they did not want to preclude a development's ability to locate "evenly distributed" mechanical spaces in a manner that would allow mechanical equipment to be closer to the residential units that they serve. There were also comments regarding the geographic application of the proposed text—particularly on soft sites that are expected to soon see large scale development.

Given the 30 day referral period for the Application, the Borough Board did not vote on the Application.

BOROUGH PRESIDENT'S COMMENTS

The issue of zoning loopholes, which includes mechanical voids, continues to be of great concern. My office has been working with elected officials for over a year to push for changes to the Zoning Resolution that ensure development that is in keeping with the spirit of the zoning and the context of our neighborhoods. In response to our request, DCP assessed over 700 buildings in order to draft its amendment to the Zoning Resolution.²

While I am thankful that the Department of City Planning was responsive to my concerns and the concerns of others and has undertaken its study in an effort to provide a solution to the problem of mechanical voids, I am concerned that the current proposal does not go far enough.

Formula

The Application notes that an analysis of more than 80 buildings in higher density districts found that "taller towers tended to have additional mechanical floors midway through the buildings, or regularly located every 10 to 20 stories". Given this finding, I believe the 75 foot threshold, which is roughly equivalent to 7 stories, does not adequately address our concerns.

I also believe that the formula should not allow any rounding when calculating the floor area of excessively tall mechanical floors. In the example provided in this recommendation, a mechanical floor 35 feet in height would be 5.4 times taller than the 25 foot threshold proposed by the Applicant but would nonetheless count as only 5 floors of floor area. Plenty of zoning

² The Applicant studied over 700 buildings in R6 through R8 non-contextual zoning district and their equivalent commercial districts. Of those 700 buildings, 80 were in R9 and R10 non-contextual districts and their commercial equivalents.

N 190230 ZRY Residential Mechanical Voids Zoning Text Amendment Page 6 of 7

districts in Manhattan allow floor area ratios that have decimals. There is no valid reason why this figure should be rounded.

Unenclosed Floor Area

Other spaces, such as terraces, are not counted as floor area. However, the proposed text will only apply to "enclosed" floor area. As a loophole mechanism, there is very little difference between mechanical floors and terraces that have excessive heights. The language should be modified to similarly include terraces and other unenclosed floor spaces in the overall calculation of floor area.

Geographic Applicability

I am also concerned about certain areas of Manhattan in which the proposed text amendment will not apply but which nonetheless contain soft sites that will soon see new development. In particular, the blocks bounded by West 56th Street, the southern portion of West 58th Street, and Fifth and Sixth Avenues is concerning. West 57th Street, which has been nicknamed "Billionaire's Row", has seen several out-of-character buildings that employ zoning loopholes. Furthermore, in the first week of February 2019, just two weeks after the Application was certified, developers filed for demolition on two sites within this area³. While I recognize that this area, which is located within the Special Midtown District, may be included in the follow-up action that the Applicant will submit to encompass the City's Central Business Districts, this block is facing an imminent threat and may see exactly the kind of development that this Application intends to prevent if no action is taken at this juncture.

Enforcement of New Provisions

I believe strongly that if the proposed zoning text is to be effective, stronger, and more transparent, inter-agency coordination is essential. A task force comprised of the Department of City Planning and the Department of Buildings (DOB) should be formed in order to ensure that the text is applied effectively as soon as it is adopted by the City Council. Plan reviewers at the DOB need to be aware of these new restrictions and need to receive training on how to identify excessively tall mechanical and unused or inaccessible floors. This agency framework would also be crucial in determining which developments are vested and should be tasked with inspecting construction sites and certifying those developments that will be grandfathered.

Public Review Process

DCP commenced a study in 2018 with the goal of delivering a proposal before the end of 2018. However, the Application was not certified and made publicly available until January 28, 2019, when, thankfully, a forthcoming follow-up action was also announced. All ten Community Boards in Manhattan, along with my office, were given a 30 day review period. This timeline did not allow for an extensive public review process or a Borough Board resolution. Additionally, while I am pleased that DCP made its study available, including that study in the original application materials would have allowed for a more robust public debate. It should also be noted that due to the timeline, one Community Board was not able to discuss the application at its Land Use Committee meeting.

³ DOB job numbers 123673355, 123659585, 123659594, 123659576, 123675656, and 123675665

N 190230 ZRY Residential Mcchanical Voids Zoning Text Amendment Page 7 of 7

I understand the need and agree with the Applicant's decision to prioritize and address the issue of mechanical voids in a timely manner. However, I expect that with its follow-up action, the Applicant will allow ample time for a robust public review process, as we often must live with zoning text changes for 50 years or more.

BOROUGH PRESIDENT'S RECOMMENDATION

I therefore recommend <u>approval of the application with conditions</u>. The Applicant must amend the proposed zoning text (i.e. submit an "A-text") so that it does the following:

- Raise the clustering threshold from 75 feet to 90 feet;
- Eliminate the rounding provision for calculating the floor area of mechanical or inaccessible floors that exceed 25 feet;
- Expand the application to include unenclosed spaces; and
- Expand the application to include the block bounded by West 56th Street, the southern side of West 58th Street, Fifth Avenue, and Sixth Avenue.

Finally, a DCP and DOB task force should be established to:

- Ensure that the DOB is prepared to enforce the new requirements with new building and building enlargement applications; and
- Certify any buildings that are vested and are therefore grandfathered from any new zoning provisions.

I also fully expect that the Applicant will proceed with changes that will address other zoning loopholes, including excessive floor-to-floor heights and gerrymandered zoning lots and that they will expand the areas to which those provisions will apply. The point of addressing loopholes is to ensure that there are no openings left for developers to exploit.

ah d Brewer

Gale A. Brewer

Manhattan Borough President

NYSCEF DOC. NO. 38

INDEX NO. 160565/2020 RECEIVED NYSCEF: 02/16/2021



Melinda Katz Queens Borough President

March 8, 2019

Email qn02@cb.nyc.gov www.nyc.gov/queenscb2

Fax (718) 533-8777

Community Board No. 2

43-22 50th Street, 2nd Floor Woodside, New York 11377 (718) 533-8773

Denise Keehan-Smith Chairwoman Debra Markell Kleinert District Manager

Ms. Marisa Lago Director Department of City Planning City Planning Commission Calendar Information Office 120 Broadway, 31st Floor New York, NY 10271

RE: <u>Residential Tower Mechanical Voids Text Amendment</u> CEQR NO 19DCP 110Y ULURP NO N190230 ZRY SEQRA Classification: Type 1

Dear Ms. Lago:

On March 7, 2019, Community Board 2 held a public hearing to review the Residential Tower Mechanical Voids Text Amendment Application Number N190230 ZRY. At that meeting with a quorum present, a motion was made and seconded to approve the application.

The motion carried with 29 in favor of the motion; none opposed and no abstentions.

Please contact CB2 if you have any questions.

Sincerely,

Debra Markell Kleinert

District Manager

DMK/mag

cc: Honorable Alexandria Ocasio-Cortez, US Congress Honorable Carolyn B. Maloney, US Congress Honorable Grace Meng, US Congress Honorable Nydia M. Velazquez, US Congress Honorable Michael Gianaris, NY State Senate

"Serving the Communities of Long Island City, Sunnyside, Woodside and Maspeba"1143

Honorable Brian Barnwell, NYS Assembly Honorable Michael DenDekker, NYS Assembly Honorable Catherine T. Nolan, NYS Assembly Honorable Robert Holden, NYC Council Member Honorable Jimmy Van Bramer NYC Council Member Honorable Daniel Dromm, NYC Council Member Honorable Melinda Katz, Queens Borough President of the Borough of Queens Honorable Melva Miller, Deputy Borough President Irving Poy, Queens Borough President's Office John Perricone, Queens Borough President's Office John Young, NYC Department of City Planning Alexis Wheeler, NYC Department of City Planning Coralie Ayres, NYC Department of City Planning Denise Keehan-Smith, Chairwoman, Community Board 2 Lisa Deller, Chair, Land Use Committee CB 2

DCP Residential Tower Mechanical Voids Text Amendment N190230 ZRY



Community Board 12 The City of New York Borough of Queens

Jamaica, Hollis, St. Albans, South Ozone Park, and Springfield Gardens

90-28 161st Street Jamaica, New York 11432 qn12@cb.nyc.gov www.nyc.gov/qcb12

(718) 65-3-3308 Fax (718) 7:9-6997

Rene Hill CHAIRPERSON

Yvonne Reddick DISTRICT MANAGER

March 22, 2019

BOROUGH PRESIDENT

Vicky Morales Casella

DIRECTOR OF COMMUNITY BOARDS

Melinda Katz

City Planning Commission 22 Reade Street New York, NY 10007

Community Board 12 Queens members met on Wednesday, March 20, 2019 at the Robert Ross Johnson Family Life Center located at 172-17 Linden Blvd., St. Albans, NY 11433, and held a Public Hearing on Residential Tower Mechanical Voids Text Amendment.

There were 35 members present at the meeting, and all 35 members voted. The vote was as follows: 35 Approved 0 Opposed 0 Abstained.

Thank you.

mome heddick

Yvonne Reddick **District Manager** Community Board 12, Q

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RECEIVED NYSCEF: 02/16/2021

HONORABLE RUBEN DIAZ, JR. Bronx Borough President

Mo. Kathleen Saunders Board Chair

MR. DAUL A. DIIILDS District Manager

March 6, 2019

Marisa Lago, Chair New York City Department of City Planning 120 Broadway 31st Floor New York, NY 10271

Dear Chair Lago:

Please be advised that on February 26, 2019 at its regularly scheduled General Board Meeting, Bronx Community Board Four voted in the affirmative to issue a letter of support for the Department of City Planning proposed Residential Tower Mechanical Voids Text which would eliminate a zoning loophole that allows towers within high-density non-contextual residential zoning districts (R9 & R10) and the commercial district equivalents to be considered with tall mechanical spaces in order to achieve greater height than would otherwise be permitted.

This proposed text amendment would only apply to a limited number of sites within Community District Four, nonetheless it provides additional predictability for development in these areas.

Thank you for your time and consideration.

Regards Und

Paul A. Philps District Manager Community Board Four

Cc: Jackson Strong, Housing & Land Use Committee Chair Ms. Kathleen Saunders, Board Chairperson

Design-Bronx Museum of the Arts

INDEX NO. 160565/2020 07/29/2019 RECEIVED NYSCEF: 02/16/2021



The New York City Council

City Hall New York, NY 10007

Legislation Text

File #: Res 0916-2019, Version: *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 916

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 190230 ZRY, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 397).

By Council Members Salamanca and Moya

WHEREAS, the City Planning Commission filed with the Council on April 12, 2019 its decision dated April 10, 2019 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of Article II, Chapter 3 and related provisions of the text of the Zoning Resolution of the City of New York, modifying residential tower regulations to require certain mechanical spaces to be calculated as residential floor area, in order to discourage the use of excessively tall mechanical floors in residential towers in non-contextual R9 and R10 Residential Districts and their equivalent Commercial Districts, Citywide, (Application No. N 190230 ZRY), (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 16, 2019;

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

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued April 9th, 2019, which supersedes the Negative Declaration issued January 28th, 2019 and Revised Environmental Assessment Statement issued April 9th, 2019 (CEQR No. 19DCP110Y), concludes that the proposed CPC modifications would not result in any new or different significant adverse environmental impacts and would not alter the conclusions of the EAS (the "Revised Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 190230 ZRY, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

INDEX NO. 160565/2020 07/29/2019 RECEIVED NYSCEF: 02/16/2021

File #: Res 0916-2019, Version: *

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

ARTICLE I GENERAL PROVISIONS

Chapter 1 Title, Establishment of Controls and Interpretation of Regulations

* * *

<u>11-34</u> Additional provisions for extension of period to complete construction

<u>11-341</u> Building applications filed before July 8, 2017

If, before July 8, 2017, an application has been filed with the Department of Buildings for a #development# on a #corner lot# with a #lot area# of less than 5,000 square feet, located in a C5-2 District in Community District 5 of the Borough of Manhattan, the provisions established in

N 190230 ZRY pertaining to calculating #floor area# in a tower containing #residences# shall not apply in the portion of such #building# below a height of 130 feet above the #base plane#, provided that the aggregate height of any floor space on #stories# occupied predominantly by mechanical equipment provided pursuant to paragraph (8) of the definition of #floor area# in Section 12-10 (DEFINITIONS), and any floor space that is or becomes unused or inaccessible within a #building#, pursuant to paragraph (k) of the definition of #floor area# in Section 12-10, does not exceed 80 feet.

* * *

ARTICLE II RESIDENCE DISTRICT REGULATIONS

Chapter 3 Residential Bulk Regulations in Residence Districts

* * *

23-10 OPEN SPACE AND FLOOR AREA REGULATIONS

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

Special #open space# and #floor area# provisions are set forth in Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) for <u>standard tower and</u> tower-on-a-base #buildings# in R9 <u>and R10</u> Districts, as well as for certain areas in Community District 7 and Community District 9 in the Borough of Manhattan, and Community District 12 in the Borough of Brooklyn. Additional provisions are set forth in Sections 23-17 (Existing Public Amenities for Which Floor Area Bonuses Have Been Received) and 23-18 (Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations).

* * *

23-16 Special Floor Area and Lot Coverage Provisions for Certain Areas

The #floor area ratio# provisions of Sections 23-14 (Open Space and Floor Area Regulations in R1 Through R5 Districts) and 23-15 (Open Space and Floor Area Regulations in R6 Through R10 Districts), inclusive, shall be modified for certain areas, as follows:

- (a) For <u>standard tower and</u> tower-on-a-base <u>#buildings</u><u>#</u> in R9 <u>and R10</u> Districts
 - (1) In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 100 percent on a #corner lot# and 70 percent on an #interior lot#.
 - (2) In R9 and R10 Districts, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 23-65 (Tower Regulations), inclusive, any floor space used for mechanical equipment provided pursuant to paragraph (8) of the definition of #floor area# in Section 12-10 (DEFINITIONS), and any floor space that is or becomes unused or inaccessible within a #building#, pursuant to paragraph (k) of the definition of #floor area# in Section 12-10, shall be considered #floor area# and calculated in accordance with the provisions of this Section, provided that such floor space:
 - (i) occupies the predominant portion of a #story#;
 - (ii) is located above the #base plane# or #curb level#, as applicable, and below the highest #story# containing #residential floor area#; and

(iii) exceeds an aggregate height of 30 25 feet in #stories# located within 75 vertical feet of one another within a #building#.

For the purpose of applying this provision, the height of such floor space shall be measured from the top of a structural floor to the bottom of a structural floor directly above such space. In addition, the number of #stories# of #floor area# such space constitutes within the #building# shall be determined by aggregating the total height of such floor spaces, dividing by 30 25 feet, and rounding to the nearest whole integer.

* * *

Chapter 4 Bulk Regulations for Community Facilities in Residence Districts

* * *

24-10 FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

24-112 Special floor area ratio provisions for certain areas

The #floor area ratio# provisions of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), inclusive, shall be modified for certain areas as follows:

- (a) in R8B Districts within Community District 8, in the Borough of Manhattan, the maximum #floor area ratio# on a #zoning lot# containing #community facility uses# exclusively shall be 5.10; and
- (b) in R10 Districts, except R10A or R10X Districts, within Community District 7, in the Borough of Manhattan, all #zoning lots# shall be limited to a maximum #floor area ratio# of 10.0-; and
- (c) in R9 and R10 Districts, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 23-65 (Tower Regulations), inclusive, the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:
 - (1) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and

(2) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* * *

ARTICLE III COMMERCIAL DISTRICT REGULATIONS

Chapter 5 Bulk Regulations for Mixed Buildings in Commercial Districts

* * *

35-35 Special Floor Area Ratio Provisions for Certain Areas

* * *

<u>35-352</u> <u>Special floor area regulations for certain districts</u>

In C1 or C2 Districts mapped within R9 and R10 Districts, or in #Commercial Districts# with a residential equivalent of an R9 or R10 District, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 35-64 (Special Tower Regulations for Mixed Buildings), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (a) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (b) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* * *

ARTICLE IX SPECIAL PURPOSE DISTRICTS

* * *

Chapter 6 Special Clinton District

96-20 PERIMETER AREA

96-21 Special Regulations for 42nd Street Perimeter Area

* * *

 \mathbf{v}

(b) #Floor area# regulations

* * *

(2) #Floor area# regulations in Subarea 2

* * *

(3) Additional regulations for Subareas 1 and 2

In Subareas 1 and 2, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 35-64 (Special Tower Regulations for Mixed Buildings), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (i) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (ii) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* * *

Chapter 8 Special West Chelsea District

* * *

98-20 FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

98-22 Maximum Floor Area Ratio and Lot Coverage in Subareas

* * *

<u>98-221</u> Additional regulations for Subdistrict A

In Subdistrict A, for #zoning lots# containing a #building# that is #developed# or #enlarged# pursuant to the applicable tower regulations of Section 98-423 (Special Street wall location, minimum and maximum base heights and maximum building heights), the provisions of paragraph (a)(2) of Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) shall apply:

- (a) to only the #residential# portion of a #building# where less than 75 percent of the total #floor area# of such #building# is allocated to #residential use#; and
- (b) to the entire #building# where 75 percent or more of the total #floor area# of such #building# is allocated to #residential use#.

* * *

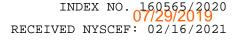
Adopted.

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

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on May 29, 2019, on file in this office.

City Clerk, Clerk of The Council

NYSCEF DOC. NO. 38





DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

ZONING DIVISION

Marisa Lago, Director Department of City Planning

July 20, 2017

Honorable Members of the Board New York City Board of Standards and Appeals 250 Broadway New York, NY 10007

> Re: Interpretive Appeal No. 2016-4327-A 15 East 30th Street, New York, NY 10016 Block 5141, Lot 101

Dear Honorable Chair Perlmutter and Members of the Board:

The Department of City Planning writes regarding the Department of Buildings' March 1, 2017 determination to deny the Zoning Challenge Appeal of July 15, 2016 submitted by Carter Ledyard & Milburn LLP, representing Sky House Condominium (Applicant). City Planning is writing to support the comprehensive rejection of the appeal challenging that denial.

The Applicant contends that due to the proposed floor-to-ceiling height of the mechanical space in the development at 15 East 30th Street, the mechanical floors located on the proposed building's second, third, and fourth floors are "structural voids", not "legal accessory uses", and that they are improperly excluded from floor area calculations. City Planning notes that there are no regulations in the Zoning Resolution controlling the height of mechanical floors. Furthermore, regardless of its floor-to-ceiling height, any space which is devoted to accessory residential mechanical equipment is considered to be a legal accessory use. More specifically, floor area is defined in the Zoning Resolution, Section 12-10, as follows: "... the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#." Therefore, floor area only includes the measurement of a flat surface or two dimensions measured in square feet, and does not include volumes of space measured in cubic units. In addition, it is specifically noted that "floor area does not include: (8) floor space used for mechanical equipment," (ZR Section 12-10).

The applicant also contends that the Department of Buildings erred by not requiring an inner courtyard adjacent to existing windows along the eastern face of the Chandler Hotel (Block 860, Lot 74), located by merger on the development's zoning lot. The applicant contends that certain rooms in the Chandler Hotel are in residential use as an "apartment hotel" and therefore the windows providing light to these rooms are "legally required windows" along which an inner courtyard would typically be required to

> Beth Lebowitz, *Director, Zoning Division* Frank Ruchala Jr., *Deputy Director, Zoning Division* 120 Broadway – 31st Floor, New York, N.Y. 10271-0001 Tel (212) 720-3325 - Fax (212) 720-3244

meet minimum dimensions pursuant to the bulk regulations of the Zoning Resolution.

The Department of Buildings rejected this assertion, noting that inner court regulations do not apply to commercial hotel uses, and that the Certificate of Occupancy on file for the Chandler Hotel indicates it is a hotel use. City Planning agrees with the Department of Buildings that no inner courtyard is required for a hotel.

The Department of City Planning also wishes to respond to a constituent argument the applicant makes in relation to inner court regulations. The applicant argues that a zoning lot merger cannot be allowed if merger of separate zoning lots will cause existing buildings to be considered "non-compliant" with the bulk regulations of the Zoning Resolution. The applicant in particular cites Section 23-711 of the Zoning Resolution, which regulates the distance between buildings on the same zoning lot. There are no provisions of the Zoning Resolution that would preclude the merger of two or more zoning lots in the event that such a merger would create any non-compliance with the bulk regulations of the Zoning Resolution. The Department of Buildings has developed interpretations that address such mergers: in subsequent development of the zoning lot no new non-compliances can be created nor can the existing non-compliances be increased in degree. In this specific case, no new non-compliances are created because the footprint of the proposed development replicates the footprint and the location of the wall of the previous building adjacent to the Chandler Hotel and therefore has not changed the relationship or distance to the existing building.

Sincerely,

Beth Lebowitz

Director, Zoning Division Department of City Planning

Cc: Mona Sehgal Esq., General Counsel, DOB Mark Davis, Esq., Deputy General Counsel, DOB Felicia Miller, Esq., Deputy General Counsel, DOB Anita Laremont, Esq., General Counsel, DCP Edith Hsu-Chen, Director, Manhattan Office, DCP

Christopher Rizzo, Carter, Ledyard & Milburn LLP

Residential Tower Mechanical Voids

Text Amendment

Revised Environmental Assessment Statement*

CEQR No. 19DCP110Y

ULURP No. N190230 ZRY

* Following certification of the related land use application (ULURP No. N190230 ZRY) on January 28, 2019, the City Planning Commission (CPC) proposed modifications to the proposed zoning text amendment. This Revised EAS supersedes the EAS issued January 25, 2019 and assesses the change to the application, provided in Appendix D. As described herein, the change would not alter the conclusions of the previous environmental review.

NYSCEF DOC. NO. 38



City Environmental Quality Review ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) FULL FORM

Please fill out and submit to the appropriate agency (see instructions)

Part I: GENERAL INFORMATI	ON					
PROJECT NAME Residential	Tower Mechanio	cal Voids Text A	mendment			
1. Reference Numbers						
CEQR REFERENCE NUMBER (to be a 19DCP110Y	BSA REFERENCE NUMBER ((if appli	cable)			
ULURP REFERENCE NUMBER (if app	licable)		OTHER REFERENCE NUMBE	ER(S) (if	applicable)	
N190230 ZRY			(e.g., legislative intro, CAPA	4)		
2a. Lead Agency Information	ו		2b. Applicant Informa	ntion		
NAME OF LEAD AGENCY			NAME OF APPLICANT			
New York City Department o			New York City Depart			
NAME OF LEAD AGENCY CONTACT			NAME OF APPLICANT'S REP			
Olga Abinader, Acting Directo		ntal	Frank Ruchala Jr., Dep	uty Di	rector of Zoning	Division
Assessment and Review Divis			120 D	24		
ADDRESS 120 Broadway, 31 st		40274	ADDRESS 120 Broadwa	ay, 31s		10271
CITY New York	STATE NY	ZIP 10271	CITY New York		STATE NY	ZIP 10271
TELEPHONE 212-720-3493	EMAIL oabinad@planr	ning.nyc.gov	TELEPHONE 212-720-34	36	EMAIL fruchal@plann	ing.nyc.gov
3. Action Classification and 1	Гуре					
SEQRA Classification						
UNLISTED X TYPE I: Spe	cify Category (see 6	NYCRR 617.4 and N	NYC Executive Order 91 of 19	77, as a	imended):	
Action Type (refer to Chapter 2,	"Establishing the Ar	nalysis Framework"	for guidance)			
LOCALIZED ACTION, SITE SPEC	IFIC	LOCALIZED ACTION	N, SMALL AREA	GEN	IERIC ACTION	
4. Project Description						
The New York City Departme	nt of City Planni	ng (DCP) propos	ses a zoning text amenc	lment	pursuant to Zon	ing Resolution
(ZR) Section 23-16 (Special Fl	oor Area and Lo	t Coverage Prov	visions for Certain Areas) and I	related sections,	to modify
floor area regulations for res	idential tower d	evelopments lo	cated within non-contex	xtual F	R9 and R10 Resid	ence Districts,
their equivalent Commercial	Districts, as wel	l as Special Purp	oose Districts that rely o	n und	erlying floor area	a and height
and setback regulations or th	at are primarily	residential in ch	naracter The proposed z	zoning	text amendmen	t (the
"Proposed Action") would co	unt mechanical	floors in such b	uildings as zoning floor	area w	when they are tal	ler than 25
feet in height or when they a	re located withi	n 75 feet in heig	ght of each other. Curre	ntly, n	nechanical space	does not
count towards zoning floor a	rea of a building	as permitted b	y zoning. The Proposed	Actior	n is intended to d	discourage the
use of excessive mechanical	floors to artificia	Illy increase buil	ding height by limiting	the he	ight and frequer	ncy of such
spaces incorporated into a bu	uilding's design.					
Project Location						
вокоидн Manhattan,	COMMUNITY DIS		STREET ADDRESS N/A			
Bronx, and Queens	Manhattan Co	•				
	District 1, 2, 3					
	10, and 11; Br					
	Community D					
	Queens Comn	nunity District				
	2 and 12					
TAX BLOCK(S) AND LOT(S) N/A			ZIP CODE N/A			
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS N/A						
EXISTING ZONING DISTRICT, INCLUI	DING SPECIAL ZONI	NG DISTRICT DESIG	NATION, IF ANY Various		NG SECTIONAL MAP	
(see Project Description) Various (see Project Description)						
5. Required Actions or Appro		t apply)	<u></u>			
City Planning Commission:	⊻ YES 📋	NO		_		Р)
CITY MAP AMENDMENT		ZONING CERTIFICA	TION		ICESSION	
					R	. 001157

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ZONING MAP AMENDMENT	
SITE SELECTION—PUBLIC FACILITY DISPOSITION—RE	
HOUSING PLAN & PROJECT OTHER, explain:	
SPECIAL PERMIT (if appropriate, specify type: modification;	renewal; other); EXPIRATION DATE:
SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION	
Board of Standards and Appeals: YES NO	
VARIANCE (bulk)	
SPECIAL PERMIT (if appropriate, specify type: modification;	renewal; other); EXPIRATION DATE:
SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION	
Department of Environmental Protection: YES	NO If "yes," specify:
Other City Approvals Subject to CEQR (check all that apply)	
	FUNDING OF CONSTRUCTION, specify:
	POLICY OR PLAN, specify:
	FUNDING OF PROGRAMS, specify:
384(b)(4) APPROVAL	PERMITS, specify:
OTHER, explain:	<u></u>
Other City Approvals Not Subject to CEQR (check all that apply)	
PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION	
AND COORDINATION (OCMC)	OTHER, explain:
State or Federal Actions/Approvals/Funding: YES	NO If "yes," specify:
6. Site Description: The directly affected area consists of the project where otherwise indicated, provide the following information with regard	
	t be checked off before the EAS is complete. Each map must clearly depict
	oot radius drawn from the outer boundaries of the project site. Maps may
not exceed 11 x 17 inches in size and, for paper filings, must be folded to	
SITE LOCATION MAP ZONING MAP	SANBORN OR OTHER LAND USE MAP
TAX MAP FOR LARGE AREA	S OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S)
PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF	EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP
Physical Setting (both developed and undeveloped areas)	
Total directly affected area (sq. ft.): N/A	Waterbody area (sq. ft.) and type: N/A
Roads, buildings, and other paved surfaces (sq. ft.): N/A	Other, describe (sq. ft.): N/A
7. Physical Dimensions and Scale of Project (if the project affect	cts multiple sites, provide the total development facilitated by the action)
SIZE OF PROJECT TO BE DEVELOPED (gross square feet): N/A	
NUMBER OF BUILDINGS: N/A	GROSS FLOOR AREA OF EACH BUILDING (sq. ft.): N/A
HEIGHT OF EACH BUILDING (ft.): N/A	NUMBER OF STORIES OF EACH BUILDING: N/A
Does the proposed project involve changes in zoning on one or more site	es? YES NO
If "yes," specify: The total square feet owned or controlled by the application of the second s	
The total square feet not owned or controlled by the ap	
Does the proposed project involve in-ground excavation or subsurface di	
lines, or grading? YES NO	
If "yes," indicate the estimated area and volume dimensions of subsurface	ce disturbance (if known):
AREA OF TEMPORARY DISTURBANCE: sq. ft. (width x length)	VOLUME OF DISTURBANCE: cubic ft. (width x length x depth)
AREA OF PERMANENT DISTURBANCE: sq. ft. (width x length)	
8. Analysis Year CEQR Technical Manual Chapter 2	
ANTICIPATED BUILD YEAR (date the project would be completed and ope	erational): 2029
ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: N/A (Generic	Action)
WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE? YES	NO IF MULTIPLE PHASES, HOW MANY? N/A
BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE: N/A	
9. Predominant Land Use in the Vicinity of the Project (chec	k all that apply)
RESIDENTIAL MANUFACTURING COMMERCIAL	
	R. 001158

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DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS

The information requested in this table applies to the directly affected area. The directly affected area consists of the project site and the area subject to any change in regulatory control. The increment is the difference between the No-Action and the With-Action conditions.

		EXISTI	NG	ì		NO-AC	TIO	N		WITH-AC	TIC	DN	
		CONDIT	'IO	N		COND	TIO	N		CONDIT	101	N	INCREMENT
LAND USE													
Residential		YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
Describe type of residential structures	SEE	PROJECT			SEE	PROJECT			SEE	PROJECT			SEE PROJECT
	DES	CRIPTION			DES	CRIPTION			DES	SCRIPTION			DESCRIPTION
No. of dwelling units													
No. of low- to moderate-income units	<u> </u>												
Gross floor area (sq. ft.)				1				-			_		
Commercial	L	YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
Describe type (retail, office, other)													
Gross floor area (sq. ft.)	L							-					
Manufacturing/Industrial		YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
Type of use													
Gross floor area (sq. ft.)													
Open storage area (sq. ft.)	<u> </u>												
If any unenclosed activities, specify:				1				1			_		
Community Facility	\square	YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
Туре													
Gross floor area (sq. ft.)								-					
Vacant Land		YES		NO		YES		NO		YES		NO	
If "yes," describe:													
Publicly Accessible Open Space		YES		NO		YES		NO		YES		NO	
If "yes," specify type (mapped City, State, or													
Federal parkland, wetland—mapped or													
otherwise known, other):	┢───			1				-			_		
Other Land Uses	ĽЦ	YES		NO		YES		NO		YES		NO	
If "yes," describe:	L												
PARKING								-					1
Garages		YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
No. of public spaces													
No. of accessory spaces													
Operating hours	L												
Attended or non-attended								-			_		
Lots		YES		NO		YES		NO		YES		NO	
If "yes," specify the following:													
No. of public spaces													
No. of accessory spaces	L												
Operating hours								1			_		
Other (includes street parking)	ľЦ	YES		NO		YES		NO		YES		NO	
lf "yes," describe:	<u> </u>												
POPULATION	_		_				_	3					
Residents		YES		NO		YES		NO		YES		NO	
If "yes," specify number:													
Briefly explain how the number of residents	Í												

	EXISTING CONDITION	NO-ACTION CONDITION	WITH-ACTION CONDITION	INCREMENT
was calculated:				
Businesses	YES NO	YES NO	YES NO	
If "yes," specify the following:				
No. and type				
No. and type of workers by business				
No. and type of non-residents who are not workers				
Briefly explain how the number of businesses was calculated:				
Other (students, visitors, concert-goers, <i>etc.</i>)	YES NO	YES NO	YES NO	
If any, specify type and number:				
Briefly explain how the number was calculated:				
ZONING				
Zoning classification	SEE PROJECT DESCRIPTION	SEE PROJECT DESCRIPTION	SEE PROJECT DESCRIPTION	SEE PROJECT DESCRIPTION
Maximum amount of floor area that can be developed				
Predominant land use and zoning				
classifications within land use study area(s)				
or a 400 ft. radius of proposed project				
Attach any additional information that may If your project involves changes that affect of development projections in the above table	one or more sites not asso	ciated with a specific deve		

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Part II: TECHNICAL ANALYSIS

INSTRUCTIONS: For each of the analysis categories listed in this section, assess the proposed project's impacts based on the thresholds and criteria presented in the CEQR Technical Manual. Check each box that applies.

- If the proposed project can be demonstrated not to meet or exceed the threshold, check the "no" box.
- If the proposed project will meet or exceed the threshold, or if this cannot be determined, check the "yes" box.
- For each "yes" response, provide additional analyses (and, if needed, attach supporting information) based on guidance in the CEQR Technical Manual to determine whether the potential for significant impacts exists. Please note that a "yes" answer does not mean that an EIS must be prepared—it means that more information may be required for the lead agency to make a determination of significance.
- The lead agency, upon reviewing Part II, may require an applicant to provide additional information to support the Full EAS Form. For example, if a question is answered "no," an agency may request a short explanation for this response.

	YES	NO
1. LAND USE, ZONING, AND PUBLIC POLICY: <u>CEQR Technical Manual Chapter 4</u>		
(a) Would the proposed project result in a change in land use different from surrounding land uses?		\square
(b) Would the proposed project result in a change in zoning different from surrounding zoning?		\square
(c) Is there the potential to affect an applicable public policy?	\square	
(d) If "yes," to (a), (b), and/or (c), complete a preliminary assessment and attach.		
(e) Is the project a large, publicly sponsored project?		\square
 If "yes," complete a PlaNYC assessment and attach. 		•
(f) Is any part of the directly affected area within the City's Waterfront Revitalization Program boundaries?	\square	
 If "yes," complete the <u>Consistency Assessment Form</u>. 		
2. SOCIOECONOMIC CONDITIONS: CEQR Technical Manual Chapter 5		
(a) Would the proposed project:		
• Generate a net increase of more than 200 residential units <i>or</i> 200,000 square feet of commercial space?		\square
If "yes," answer both questions 2(b)(ii) and 2(b)(iv) below.		-
 Directly displace 500 or more residents? 		\square
If "yes," answer questions 2(b)(i), 2(b)(ii), and 2(b)(iv) below.		
 Directly displace more than 100 employees? 		\boxtimes
If "yes," answer questions under 2(b)(iii) and 2(b)(iv) below.		
 Affect conditions in a specific industry? 		\boxtimes
If "yes," answer question 2(b)(v) below.		
(b) If "yes" to any of the above, attach supporting information to answer the relevant questions below. If "no" was checked for each category above, the remaining questions in this technical area do not need to be answered.		
i. Direct Residential Displacement		
 If more than 500 residents would be displaced, would these residents represent more than 5% of the primary study area population? 		
 If "yes," is the average income of the directly displaced population markedly lower than the average income of the rest of the study area population? 		
ii. Indirect Residential Displacement		
 Would expected average incomes of the new population exceed the average incomes of study area populations? 		
o If "yes:"		
Would the population of the primary study area increase by more than 10 percent?		
 Would the population of the primary study area increase by more than 5 percent in an area where there is the potential to accelerate trends toward increasing rents? 		
 If "yes" to either of the preceding questions, would more than 5 percent of all housing units be renter-occupied and unprotected? 		
iii. Direct Business Displacement		
 Do any of the displaced businesses provide goods or services that otherwise would not be found within the trade area, either under existing conditions or in the future with the proposed project? 		
 Is any category of business to be displaced the subject of other regulations or publicly adopted plans to preserve, 		
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		YES	NO
	enhance, or otherwise protect it?		
iv.	Indirect Business Displacement		
	 Would the project potentially introduce trends that make it difficult for businesses to remain in the area? 		
	• Would the project capture retail sales in a particular category of goods to the extent that the market for such goods		
v.	would become saturated, potentially resulting in vacancies and disinvestment on neighborhood commercial streets? Effects on Industry		
۷.	 Would the project significantly affect business conditions in any industry or any category of businesses within or outside 		
	the study area?		
	 Would the project indirectly substantially reduce employment or impair the economic viability in the industry or category of businesses? 		
3. C	OMMUNITY FACILITIES: CEQR Technical Manual Chapter 6		
(a)	Direct Effects		
	 Would the project directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, health care facilities, day care centers, police stations, or fire stations? 		\square
(b)	Indirect Effects		
i.	Child Care Centers		
	 Would the project result in 20 or more eligible children under age 6, based on the number of low or low/moderate income residential units? (See Table 6-1 in <u>Chapter 6</u>) 		\boxtimes
	 If "yes," would the project result in a collective utilization rate of the group child care/Head Start centers in the study area that is greater than 100 percent? 		\boxtimes
	o If "yes," would the project increase the collective utilization rate by 5 percent or more from the No-Action scenario?		\square
ii.	Libraries		
	 Would the project result in a 5 percent or more increase in the ratio of residential units to library branches? (See Table 6-1 in <u>Chapter 6</u>) 		\square
	 If "yes," would the project increase the study area population by 5 percent or more from the No-Action levels? 		
	 If "yes," would the additional population impair the delivery of library services in the study area? 		
iii.	Public Schools		
	 Would the project result in 50 or more elementary or middle school students, or 150 or more high school students based on number of residential units? (See Table 6-1 in <u>Chapter 6</u>) 		\square
	 If "yes," would the project result in a collective utilization rate of the elementary and/or intermediate schools in the study area that is equal to or greater than 100 percent? 		
	o If "yes," would the project increase this collective utilization rate by 5 percent or more from the No-Action scenario?		
iv.	Health Care Facilities		
	 Would the project result in the introduction of a sizeable new neighborhood? 		\square
	 If "yes," would the project affect the operation of health care facilities in the area? 		
٧.	Fire and Police Protection		
	 Would the project result in the introduction of a sizeable new neighborhood? 		\square
	 If "yes," would the project affect the operation of fire or police protection in the area? 		
4. C	PEN SPACE: CEQR Technical Manual Chapter 7		
(a)	Would the project change or eliminate existing open space?		\square
(b)	Is the project located within an under-served area in the Bronx, Brooklyn, Manhattan, Queens, or Staten Island?	\square	
(c)	If "yes," would the project generate more than 50 additional residents or 125 additional employees?		\square
(d)	Is the project located within a well-served area in the Bronx, Brooklyn, Manhattan, Queens, or Staten Island?	\square	
	If "yes," would the project generate more than 350 additional residents or 750 additional employees?		\square
(f)	If the project is located in an area that is neither under-served nor well-served, would it generate more than 200 additional residents or 500 additional employees?		\square
(g)	If "yes" to questions (c), (e), or (f) above, attach supporting information to answer the following:		
.07	 If in an under-served area, would the project result in a decrease in the open space ratio by more than 1 percent? 		
	• If in an area that is not under-served, would the project result in a decrease in the open space ratio by more than 5		
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	YES	NO
percent?		
 If "yes," are there qualitative considerations, such as the quality of open space, that need to be considered? Please specify: 		
5. SHADOWS: CEQR Technical Manual Chapter 8		
(a) Would the proposed project result in a net height increase of any structure of 50 feet or more?		\square
(b) Would the proposed project result in any increase in structure height and be located adjacent to or across the street from a sunlight-sensitive resource?		
(c) If "yes" to either of the above questions, attach supporting information explaining whether the project's shadow would reach sensitive resource at any time of the year.	n any sun	light-
6. HISTORIC AND CULTURAL RESOURCES: CEQR Technical Manual Chapter 9		
(a) Does the proposed project site or an adjacent site contain any architectural and/or archaeological resource that is eligible for or has been designated (or is calendared for consideration) as a New York City Landmark, Interior Landmark or Scenic Landmark; that is listed or eligible for listing on the New York State or National Register of Historic Places; or that is within a designated or eligible New York City, New York State or National Register Historic District? (See the <u>GIS System for</u> <u>Archaeology and National Register</u> to confirm)	\boxtimes	
(b) Would the proposed project involve construction resulting in in-ground disturbance to an area not previously excavated?		\square
(c) If "yes" to either of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list any identified architectural and/or archaeological resources and attach supporting information of the above, list and attach supporting informa	tion on	
whether the proposed project would potentially affect any architectural or archeological resources.		
7. URBAN DESIGN AND VISUAL RESOURCES: <u>CEQR Technical Manual Chapter 10</u>		
(a) Would the proposed project introduce a new building, a new building height, or result in any substantial physical alteration to the streetscape or public space in the vicinity of the proposed project that is not currently allowed by existing zoning?	\square	
(b) Would the proposed project result in obstruction of publicly accessible views to visual resources not currently allowed by existing zoning?		\square
(c) If "yes" to either of the above, please provide the information requested in <u>Chapter 10</u> .		
8. NATURAL RESOURCES: CEQR Technical Manual Chapter 11		
(a) Does the proposed project site or a site adjacent to the project contain natural resources as defined in Section 100 of <u>Chapter 11</u> ?	\boxtimes	
o If "yes," list the resources and attach supporting information on whether the project would affect any of these resources.		
(b) Is any part of the directly affected area within the Jamaica Bay Watershed?	\boxtimes	
 If "yes," complete the <u>Jamaica Bay Watershed Form</u> and submit according to its <u>instructions</u>. 		
9. HAZARDOUS MATERIALS: CEQR Technical Manual Chapter 12		
(a) Would the proposed project allow commercial or residential uses in an area that is currently, or was historically, a manufacturing area that involved hazardous materials?		\square
(b) Does the proposed project site have existing institutional controls (<i>e.g.</i> , (E) designation or Restrictive Declaration) relating to hazardous materials that preclude the potential for significant adverse impacts?		\square
(c) Would the project require soil disturbance in a manufacturing area or any development on or near a manufacturing area or existing/historic facilities listed in <u>Appendix 1</u> (including nonconforming uses)?		\square
(d) Would the project result in the development of a site where there is reason to suspect the presence of hazardous materials, contamination, illegal dumping or fill, or fill material of unknown origin?		\square
(e) Would the project result in development on or near a site that has or had underground and/or aboveground storage tanks (e.g., gas stations, oil storage facilities, heating oil storage)?		\square
(f) Would the project result in renovation of interior existing space on a site with the potential for compromised air quality; vapor intrusion from either on-site or off-site sources; or the presence of asbestos, PCBs, mercury or lead-based paint?		\square
(g) Would the project result in development on or near a site with potential hazardous materials issues such as government- listed voluntary cleanup/brownfield site, current or former power generation/transmission facilities, coal gasification or		\bowtie
gas storage sites, railroad tracks or rights-of-way, or municipal incinerators?		
(h) Has a Phase I Environmental Site Assessment been performed for the site?		\square
 If "yes," were Recognized Environmental Conditions (RECs) identified? Briefly identify: 		\square
(i) Based on the Phase I Assessment, is a Phase II Investigation needed?		\square
10. WATER AND SEWER INFRASTRUCTURE: CEQR Technical Manual Chapter 13		
 (a) Would the project result in water demand of more than one million gallons per day? (b) If the proposed project located in a combined cover area, would it result in at least 1,000 residential units or 250,000. 		
(b) If the proposed project located in a combined sewer area, would it result in at least 1,000 residential units or 250,000 square feet or more of commercial space in Manhattan, or at least 400 residential units or 150,000 square feet or more of commercial space in the Bronx, Brooklyn, Staten Island, or Queens?		\boxtimes
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(c) If the proposed project located in a segarately severed area, would it result in the same or greater development than that instein in table 3.1 in Chapter 13? (c) Would the project involve development on a site that is 5 areas or larger where the amount of impervious surface would increase? (c) Would the proposed project is located within the Jamaica Bay Watershed or in certain specific drainage areas, including Brons River, Coney Isado Creek, found by and Creek, found by and Creek, found wand Creek, including Brons River, Coney Isado Creek, found by and Creek, found by and Creek, found wave Creek, or Weatwork Creek, or Weatwork Creek, including Brons River, Coney Isado Creek, found by and Creek, found by and Creek, found by severed or currently unswered? (c) Would the proposed project blocated in an area that is parafila yeawered or currently unswered? (c) Would the proposed project blocated in an ext bar parafila yeawered or currently unswered? (c) Would the proposed project bar bar paroprist proleinary analyses and attach supporting documentation. 11 SOLD WASTE AND SANTATION SERVICES: CLOIL Trohnicul Manual Chapter 13 (c) Would the proposed project bare the potential ogenerate 100,000 pounds (50 tons) or more of solid waste per week? (c) Would the proposed project thave the potential ogeneration is solid wate parameter fain? (c) Would the proposed project these a reduction in capacity at a solid wate management Flain? (c) Would the proposed project affect the transmission or generation of energy? (c) Would the proposed project affect the transmission or generation of energy? (c) Would the proposed project result in the Chart's Solid Waste Management Plain? (c) Would the proposed project result in the Chart's Solid Waste Management Plain? (c) Would t		YES	NO
increase? Image: Increase in the standard Bay Watershed or in certain specific drainage areas, including Brow River, Concy Island Creek, Fushing Bay and Creek, Sowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek, would it hnowle development on a site that is are or larger where the manual of impervious surface would increase? Image:	listed in Table 13-1 in <u>Chapter 13</u> ?		\boxtimes
Concy Island Creek, Flushing Bay and Creek, Gawanus Canal, Huchinson River, Newtown Creek, or Westcheetr Creek, Westcheetr Creek, or Westcheetr Cr			\boxtimes
(c) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a Wastewater Treatment Plant and/or contribute contaminated stormwater to a separate storm sever system? (i) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits? (ii) Wing 11 we project involve outfall that requires federal and/or state permits? (i) Using 11 bit 11 in Charger14, the project's project operational solid waste generation is estimated to be (pounds per week): (ii) Using 11 bit 11 in Charger14, the project's project operational solid waste generation is estimated to be (pounds per week): (ii) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City's solid Waste Management Plan? (ii) Would the proposed project affect the transmission or generation of emergy? (ii) Would the proposed project affect the transmission or generation of emergy? (iii) King energy modelling or Table 15-1 in Charger 15, the project's projected energy use is estimated to be (annual BTUS): (ii) Would the proposed project affect the transmission or generation of energy? (iii) King energy modelling or posed project affect the transmission or generation of energy? (ii) Would the proposed project secked any threshold identified in Table 16-1 in Charger 16? (iii) ff 'yes,'' would the proposed project affect the transmission or generation of energy? (ii) Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour? (iii) ff 'yes,'' would the proposed project result in the conditions o	Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek,		\boxtimes
Treatment Plant and/or contribute contaminated stormwater to a segarate storm sever system? Image: Segarate storm sever system? (h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits? Image: Segarate storm severate storm severate presentation is storm severate presentation. 11. SoliD WASTE AND SANITATION SERVICES: CEQR Technical Manual Chapter 14 Image: Segarate storm severate store	(f) Would the proposed project be located in an area that is partially sewered or currently unsewered?		\boxtimes
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	(c) Would the proposed project result in the development of 350,000 square feet or more?		\square
 If "yes," would the project result in inconsistencies with the City's GHG reduction goal? (See Local Law 22 of 2008; § 24- 	(d) If "yes" to any of the above, would the project require a GHG emissions assessment based on guidance in Chapter 18?		
	 If "yes," would the project result in inconsistencies with the City's GHG reduction goal? (See Local Law 22 of 2008; § 24- 		

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	YES	NO
803 of the Administrative Code of the City of New York). Please attach supporting documentation.		
16. NOISE: CEQR Technical Manual Chapter 19		
(a) Would the proposed project generate or reroute vehicular traffic?		
(b) Would the proposed project introduce new or additional receptors (see Section 124 in <u>Chapter 19</u>) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line?		
(c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise?		
(d) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts?		\boxtimes
(e) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation.		
17. PUBLIC HEALTH: CEQR Technical Manual Chapter 20		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Air Quality; Hazardous Materials; Noise?		
(b) If "yes," explain why an assessment of public health is or is not warranted based on the guidance in <u>Chapter 20</u> , "Public He preliminary analysis, if necessary.	alth." Atta	ach a
18. NEIGHBORHOOD CHARACTER: CEQR Technical Manual Chapter 21		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Shadows; Transportation; Noise?		
(b) If "yes," explain why an assessment of neighborhood character is or is not warranted based on the guidance in <u>Chapter 21</u> Character." Attach a preliminary analysis, if necessary.	"Neighbo	rhood
19. CONSTRUCTION: CEQR Technical Manual Chapter 22		
(a) Would the project's construction activities involve:		1
 Construction activities lasting longer than two years? 		X
o Construction activities within a Central Business District or along an arterial highway or major thoroughfare?		X
 Closing, narrowing, or otherwise impeding traffic, transit, or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, etc.)? 		X
 Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out? 		\boxtimes
 The operation of several pieces of diesel equipment in a single location at peak construction? 		\boxtimes
 Closure of a community facility or disruption in its services? 		\boxtimes
 Activities within 400 feet of a historic or cultural resource? 		
 Disturbance of a site containing or adjacent to a site containing natural resources? 		X
o Construction on multiple development sites in the same geographic area, such that there is the potential for several		
 construction timelines to overlap or last for more than two years overall? (b) If any boxes are checked "yes," explain why a preliminary construction assessment is or is not warranted based on the guid 22, "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology equipment or Best Management Practices for construction activities should be considered when making this determination 	for constr	apter
20. APPLICANT'S CERTIFICATION		
swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmer Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and with the information described herein and after examination of the pertinent books and records and/or after inquiry have personal knowledge of such information or who have examined pertinent books and records. Still under oath, I further swear or affirm that I make this statement in my capacity as the applicant or representative	d familiari of person	ity is who
hat seeks the permits, approvals, funding, or other governmental action(s) described in this EAS.		
APPLICANT/REPRESENTATIVE NAME SIGNATURE DATE		
Frank Ruchala Jr. April 9 Deputy Director of Zoning Division	, 2019	

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Part III: DETERMINATION OF SIGNIFICANCE (To Be Comple	ted by Lead Agency)			
INSTRUCTIONS: In completing Part III, the lead agency should be a series of the seri	Id consult 6 NYCRR 617.7 and 43 RCNY § 6-	06 (Execut	tive	
Order 91 or 1977, as amended), which contain the State an	d City criteria for determining significance.			
 For each of the impact categories listed below, consider adverse effect on the environment, taking into account i duration; (d) irreversibility; (e) geographic scope; and (f) 	ts (a) location; (b) probability of occurring; (c)	Signif	ntially ficant e Impact	
	indbintade.	1		
IMPACT CATEGORY	and the second	YES	NO	
Land Use, Zoning, and Public Policy				
Socioeconomic Conditions				
Community Facilities and Services				
Open Space				
Shadows				
Historic and Cultural Resources				
Urban Design/Visual Resources				
Natural Resources				
Hazardous Materials				
Water and Sewer Infrastructure				
Solid Waste and Sanitation Services				
Energy				
Transportation				
Air Quality				
Greenhouse Gas Emissions	╞┝╋			
Noise				
Public Health				
Neighborhood Character				
Construction				
 Are there any aspects of the project relevant to the dete significant impact on the environment, such as combined covered by other responses and supporting materials? If there are such impacts, attach an explanation stating water 	d or cumulative impacts, that were not fully			
have a significant impact on the environment.	,			
3. Check determination to be issued by the lead agend	cy:		-	
 Positive Declaration: If the lead agency has determined that the project may have a significant impact on the environment, and if a Conditional Negative Declaration is not appropriate, then the lead agency issues a <i>Positive Declaration</i> and prepares a draft Scope of Work for the Environmental Impact Statement (EIS). Conditional Negative Declaration: A <i>Conditional Negative Declaration</i> (CND) may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements of 6 NYCRR Part 617. 				
 Negative Declaration: If the lead agency has determined the environmental impacts, then the lead agency issues a New separate document (see template) or using the embedder LEAD AGENCY'S CERTIFICATION 	gative Declaration. The Negative Declaration m	-		
TITLE	LEAD AGENCY			
Acting Director, Environmental Assessment and Review	New York City Department of City Plannir	ng, on Beh	alf of	
Division	the City Planning Commission	_		
NAME	DATE			
Olga Abinader	April 9, 2019			
SIGNATURE				
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99 (of 104			

NYS Project Name: Residential Tower Mechanical Voids Text Amendment

CEQR #: 19DCP110Y SEQRA Classification: Type I

REVISED NEGATIVE DECLARATION - supersedes the Negative Declaration issued January 28, 2019

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6 NYCRR, Part 617, State Environmental Quality Review, the Department of City Planning, acting on behalf of the City Planning Commission assumed the role of lead agency for the environmental review of the proposed project. Based on a review of information about the project contained in this environmental assessment statement and any attachments hereto, which are incorporated by reference herein, the lead agency has determined that the proposed project would not have a significant adverse impact on the environment.

Reasons Supporting this Determination

The above determination is based on information contained in this EAS, which finds the proposed actions sought before the City Planning Commission would have no significant effect on the quality of the environment. Reasons supporting this determination are noted below.

Land Use, Zoning and Public Policy

1. This EAS includes a Land Use, Zoning and Public Policy assessment which analyzes the potential significance of the proposed text amendment on land use, zoning and public policy in the study area. The Proposed Zoning Text Amendment would limit the use of zoning floor area deductions for excessive structural voids in high-density tower districts. The Proposed Action is intended to discourage the use of excessive mechanical or structural floors to increase building height by limiting the height and frequency of such spaces incorporated into a building's design. The Proposed Action would not otherwise affect land use, zoning or public policy in the affected area. This EAS includes a consistency assessment with the Waterfront Revitalization Program (WRP). The analysis concludes that the proposed actions would not result in significant adverse impacts on land use, zoning or public policy.

Urban Design and Visual Resources

2. This EAS includes an Urban Design and Visual Resources assessment which analyzes the potential significance of the Proposed Action on urban design. The Proposed Action would would not alter the permitted height, bulk, setback or arrangement of the existing zoning districts. Rather, the proposed text amendment would limit the use of excessively tall mechanical floors to elevate upper-story residential units above the surrounding context. Thus, the Proposed Action is intended to reinforce and improve existing neighborhood character and urban design. Therefore, there would be no significant adverse impacts on urban design and visual resources.

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA).

TITLE	LEAD AGENCY
Acting Director, Environmental Assessment and Review	Department of City Planning, acting on behalf of the City
Division	Planning Commission
NAME	DATE
Olga Abinader	April 9, 2019
SIGNATURE Aler al	

NYS @#10ject @Name: Residential Tower Mechanical Voids Text Amendment CEQR #: 19DCP110Y SEQRA Classification: Type I

TITLE Chair, City Planning Commission	
NAME Marisa Lago	DATE April 9, 2019
SIGNATURE	

* Following certification of the related land use application (ULURP No. N 190230 ZRY) on January 28, 2019, the City Planning Commission (CPC) proposed modifications to the proposed zoning text amendment. This Revised Negative Declaration supersedes the Negative Declaration issued January 28, 2019 and reflects the Revised EAS dated April 9, 2019 which assesses the proposed CPC Modification to the application. As described in the Revised EAS, the change would not alter the conclusions of the previous EAS.

Residential Tower Mechanical Voids Text Amendment EAS Attachment A: Project Description

I. INTRODUCTION

The New York City Department of City Planning (DCP) proposes a zoning text amendment pursuant to Zoning Resolution (ZR) Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) and related sections, to modify floor area regulations for residential tower developments located within non-contextual R9 and R10 Residence Districts, their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character The proposed zoning text amendment (the "Proposed Action") would count residential mechanical floors in such buildings as zoning floor area when they are taller than 25 feet in height or when they are located within 75 feet in height of each other. Currently, mechanical space is excluded from zoning floor area calculations. The Proposed Action is intended to discourage the use of excessively tall mechanical floors that elevate upper-story residential units above the surrounding context.

II. BACKGROUND

The New York City Zoning Resolution allows floor space containing mechanical equipment to be excluded from zoning floor area calculations. The Resolution does not specifically identify a limit to the height of such spaces. In recent years, some developments have been built or proposed that use tall, inflated mechanical or structural floors to elevate upper-story residential units above the surrounding context and improve their views. These spaces have been commonly described as "mechanical voids".

Renderings of a proposed residential tower on the Upper East Side released in 2018 showed four mechanical floors taking up a total of approximately 150 feet in the middle of the building and raising its overall height to over 500 feet, far above other buildings in the surrounding area built under the same regulations. In response to this building, Mayor De Blasio requested that DCP examine the issue of excessive mechanical voids that are used in ways not anticipated or intended by zoning.

The Department subsequently conducted a citywide analysis of recent construction to better understand the mechanical needs of residential buildings and to assess when excessive mechanical spaces were being used to inflate their overall height. DCP assessed the residential buildings constructed in R6 through R10 districts and their Commercial District equivalents over the past 10 years and generally found excessive mechanical voids to be limited to a narrow set of circumstances in the city.

In R6 through R8 non-contextual zoning districts and their equivalent Commercial Districts, the Department assessed over 700 buildings and found no examples of excessive mechanical spaces. DCP attributes this primarily to the existing regulations that generally limit the overall height of buildings and impose additional restrictions as buildings become taller through the use of sky exposure planes.

In R9 and R10 non-contextual zoning districts and their equivalent Commercial Districts, residential buildings can penetrate the sky exposure plane through the optional tower regulations, which do not impose a limit on height for portions of buildings that meet certain lot coverage requirements. In these tower districts, generally concentrated in Manhattan, the Department assessed over 80 new residential

buildings and found that most towers exhibit consistent configurations of mechanical floors. This typically included one mechanical floor in the lower section of the building located between the non-residential and residential portions of the building. In addition, taller towers tended to have additional mechanical floors midway through the building, or regularly located every 10 to 20 stories. In both instances, these mechanical floors range in height from 10 to approximately 25 feet. Larger mechanical spaces were generally reserved for the uppermost floors of the building in a mechanical penthouse, or in the cellar below ground.

In contrast to these more typical scenarios, the Department identified seven buildings, either completed or currently undergoing construction, that were characterized by either a single, extremely tall mechanical space, or multiple mechanical floors stacked closely together. The height of these mechanical spaces varied significantly but ranged between approximately 80 feet to 190 feet in the aggregate. In districts where the tower-on-a-base regulations are applicable, like the Upper East Side building described above, these spaces were often located right above the 150-foot mark, which suggests that they are intended to elevate as many units as possible while also complying with the 'bulk packing' rule of these regulations, which require 55 percent of the floor area to be located below 150 feet. In other districts, these spaces were typically located lower in the building to raise more residential units higher in the air, which often also has the detrimental side effect of "deadening" the streetscape with inactive space close to the ground.

III. PROPOSED ACTION

Proposed Text Amendment

The Applicant, the Department of City Planning, is proposing a zoning text amendment to Zoning Resolution Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) and related sections, for residential towers in R9 and R10 non-contextual zoning districts, their equivalent Commercial Districts, and certain Special Districts to discourage the use of excessively tall mechanical spaces that disengage substantial amounts of building spaces from their surroundings. The proposed text amendment also seeks to recognize the need for reasonably sized and distributed mechanical spaces in residential towers, as well as the virtue of providing overall flexibility to support design excellence in these areas.

The proposed new text amendment (see Appendix A) would require that, in certain buildings where the text applies, floors occupied predominantly by mechanical space that are taller than 25 feet in height (whether individually or in combination) be counted as floor area. Taller floors, or stacked floors taller than 25 feet, would be counted as floor area based on the new 25-foot height threshold. A contiguous mechanical floor that is 132 feet in height, for example, would now count as five floors of floor area (e.g., 132/25 = 5.28, rounded to the closest whole number equals 5). The 25-foot height is based on mechanical floors found in recently-constructed residential towers and is meant to allow the mechanical needs of residential buildings to continue to be met without increasing the height of residential buildings to a significant degree. The provision would only apply to floors located below residential floor area to not impact mechanical penthouses found at the top of buildings where large amounts of mechanical space is typically located.

Additionally, any floors occupied predominantly by mechanical space located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height would count as floor area. This change is intended to address situations where non-mechanical floors are interspersed among mechanical

floors in response to the proposed new 25-foot height threshold, while still allowing buildings to provide mechanical space necessary in different portions of a building.

For example, a cluster of four fully mechanical floors in the lower section of the tower which total 80 feet in height, even with non-mechanical floors splitting the mechanical floors into separate segments, would count as three floors of floor area, even when each floor is less than 25 feet tall and they are not contiguous (e.g. 80' / 25' = 3.2 rounded to the closest whole number equals 3).

The proposed new regulation would also be applicable to the non-residential portions of a mixed-use building if the non-residential uses occupy less than 25 percent of the building. This would ensure that tall mechanical floors could not be assigned as mechanical space to non-residential uses in the building, and therefore not be subject to the rule. The 25-foot height threshold would not apply to the non-residential uses in mixed buildings with more than 25 percent of their floor area allocated to non-residential use as the uses in mixed buildings like this (offices, community facilities, etc.) commonly have different mechanical needs than residential buildings. Finally, the regulations would also be made applicable to floors occupied predominantly by spaces that are unused or inaccessible within a building. The Zoning Resolution already considers these types of spaces as floor area, but it does not provide explicit limits to the height that can be considered part of a single story within these spaces. This change would ensure that mechanical spaces and these types of spaces are treated similarly.

Geographic Applicability of the Proposed Action

The proposed text amendment would apply to towers in R9 and R10 Residence Districts and their equivalent Commercial Districts. The proposal would also apply to Special Purpose Districts that rely on the underlying tower regulations for floor area and height and setback regulations, as well as sections of the Special Clinton District and the Special West Chelsea District that impose special tower regulations. The applicable areas are shown on Map 1, and the applicable Special Purpose Districts are shown in Table 1.

Borough	Special District/Area	Notes
MN	Lincoln Square	C4-7 Districts
MN	Union Square	C6-4 Districts
MN	West Chelsea	Subdistrict A
MN	Clinton	R9 District and equivalent Commercial Districts that do not have special height restrictions, as well as C6-4 Districts in the 42nd Street Perimeter Area
QN	Long Island City	Court Square Subdistrict
QN	Downtown Jamaica	"No Building Height Limit" area as shown on Map 5 of Appendix A in Article XI, Chapter 5.