



George M. Janes

& Associates

250 E. 87th Street

New York, NY 10128

Tel: 646.652.6498

george@georgejanes.com

City of Yes

Zoning for Economic Opportunity

10/11/2023

New York City is proposing three major zoning text amendments

A **text amendment** is simply an edit of the Zoning Resolution text

This work is not easy and can come in chunks of hundreds of pages

- (a) A "home occupation" is an accessory use that is a home-based, small-scale business or activity which:
- (1) is clearly incidental to or secondary to the residential use of a dwelling unit or rooming unit;
 - (2) is carried on within a dwelling unit, rooming unit, or accessory building by one or more occupants of such dwelling unit or rooming unit, except that, in connection with the practice of a profession, ~~one person~~ up to three persons not residing in such dwelling unit or rooming unit may be employed; and
 - (3) occupies not more than ~~25 percent~~ 49 percent of the total floor area of such dwelling unit or rooming unit and ~~in no event more than 500 square feet of~~ floor area.

The City of Yes amendments are called:

1. **Zoning for Carbon Neutrality** (Approved by CPC in Sept, City Council vote by Nov. 21)
2. **Zoning for Economic Opportunity** (to be referred in late October 2023)
3. **Zoning for Housing Opportunity** (2024, but scoping for the EIS just started)

The City has said it wants input pre-referral. We should take them at their word

Today is about **Zoning for Economic Opportunity**, but first, one update . . .

Zoning for Housing Opportunity

- Draft Scope of Work for the environmental review came out in late September
- Hearing on the Draft Scope of Work will be held on **October 26**, written comments due **November 6**
- Draft Scope of Work can be downloaded [here](#)

Zoning for Economic Opportunity is broken into 19 topic areas

Expand options for businesses to locate

1. Enable more businesses to locate in **ground floor storefronts**
2. Remove **arbitrary barriers** to appropriate uses on commercial streets
3. Expand opportunities for **small-scale clean production**
4. Allow for **upper floor commercial** activity
5. Create **new job-intensive zoning districts** for future

Support growing industries

6. Ensure **life science** facilities can expand
7. Provide bulk relief for new buildings such as **film studios**
8. Support **nightlife** with common-sense dancing and live entertainment rules
9. Simplify rules so **amusements** & experiential businesses can flourish
10. Potentially enable state licensure of **casinos**
11. Clarify rules to enable indoor uses, such as **urban agriculture**

Foster vibrant neighborhoods

12. Ease pathways to **reactivate vacant storefronts** in Residence Districts
13. Create process for new **corner stores** in residential areas
14. Increase allowances for **home occupations**
15. Introduce **corridor design rules** that ensure buildings contribute to surroundings
16. Clarify **small-scale wholesale & storage rules** to facilitate safe and sustainable deliveries
17. Reduce conflicts between **auto repair** and pedestrians on commercial streets

Provide clarity and predictability

18. Simplify and modernize **use definitions** to clarify where businesses can locate
19. Modernize **loading dock** rules to allow buildings to adapt over time

We will not be reviewing each topic

- We're going to do a broad overview, and then get into some of the more controversial topics, especially those that impact CD3
- I'm not repeating DCP: DCP's summary slides are [here](#)
- Or listen to the presentation [here](#)
- DCP just released the annotated zoning text, which you can get [here](#). It's 664 pages!

The Zoning Resolution currently has 50 pages(!) of uses

| Use | Use Group | Districts in Which |
|--|-----------|--------------------------------------|
| Banks, including drive-in banks [PRC-B] | 6 | C1 C2 C4 C5 C6 C8 M1 M2 M3 |
| Banquet halls [PRC-D] | 9 | C2 C4 C5 C6 C8 M1 ³ |
| | 13 | C7 C8 M1 ³ M2 M3 |
| Barber shops [PRC-B] | 6 | C1 C2 C4 C5 C6 C8 M1 M2 M3 |
| Baths, steam (See #Physical culture or health establishments#) | | |
| Beaches, commercial [PRC-E] | 13 | C3* C7 C8 M1 ³ M2 M3 |
| Beauty parlor | 6 | C1 C2 C4 C5 C6 C8 M1 M2 M3 |
| Beverages: | | |
| Bottling works | 17 | M1 M2 M3 |
| Manufacture: | | |
| Alcoholic | 18 | M3 |
| Non-alcoholic | 17 | M1 M2 M3 |
| Bicycle: | | |
| Manufacture | 17 | M1 M2 M3 |
| Rental or repair shops [PRC-B1] | 7 | C2 C6 ⁴ C8 M1 M2 M3 |
| | 14 | C2 C3 C7 C8 M1 M2 M3 |
| Sales [PRC-B] | 6 | C1 C2 C4 C5 C6 C8 |

Each use is classified into 18 Use Groups and segregated by zoning district

| | Residential | | Community Facility | | Retail and Commercial | | | | | | | | | | General Service | Manufacturing | | |
|--------------------------------|-------------|---|--------------------|---|-----------------------|---|---|---|---|----|----|----|----|----|-----------------|---------------|----|----|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| Residence Districts | | | | | | | | | | | | | | | | | | |
| R1 R2 | ● | | ● | ● | | | | | | | | | | | | | | |
| R3 – R10 | ● | ● | ● | ● | | | | | | | | | | | | | | |
| Commercial Districts | | | | | | | | | | | | | | | | | | |
| C1 | ● | ● | ● | ● | ● | ● | | | | | | | | | | | | |
| C2 | ● | ● | ● | ● | ● | ● | ● | ● | ● | | | | | ● | | | | |
| C3 | ● | ● | ● | ● | | | | | | | | | | ● | | | | |
| C4 | ● | ● | ● | ● | ● | ● | | ● | ● | ● | | ● | | | | | | |
| C5 | ● | ● | ● | ● | ● | ● | | ● | ● | ● | ● | | | | | | | |
| C6 | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | | | | | |
| C7 | | | | | | | | | | | | ● | ● | ● | ● | | | |
| C8 | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | | ● | | |
| Manufacturing Districts | | | | | | | | | | | | | | | | | | |
| M1 | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| M2 | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |
| M3 | | | | | | | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● |

Use Group 1 – Single-family detached residences (ZR 22-11)

Use Group 2 – All other types of residences (ZR 22-12)

Use Group 3 – Community facilities that serve educational needs, such as schools, libraries, or museums, and other essential services with sleeping accommodations, such as nursing homes and residential facilities for special needs populations (ZR 22-13)

Use Group 4 – Community facilities that provide recreational, religious, or health services, such as houses of worship, hospitals, or medical offices, and other essential services without sleeping accommodations (ZR 22-14)

Use Group 5 – Hotels (ZR 32-14)

Use Group 6 – Retail and service establishments that serve local shopping needs, such as food and small clothing stores, beauty parlors and dry cleaners, as well as offices (ZR 32-15)

Use Group 7 – Home maintenance and repair services, such as plumbing and electrical shops which serve nearby residential areas (ZR 32-16)

Use Group 8 – Amusement establishments such as movie theaters and small bowling alleys, service uses such as appliance repair shops, as well as car rental and public parking facilities (ZR 32-17)

Use Group 9 – Business and other services, such as printers or caterers (ZR 32-18)

Use Group 10 – Large retail establishments that serve a large area, such as department stores and appliance stores (ZR 32-19)

Use Group 11 – Custom manufacturing activities such as for jewelry or clothing (ZR 32-20)

Use Group 12 – Large entertainment facilities that draw large numbers of people such as arenas and indoor skating rinks (ZR 32-21)

Use Group 13 – Low coverage or open amusement uses, such as golf driving ranges, and children’s small amusement parks, camps (ZR 32-22)

Use Group 14 – Facilities for boating and related activities which are suitable in waterfront recreation areas (ZR 32-23)

Use Group 15 – Large commercial amusement establishments, including typical amusement park attractions such as Ferris wheels and roller coasters (ZR 32-24)

Use Group 16 – Automotive and semi-industrial uses, such as automotive repair, gas stations, custom woodworking and welding shops (ZR 32-25)

Use Group 17 – Light industrial uses that can normally conform to high performance standards, such as appliance manufacturing or contractor yards (ZR 42-14)

Use Group 18 – Heavy industrial uses, such as cement plants, meat or fish preparation, and junk yards

The Zoning Resolution's uses and Use Group categories are a mess

- They are hopelessly out of date, with no significant updates for over 30 years
- They largely reflect NYC's manufacturing economy of 1961 and can be a terrible fit with modern uses

Solution:

- Use the North American Industry Classification System (NAICS) – a federal standard – to reorganize and modernize uses

The proposal collapses 18 Use Groups into 10:

Use Group 1 – Agriculture and Open Uses

Use Group 2 – Residences

Use Group 3 – Community Facilities

Use Group 4 – Public Service Facilities and Infrastructure

Use Group 5 – Transient Accommodations

Use Group 6 – Retail and Services

Use Group 7 – Offices and Laboratories

Use Group 8 – Recreation, Entertainment and Assembly Spaces

Use Group 9 – Storage

Use Group 10 – Production Uses

While use groups are collapsed, detail on specific uses is retained

| USE GROUP 6A – RETAIL TRADE ESTABLISHMENTS | | | | | | | | | | |
|---|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| ● = Permitted ♦ = Permitted with limitations ○ = Special permit required – = Not permitted S = Size restriction P = Additional conditions U = Open use allowances | | | | | | | | | | |
| Uses (NAICS Code) | C1 | C2 | C3 | C4 | C5 | C6 | C7 | C8 | PRC | |
| Motor Vehicle and Parts Dealer (441) | | | | | | | | | | |
| Automobile dealers (4411) | ● P | ● P | – | ● P | ● P | ● P | ● P | ● P | ● U | A4 |
| Other motor vehicle dealers (4412) | Boat dealers (441222) | ● P | ● P | ● U | ● P | ● P | ● P | ● P | ● U | A4 |
| | All other motor vehicle dealers (in 4412) | ● P | ● P | – | ● P | ● P | ● P | ● P | ● U | A4 |
| Automotive parts, accessories and tire retailers (4413) | ● | ● | – | ● | ● | ● | ● | ● | ● | A2 |
| Building Material and Garden Equipment and Supplies Dealer (444) | | | | | | | | | | |
| Building material and supplies dealers (4441) | ● S | ● S | – | ● | ● | ● | ● | ● | ● U | A3 |
| Lawn and garden equipment and supplies retailers (4442) | ● U | ● U | – | ● U | ● U | ● U | ● U | ● U | ● U | A2 |
| Food and Beverage Retailers (445) | | | | | | | | | | |
| Grocery and convenience retailers (4451) | ● | ● | – | ● | ● | ● | ● | ● | ● | * – |
| Specialty food retailers (4452) | ● | ● | ● | ● | ● | ● | ● | ● | ● | * – |
| Beer, wine and liquor retailers (4453) | ● | ● | – | ● | ● | ● | ● | ● | ● | A2 |
| Furniture, Home Furnishings, Electronics, and Appliance Retailers (449) | | | | | | | | | | |
| Furniture and home furnishing retailers (4491) | ● S | ● S | – | ● | ● | ● | ● | ● | ● | A3 |
| Electronics and appliance retailers (4492) | ● S | ● S | – | ● | ● | ● | ● | ● | ● | A3 |
| General Merchandise Retailers (455) | | | | | | | | | | |

Commented [Z11]: The Proposal would make clear that lawn and equipment stores can have open areas for the growth or sale of their goods.

Commented [Z12]: Here is a good example of outdated terminology. The current use is listed as "package liquor stores", which has caused confusion for establishments that only sell other forms of alcohol. The Proposal would make clear that all forms of alcohol sales are similarly permitted.

We still have eight different commercial districts, but the names have changed and differences between them are lessened

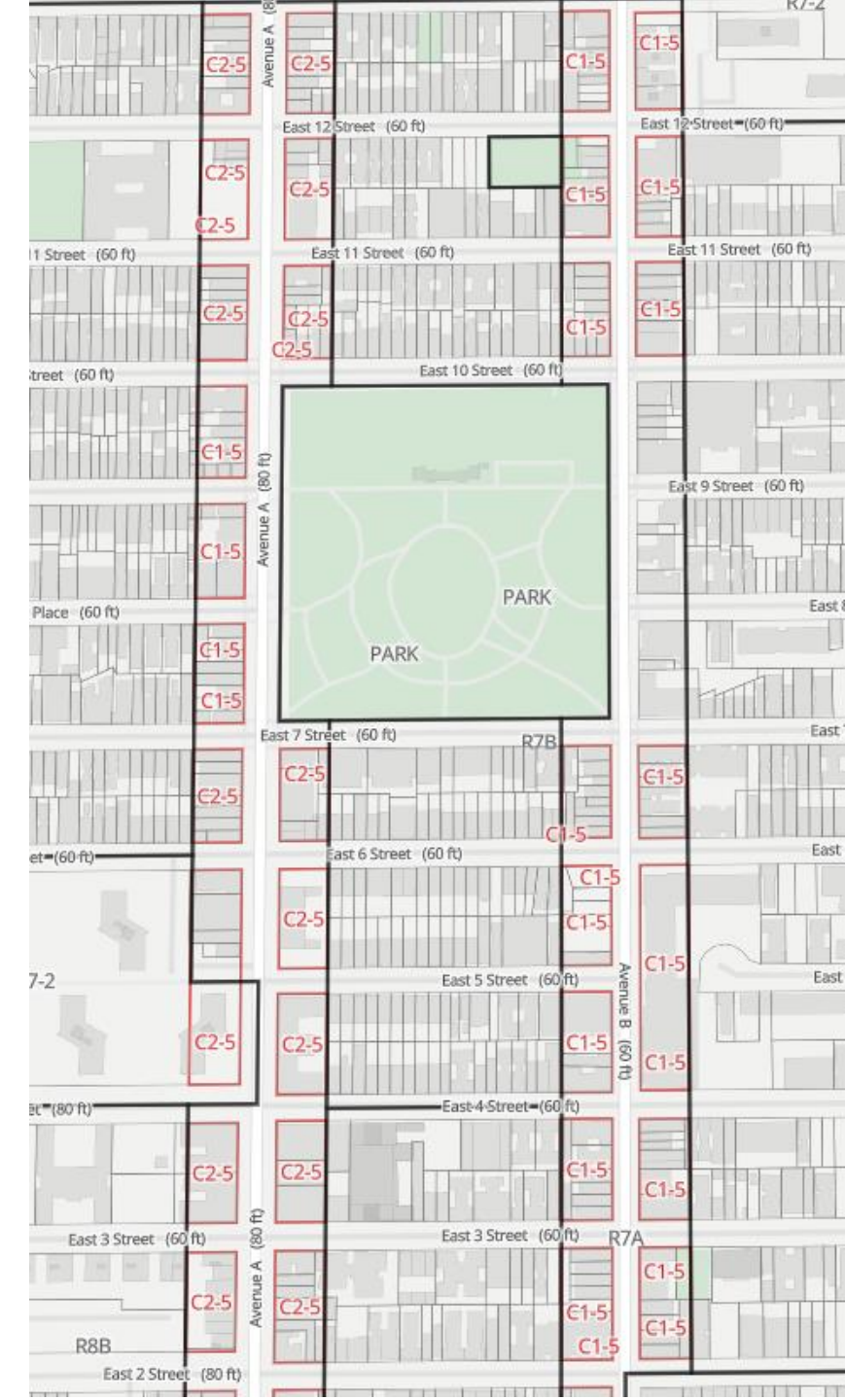
- 1. C1:** Local Commercial Districts
- 2. C2:** Local Commercial Districts
- 3. C3:** Waterfront Recreation Districts (e.g. City Island)
- 4. C4:** General Commercial Districts
- 5. C5:** General Central Commercial Districts
- 6. C6:** General Central Commercial Districts
- 7. C7:** General Commercial Districts
- 8. C8:** General Service Districts

There are basically four large buckets of commercial uses now:

- **C1/2**: Local commercial
- **C3**: Waterfront commercial
- **C4/7**: General commercial
- **C8**: General service

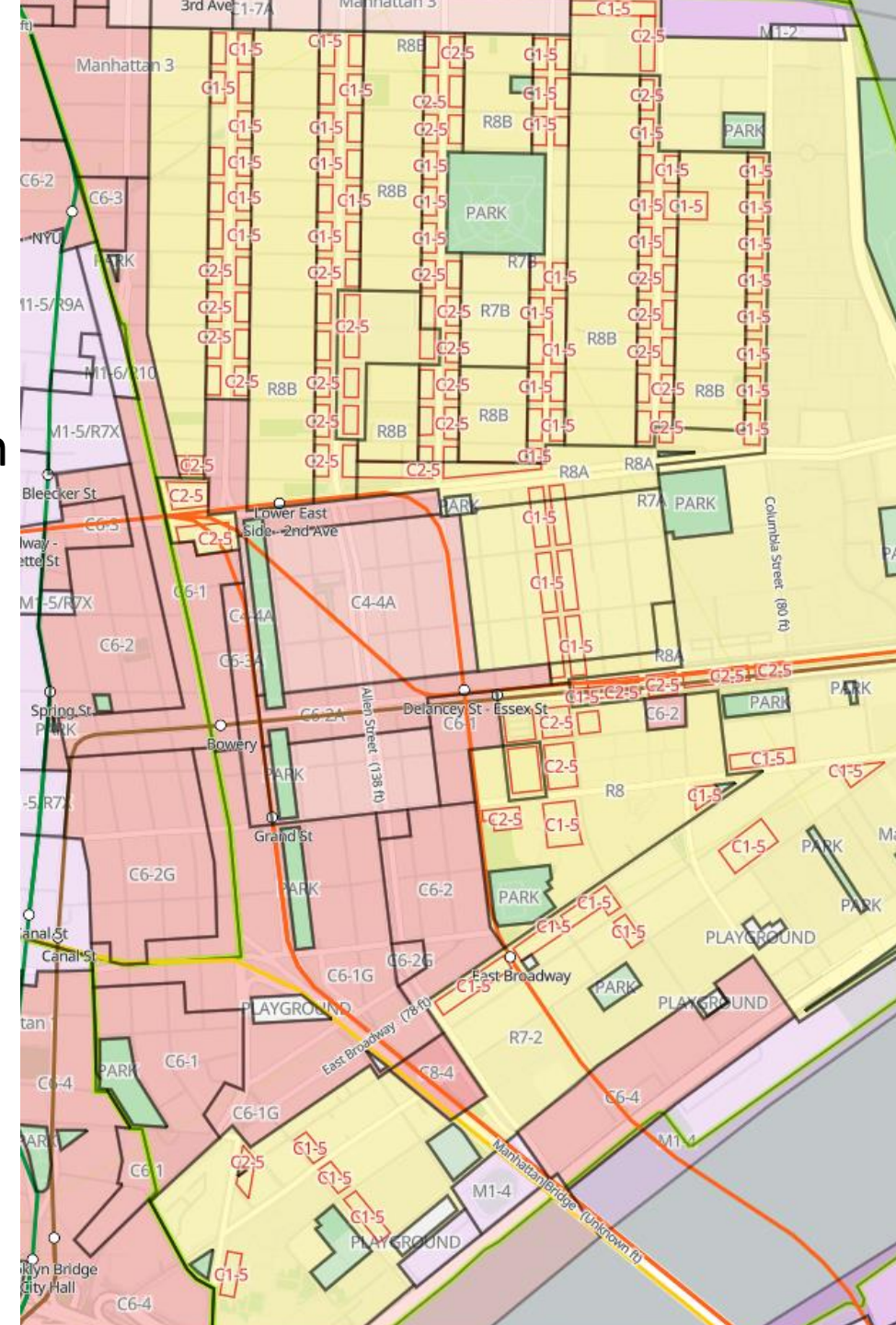
What does this change mean in practice?

- Currently, Avenue A is mostly C2, except for around the park
- Avenue B is C1
- C1 is the lightest commercial use (small stores, restaurants, bars, offices)
- C2 is still neighborhood commercial but allows small services (examples: bike rental & repair, movie theaters, small pool halls, art studios, lumber stores, general contracting offices, etc.)
- The distinction between C1 and C2 goes away



What does this change mean in practice?

- There are no C3, C5 or C7 districts in CD3
- There is one small C8 district by the Manhattan Bridge
- Much of the western part of the district between Houston and East Broadway are C4 and C6 districts
- The distinction between C4 and C6 will disappear
- The change would expand uses like precision manufacturing (e.g. jewelry) and home repair services (plumbing and electrical shops) into the C4
- C6-1G (which is a unique district that requires a special permit for conversion to residential) stays



Topic: Grandfathering

- Currently, grandfathered, or non-conforming, uses are permitted to continue, but if the use stops for a period of **two years**, the right to the grandfathered use lapses (with some exceptions)
- Many grandfathered uses went vacant during COVID
- The proposal is to remove the time limit on the reoccupation of grandfathered uses
- Should non-conforming spaces vacated for more than two years be permitted to be re-occupied by a non-conforming use?



Topic: Home occupations

- NYC currently allows many home occupations. These changes lift many existing restrictions:
 - Outside employees increased to 3 from 1
 - Max size increased to 49% of the unit from 25%
 - Absolute size restriction (no more than 500 feet) has been removed
- A list of prohibited home occupations are removed:
 - advertising or public relations agencies
 - barber shops / beauty parlors
 - #commercial# stables or kennels
 - depilatory, electrolysis or similar offices
 - interior decorators' offices or workshops
 - ophthalmic dispensing /pharmacy
 - real estate / insurance / stockbroker offices
 - veterinary medicine
- Should the regulations of home occupations be relaxed?



Topic: CPC authorization for retail in R districts

- Currently, a commercial use cannot be placed in a residential district without grandfathering or a variance
- The amendment adds CPC authorizations for stores and offices in R districts that are:
 - No more than 2,500 SF
 - No more than 15,000 SF for large-scale residential developments
- An authorization is a CPC discretionary action that is NOT subject to ULURP
- The CPC holds no public hearing on authorizations
- Is expanding CPC authorizations a concern?



Topic: Micro-distribution facilities

- Currently, warehouses and distribution centers are UG 16 and can locate only in C8 and M districts
- Increased demand for deliveries have created a demand for “dark stores” in neighborhoods
- In 2022, DOB issued a Building Bulletin permitting such uses in C1/C2 districts, as long as they were small and at least partially open to the public
- This change permits this new use in C1/C2 (<2,500 SF) or in C4-C7 (<5K SF on ground floor and <10K SF above). Also adds special permits for larger facilities
- Should it?



| Uses | C1 | C2 | C3 | C4 | C5 | C6 | C7 | C8 |
|--|--------|--------|----|--------|--------|--------|--------|----------|
| General Storage | | | | | | | | |
| <u>Building materials or contractors' yard</u> | — | — | — | — | — | — | — | • S U |
| <u>Depositories for storage of office records, microfilm or computer tapes, or for data processing</u> | — | — | — | • S | • S | • S | • S | • |
| <u>Micro-distribution facility</u> | • S | • S | — | • S | • S | • S | • S | — |

Topic: Night clubs

- Night clubs or in zoning terms: “Eating or drinking establishments with entertainment and a capacity of more than 200 persons, or establishments of any capacity with dancing” **have been hard to site in NYC**
- The dancing restriction is removed throughout zoning
- In C1-C3 districts, scheduled entertainment and cover charges would be permitted as long as capacity is less than 200 people
- In C4-C7 districts, there is no size restriction
- Historically, larger venues have been difficult to site in commercial districts because of location restrictions (>100 feet from residential districts.) This restriction stays
- Local nighttime entertainment becomes easier. Is that OK?



Topic: Amusements

- Currently, most Coney Island-style rides are limited to C7 districts
- The change will allow amusements in more places
 - Small-scale in neighborhood commercial (C1/2)
 - Large-scale in Central Business Districts (C4-C8)
 - Outdoor still limited to C7 (and C8)
- This glass-enclosed ride has been proposed in a new hotel on 8th Avenue. Its legality has been challenged, but with the proposed zoning change, it would likely be as-of-right in C4-C8 districts
- In other cities, business districts have turned into entertainment districts. That shift has been impeded by zoning in NYC
- Should it be?



| USE GROUP 8 – RECREATION, ENTERTAINMENT AND ASSEMBLY SPACES | | | | | | | | | |
|--|--------|--------|----|----|----|----|----------|----------|--------|
| ● = Permitted ♦ = Permitted with limitations ○ = Special permit required | | | | | | | | | |
| – = Not permitted | | | | | | | | | |
| S = Size restriction P = Additional conditions U = Open use allowances | | | | | | | | | |
| Uses | C1 | C2 | C3 | C4 | C5 | C6 | C7 | C8 | PRC |
| Amusement and Recreation Facilities | | | | | | | | | |
| #Amusement or recreation facilities# | ● s | ● s | ○ | ● | ● | ● | ● u | ● u | * – |
| #Outdoor amusement parks# | – | – | – | – | – | – | ● s u | ● s u | C |

Topic: Casinos

- Topic 10 of DCP's explanation of Zoning for Economic Opportunity is casinos
- But casinos are not a part of Zoning for Economic Opportunity
- There will be a separate zoning text amendment for casinos later this year



Topic: Research Laboratories

- The amendment changes research laboratories to UG 7, which would be permitted in all C districts, except C3
- For decades, zoning classified most research labs as UG 17, only allowed in M districts
- In 2016, the City adopted a memo that said they would interpret most research laboratories as UG 9, allowable in C2 and higher commercial districts, as well as M districts
- This change will replace this interpretation and permit research laboratories in most commercial districts

Life Sciences in Commercial Zoning Districts

To: Alicia Glen, Deputy Mayor for Housing and Economic Development
 From: DOB: Thomas Fariello, First Deputy Commissioner
 DCP: Carl Weisbrod, Commissioner
 EDC: Maria Torres-Springer, President
 Subject: Life Sciences in Commercial Zoning Districts
 Date: December 13, 2016

This memo summarizes the conclusions based upon discussion among the Department of Buildings (DOB), the Department of City Planning (DCP) (collectively, "the agencies") and the Economic Development Corporation (EDC) about the zoning implications of life sciences research, testing, and development ("Life Sciences") in commercial zoning districts.

A. Scope of research and testing: As stated in ZR 32-18 (Use Group 9A), "Medical or dental laboratories for research or testing, or the custom manufacture of artificial teeth, dentures or plates..." are permitted in C2, C4, C5, C6, C8, M1, M2, and M3 districts. The agencies and EDC are in agreement that the synthesis and manipulation of chemical substances, biological matter, and animal models (as described further below) are integral activities in commercial medical laboratories devoted to research and testing, as referenced in ZR 32-18. Activities in these laboratories may also include the assembly of medical technologies, diagnostic devices, and research instrumentation for use in prototype experimentation, pre-clinical studies or clinical testing.

USE GROUP 7 – OFFICES AND LABORATORIES

● = Permitted ♦ = Permitted with limitations ○ = Special permit required
 – = Not permitted
 S = Size restriction P = Additional conditions U = Open use allowances

| Uses | C1 | C2 | C3 | C4 | C5 | C6 | C7 | C8 |
|---------------------|----|----|----|----|----|----|----|----|
| <u>Laboratories</u> | ● | ● | – | ● | ● | ● | ● | ● |
| <u>Laboratories</u> | P | P | | P | P | P | P | P |

Topic: Research Laboratories (continued)

- The amendment will also permit research laboratories in R districts via special permit as long as they are part of a larger community facility campus



Topic: Research Laboratories (continued)

- Also in 2016, the NYC Department of Health & Mental Hygiene sponsored a change in the health code that required certain research laboratories to register with the City, writing:

"[t]he Department is concerned that an accident in a New York City-based high-containment research laboratory could have catastrophic consequences, . . ."

- I FOILED the listing of registered research laboratories. DOHMH rejected the request because:

"[t]o release the names and addresses of these facilities would constitute an untenable security risk, . . ."

- So, on one hand, the City is making this use easier to site, while on the other hand, the City is saying that these facilities are too dangerous to even disclose, and an accident could cause catastrophic consequences
- I have no expertise in this area, but find the lack of a consistent message on this use concerning

In sum, these changes relax use regulations nearly everywhere, and for most things

- For example, for a generation, the City has made regulations discouraging car ownership, but this amendment considers existing “light motor vehicle repair and maintenance shops” to be conforming no matter where they are located, so that they can expand
- Many manufacturing uses (food, textiles, clothing, shoes, computers, machinery, soap, pharmaceuticals, clay, furniture, medical equipment, lighting, computers, etc.) can be located in most C districts
- Manufacturing uses are limited to less than 5,000 SF for C1/C2, or 10,000 SF for C4-C7, and performance standards apply, but that’s still a big change
- This is consistent with a national trend toward form-based codes, which are less concerned about what happens in a building, and more concerned with the form of buildings

Finally, this change moves zoning further away from regulating “formula retail” and preserving small retail

- In 2019, CB3 adopted a resolution in support of an “East Village Special Commercial District”
- Among other things, this would have:
 - Placed restrictions on storefront size
 - Prohibit the combining of storefronts
 - Place restrictions on new eating/drinking places
 - Prohibit formula retail establishments
- Zoning for Economic Opportunity is about removing use barriers; it does not add them
- It is unlikely we’ll see another Special Enhanced Commercial District in NYC anytime soon



Next steps

- We have [zoning text!](#)
- **Zoning for Economic Opportunity** will be referred at the end of October. The CB will have sixty (60) days for its review
- The amendment covers more topics, including: loading berths, film studios, location of commercial uses within buildings, etc.
- More information is available online [here](#)
- The City has encouraged comments at any time on any relevant topic. If you have strong initial thoughts, express them now

Discussion / Questions



George M. Janes

& Associates

250 E. 87th Street

New York, NY 10128

Tel: 646.652.6498

george@georgejanes.com

City of Yes

Zoning for Economic Opportunity

10/11/2023