



CITY PLANNING COMMISSION

March 28, 2012 / Calendar No. 18

N 120132 ZRY

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York that would remove zoning impediments to green building features that will help promote energy efficient building envelopes; renewable energy, stormwater detention, reduction of carbon emissions and provide for a healthier New York City. To incorporate these goals, various sections of the Zoning Resolution will be amended.

An application for an amendment to the Zoning Resolution, N 120132 ZRY, was filed by the Department of City Planning on December 8, 2011 to remove zoning impediments to the construction and retrofitting of green buildings.

BACKGROUND

The New York City Department of City Planning is proposing a city-wide Zone Green Text Amendment to facilitate the retrofitting of existing buildings and construction of new buildings with features that help: reduce energy consumption and carbon emissions, generate clean and renewable energy, manage stormwater run-off on site, reduce the urban heat island effect through vegetation on roofs, and otherwise promote a healthy and sustainable city. These building elements are collectively referred to as “green building features.”

It is estimated that it costs \$15 billion each year to heat and power New York City’s buildings, and these buildings are responsible for 80 percent of the City’s carbon emissions. It is also estimated that in 2030, 85 percent of the buildings in the City will be buildings that exist today. Therefore, improving the performance of existing buildings, as well as new buildings, is critical to reducing New York City’s energy use and carbon emissions. Buildings can be designed and retrofitted to save money for owners and tenants, provide for a healthier environment, reduce the

burden on city infrastructure, and support our ecology. But green building features are sometimes discouraged or even prohibited by existing zoning regulations.

In February 2010, the Green Codes Task Force, a group of leading practitioners convened by the Urban Green Council at the request of Mayor Bloomberg and Council Speaker Quinn, released a set of recommendations to amend City regulations to promote green building features.

Building on the work of the Green Codes Task Force, the Department of City Planning proposes a citywide zoning text amendment to remove zoning impediments to the construction and retrofitting of green buildings. The Zone Green text amendment complements efforts under PlaNYC to improve the performance of buildings.

SUMMARY OF PROPOSAL

Energy Efficient Measures/Improvements for Building Envelopes

A. Building Insulation

A poorly insulated building envelope can account for as much as 70 percent of the energy loss in a building, with leakage through windows, roofs and exterior walls. Various studies suggest that insulating and air sealing a building could reduce energy consumption as much as 20 percent to 50 percent. Improvements to the building envelope typically offer long term savings, because the envelope is a longer-lasting element than other systems, such as boilers.

Existing Buildings

Existing buildings can add insulation either inside the exterior wall or on its outside face. Internal insulation can be limited in its effectiveness because breaks in the continuity of insulation lead to heat transfer (called thermal bridging). In addition, internal insulation of an existing building may require the building to be vacated. In contrast, placing insulation on the exterior face of the building can offer a continuous enclosure, limiting thermal bridging and providing superior energy performance. External insulation can also be applied without vacating the building.

Currently, zoning regulations do not restrict the application of internal insulation in existing buildings. However, the application of external insulation to existing buildings would be prohibited by zoning if the building was built to its maximum allowable floor area or height, or up to its limits for setbacks, yards and open space.

Currently, floor area and lot coverage are measured to the exterior face of exterior walls. The proposed zoning amendments would permit the waiver of the amount of new floor area and lot coverage created by adding external insulation on building walls that existed prior to the adoption of the zoning text. The amount of added wall thickness that could be waived would be limited to 8 inches. In addition, roof surfaces are not allowed to penetrate height limits. The proposed amendments would allow external insulation on existing roofs to project above the maximum building height by a maximum of 8 inches as measured perpendicular to the roof surface.

Existing zoning regulations do not list external insulation as a permitted obstruction in required setback areas, yards, or open space such as courts or plazas. The proposal would allow additional wall thickness to accommodate external insulation as a permitted obstruction in these areas. To limit the reduction of narrow open areas measuring 8 feet or less, external insulation would be limited to 1 inch for every 1 foot of depth of such yard, setback, or open area. When such open space is shared between adjacent zoning lots, the permitted reduction of open area on each zoning lot would be proportional to the depth of the open area on that zoning lot. Where a building is being externally insulated and enlarged vertically or horizontally such that the enlargement does not exceed the total floor area of the existing building, the permitted obstruction provisions would apply to the exterior wall of the enlarged portion of the building as well, to prevent poorly shaped corners and joints where the enlarged portion adjoins the existing building.

New Buildings

The NYC Energy Conservation Code (Energy Code) today requires new buildings and enlargements to comply with minimum energy efficiency standards. New buildings can perform better than minimum Energy Code requirements by constructing thicker walls with additional

insulation. However, zoning regulations include the thickness of walls in the calculation of floor area. This can serve as a disincentive for constructing thicker walls that are highly energy efficient, because they reduce the amount of usable floor space.

The proposal would permit, in all zoning districts, a portion of the thickness of new exterior walls (constructed after adoption of the proposed amendment) to be exempted from the calculation of floor area when the building exceeds the thermal envelope requirement of the Energy Code by a prescribed percentage. Such new buildings or enlargements would be exempted from floor area calculations up to 8 inches of wall thickness, provided that at least 8 inches of thickness are included in floor area calculations. For example, if a building requires a 12 inch thick wall to exceed the Energy Code thermal envelope requirement by the required percentage, 4 inches of such wall thickness would be exempted from floor area calculations. This provision does not allow the new wall to project into required yards, courts or open areas. Additional floor area created by this exemption would be accommodated within the applicable height and setback regulations for the district.

B. Sun Control Devices

Sun control devices, such as horizontal and vertical solar shades, prevent heat gain during summer months, reducing peak cooling demand for buildings by as much as 5 to 15 percent. These devices can also improve building occupants' comfort by reducing glare, save energy by providing glare-free day lighting, and enhance the architectural aesthetics of the building façade.

Current zoning regulations specify that awnings and canopies may project into a required yard as "permitted obstructions." Other sun control devices are not specifically listed as permitted obstructions.

The proposal would add sun control devices to the list of permitted obstructions within a yard or setback, treating them similarly to awnings. Awnings and sun control devices above the ground floor of a building would be allowed to project into a required yard, court or setback area to a maximum distance of 2 feet, 6 inches from the building wall. Because sun control devices may

be provided in a variety of shapes, including screens, the total area of the façade covered by awnings and sun control devices (when viewed in elevation) would be limited to 30 percent of the surface area of the building wall from which they project. When sun control devices are provided as screens, they would be allowed to project above the height limit to match the height of the parapet wall or guardrail.

C. Location of Air Conditioning Condensing Units for Single- or Two-Family Residences

Air conditioning condensing units are currently allowed as permitted obstructions in the rear yards of single- or two-family residences in all zoning districts where residences are permitted, but only if they are located at least 8 feet from all lot lines. Central air conditioning and ductless mini-split air conditioning units are significantly more energy efficient than air conditioning units set in windows or through-wall sleeves, however, the current zoning precludes their use, especially for attached houses on narrow lots where it is impossible to locate them 8 feet from a lot line.

Newer air conditioning condensing units are quieter and smaller than when the current zoning regulations were established, eliminating the need for setbacks from lot lines. In addition, the Department of Environmental Protection now regulates noise audible from the neighboring property through the NYC Noise Code. Therefore, the proposed amendments would allow air conditioning condensing units in rear and side yards without any setback from lot lines. The ductless mini-split units would also be allowed as a permitted obstruction in a front yard if within 18 inches of the front building wall and provided it is screened from the street by vegetation.

Rooftop Infrastructure

Zoning generally regulates building heights either through a sky exposure plane, which defines permitted building heights in non-contextual districts by a sloping plane that allows a building to be taller the further it is set back from a street, or by maximum height limits in contextual zoning districts. A portion of a building or other structure can rise above a sky exposure plane or maximum building height only if it is listed as a permitted obstruction to height limits. The

current list of permitted obstructions has not changed significantly since the adoption of the Zoning Resolution in 1961, and includes only certain types of rooftop equipment. Green building features such as stormwater management equipment, renewable energy systems such as solar panels and wind turbines, recreational decks, greenhouses and a range of other mechanical equipment are not included in the list of permitted obstructions. Although these building features typically can be added to buildings in non-contextual districts because they do not penetrate the sky exposure plane, they often cannot be added to buildings in contextual districts because they would penetrate the maximum building height. Contextual district height limits are more restrictive of rooftop equipment than in districts governed by a sky exposure plane. The need to amend the list of permitted obstructions has become more urgent as more and more neighborhoods have been remapped as contextual districts in recent years.

The proposed action would allow the following green building features to exceed a height limit: stormwater management systems such as vegetative roofs and blue roofs, recreational surfaces, renewable energy systems such as solar and wind energy generation systems, and accessory mechanical equipment, all subject to provisions that allow greater flexibility for configuring rooftop systems while limiting the visibility of these items from street level.

A. Vegetative Roofs, Blue Roofs, Decks, Skylights, Guardrails

Vegetative roofs consist of drainage layers, soil and planting that can be installed in trays or directly on top of the roof surface. These roofs can reduce heat gain, detain storm water, increase biodiversity, extend the expected life of a roof by reducing the impact of temperature fluctuation and ultraviolet radiation on the roof surface, and make open space available for recreation.

Blue roofs are rooftop stormwater detention systems that control the flow of stormwater through the use of weirs near roof drains, check dams, or other detention mechanisms on the roof surface. These systems temporarily store water on the rooftop during a storm event, limiting the rate of flow to storm sewers.

Decks for recreational purposes can provide open space resources to building occupants in a dense urban environment where such space is often limited. A deck can also be installed above a blue roof or in conjunction with a vegetative roof.

On buildings with flat roofs, the proposed regulations would permit vegetative roofs, blue roofs, and decks as permitted obstructions up to a height of 3 feet, 6 inches. These features would also be permitted on the roofs of non-complying existing buildings that exceed the maximum permitted height and would be permitted to extend up to a height of 3 feet, 6 inches above the roof. These items would also be allowed on a portion of a commercial and community facility use permitted within a rear yard. On sloped roofs, the height of a vegetative roof would be limited to 12 inches measured perpendicular to the roof.

For safety reasons, building code requires guardrails on accessible rooftops. The proposed amendment would permit guardrails up to a maximum height of 3 feet, 6 inches above the accessible surface of the roof. Such guardrail would be required to be no more than 30 percent opaque, to maintain visual openness.

Skylights, clerestories, and other daylighting features can help bring natural light to interior spaces, reducing the energy consumption associated with artificial lighting. The proposed amendment would allow these features as permitted obstructions up to a height of 4 feet on flat roof surfaces, provided that they are located at least 8 feet from the roof edge and do not exceed 10 percent of the roof area.

B. Solar Energy Generation

Solar energy installations are a leading source of renewable energy with relatively low operating costs and greater efficiency because of lower transmission losses associated with on-site generation. Solar photovoltaic (PV) panels generate electricity while solar thermal systems provide for hot water needs. Both technologies benefit building owners or occupants by reducing utility costs. Excess energy generated through solar PV can be sold back to the grid through net metering. Because peak generation for solar power occurs on hot, sunny days, when electricity

demand is also greatest, solar PV installations also reduce the burden on the local electrical grid by reducing peak loads.

The proposed amendment would allow solar energy systems as a permitted obstruction above building setbacks, above the height limit of the roof and above the roof of existing buildings that exceed a height limit. They would be allowed without restriction up to a height of 4 feet on buildings with flat roofs, and up to 18 inches on a sloping roof, measured perpendicular to the roof surface. On buildings with flat roofs, taller solar energy systems would be allowed, provided that portions more than 4 feet high are set back at least 6 feet from the street wall, and the area, as viewed from above, of such portions above 4 feet does not exceed 25 percent of the roof area. On flat-roofed buildings in R1 through R5 districts and in commercial overlays within such districts, these panels would be limited to a maximum height of 6 feet; in all other districts the maximum height would be 15 feet. Solar energy installations would also be permitted on bulkheads, roof water tanks and other mechanical equipment, limited to a height of 6 feet above the surface on which the panels are installed.

The proposed text amendment would also permit solar energy installations on roofs of sheds, garages, and other accessory structures permitted in yards, up to a height of 18 inches measured perpendicular to the roof. When located above a permitted commercial or community facility use within a required rear yard, solar installations would be limited to 4 feet in height above the structure.

The proposed text amendment would also allow a solar energy system on existing walls to project up to 10 inches into a required yard, setback or other required open area, provided that it occupies no more than 20 percent of the surface area of the building wall from which it projects. This would enable buildings that have walls with good sun exposure but not adequate amounts of available sun-exposed roof to install solar energy systems.

C. Wind Energy Generation

Wind turbines are another source of renewable energy, with many benefits similar to those of solar panels. Wind power generation complements solar power generation, because wind speeds tend to be highest on cloudy days and at night. Effective wind energy generation requires reliable, sustained winds, which are frequently not available at lower elevations in a dense urban environment. The greatest potential for wind energy generation exists on taller buildings without obstructions, near the waterfront where consistent winds are more common.

The proposed text amendment would allow small wind turbines to exceed a height limit when installed on top of buildings that are at least 100 feet in height. The wind turbines would be restricted to a maximum height of 55 feet above the roof of a building and prohibited within 10 feet of any zoning lot line. In districts that allow residential use, as-of-right or through discretionary action, and are within 100 feet of such districts, the diameter of the swept area of a turbine would be limited to 15 feet.

On waterfront blocks, building heights are further restricted and sky exposure plane provisions are not applicable to commercial uses in C8 Districts and manufacturing districts. The proposed text amendment would allow wind turbines to exceed a height limit on waterfront blocks in C4-1, C7, C8-1 and M1-1 Districts, up to a maximum height of 55 feet and with a minimum setback of 10 feet from waterfront public access areas and zoning lot lines. To provide sufficient flexibility for small freestanding wind turbines on waterfront blocks, freestanding wind turbines would be allowed to exceed a height limit in such districts, when located outside of required open areas, up to a height of 85 feet. A setback of at least 10 feet would be required from waterfront public access areas and zoning lot lines.

On waterfront blocks, wind turbines would also be permitted above a height limit on all buildings within R6 through R10 Residence Districts and equivalent commercial districts, as well as in manufacturing districts other than M1-1. In these districts, the maximum height of a wind turbine would be limited to either 55 feet or 50 percent of the building height, whichever is less. In addition, a wind turbine would not be allowed within 10 feet of any zoning lot line or the boundary of a waterfront public access area.

D. Bulkheads

Existing zoning regulations allow a volume above the height limit to be occupied by stair and elevator bulkheads, roof water tanks and cooling equipment. These regulations, which allow a volume whose surface area facing the street is limited to four times the street wall width, were established based on the types of building systems prevalent in the late 1950s. Today, for energy efficiency and safety concerns, it is desirable to locate other types of mechanical equipment on rooftops. For instance, boilers or cogeneration plants are safer, from flooding and fire, and can be more energy- and space-efficient when placed on rooftops. In addition, the current bulkhead regulations were conceived in conjunction with the 1961 Zoning Resolution's sky exposure plane which allowed for more design flexibility. As contextual zoning districts are more widely mapped throughout the City, the current volumetric controls for bulkheads have become more restrictive.

This restrictiveness has been remedied in many recently created zoning districts, in Special Purpose Districts (Coney Island, St. George, Southern Hunters Point, Downtown Jamaica, Tribeca Mixed-Use District, Downtown Brooklyn, West Chelsea, 125th Street, Hudson Yards, Harlem River Waterfront, Battery Park City, Stapleton, Bay Ridge) and in R5D Districts, where the bulkhead formula has been set to accommodate a volume whose surface area facing the street can be eight times the street wall width. Current zoning regulations also have an alternate option for many special districts that allow bulkheads to cover 20 percent of the lot coverage of the building and rise to a height of 20 feet or 40 feet, depending on the special district.

The proposal would extend, with minor modifications, the bulkhead provisions that exist today within many special districts and the recently created R5D District to apply to medium- and higher-density residence districts, to commercial districts and to manufacturing districts. The proposed regulation would allow stair bulkheads, elevator bulkheads, roof water tanks and other accessory mechanical equipment to be covered by the bulkhead formula, which would permit a volume whose surface area is limited to eight times the street wall width. Alternatively, a building could opt for a bulkhead volume covering 20 percent of the lot coverage of the building, but not exceeding a height of 25 feet where building height is limited to less than 120 feet, or a

height of 40 feet where building height is allowed to be 120 feet or more. To minimize visibility from the street, these bulkheads would be required to set back at least 10 feet from the roof edge, but need not set back more than 20 feet from a wide street line or 25 feet from a narrow street line. In order to allow stair and elevator bulkheads to be configured to serve the vertical circulation core below, stair and elevator bulkheads would be exempted from this setback requirement if they occupy a volume whose area facing the street wall does not exceed four times the street wall width. The proposal would also require all mechanical equipment allowed under this provision to be screened on all sides.

E. Rooftop Greenhouses

The proposed text amendment would allow, by certification from the Chair of the City Planning Commission, exemption from floor area and height limits for greenhouses on top of buildings that do not contain residences or sleeping accommodations, in all zoning districts. Such greenhouses would be required to be 70 percent transparent, limited to 25 feet in height and set back at least 6 feet from all roof edges. Rooftop greenhouses granted such waivers would be required to include a rainwater collection system. In the event that residences or sleeping accommodations are introduced in the building, the rooftop greenhouse would be required to be dismantled.

It is anticipated that this provision would encourage the creation of smaller greenhouses associated with schools for educational purposes, and larger greenhouses dedicated to commercial food production, located primarily in industrial areas.

Other Modifications

A. Accessory Use and Use Groups

The current zoning regulations were drafted prior to the advent of solar energy generation and electric vehicles (EV). Therefore, use regulations are not written to clearly distinguish these cleaner activities from uses such as power plants or gas stations. The proposed amendment

would establish language specifying that solar energy generation is allowed as accessory to any primary use, that EV charging facilities are allowed in public or accessory parking facilities, and that EV charging or battery swapping facilities are permitted as Use Group 7D, similar to automobile tire or glass establishments.

Solar energy generation would also be listed under Use Group 6D, to permit such facilities as a primary use in commercial and manufacturing districts. Existing height and setback regulations applicable to these districts would apply to the solar energy generation facility.

B. Planting Strips Adjacent to Schools

Recently established zoning regulations require sidewalks in lower density residential districts to provide planting strips. However, these requirements can be impractical in front of schools, which generate high amounts of foot traffic, particularly at admission and pickup times or during fire drills.

The proposal would establish an alternative to planting strips within sidewalks adjoining schools. In lieu of a planting strip, permeable pavers or pavement would be allowed, with structural soil or other materials underneath to absorb stormwater. The minimum width of these permeable strips would be 3 feet. All such permeable pavement would be subject to Department of Transportation requirements.

ENVIRONMENTAL REVIEW

This application (N 120132 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 12DCP068Y. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative

Declaration was issued on December 12, 2011.

PUBLIC REVIEW

This application (N 120132 ZRY) was duly referred on December 12, 2011, to all 59 Community Boards in all five boroughs, the Bronx, Brooklyn, Manhattan, Queens and Staten Island Borough Presidents; and the Bronx, Brooklyn, Manhattan, Queens and Staten Island Borough Boards for information and review.

Community Board Review

Bronx

Community Board 1 voted to approve the application; the Economic Development-Land Use & Housing Committee on February 8, 2012 and the full board on February 23, 2012.

Community Board 3 met on February 14, 2012 and approved to support the application.

Community Board 7, Land Use Committee met on December 22, 2011 and sent a letter supporting the application

Community Board 8 approved the application on February 14 with a vote of 27 in favor, 5 opposed and 1 abstention.

Community Board 9 approved the application on January 19, 2012 with a unanimous vote.

Community Board 10 met on January 19, 2012 and voted in support of the application by a vote of 31 in favor, no oppositions and 1 abstention, requesting modifications to disallow wind turbines on City Island.

Community Board 11 voted to support the application, but requested that wind turbines be removed due to noise and aesthetic concerns.

Community Board 12 met on January 26, 2012 and voted unanimously in support of the application.

Brooklyn

Community Board 2 met on January 11, 2012 and approved the application by a vote of 17 in favor, no oppositions and no abstentions.

Community Board 4 met on February 15, 2012 and voted to recommend approval of the application.

Community Board 7 voted on February 15, 2012 in support of the application by a vote of 44 in favor, no oppositions and no abstentions with the following comments that were also expressed by the Borough Board:

- Prohibit air conditioning condensing units in front yards and regulate noise from such units.
- Prohibit sun control devices in non-complying rear yards of less than 20 feet and front yards less than 5 feet.
- Restrict bulkhead height to 25 feet in R8A districts along Fourth Avenue between 15th Street and 25th Street.
- General concerns were expressed about implementation of Zone Green proposals such as wind turbines, planting on the roof and their relationship with views to the water.

Community Board 10 voted on January 23, 2012 to approve the application with the following provisions:

- Add a definition of the term 'wind turbine' and further ensure that accessory uses not be permitted within the wind turbine structure. Restrict freestanding turbine height, where allowed, to 35 feet and require a special permit for further height allowance.
- Prohibit air conditioning condensing units in the front yard, especially in Special Bay Ridge District. In side yards, allow such units within 18 inches of the building wall.

Community Board 14 met on February 13, 2012 and voted to recommend approval of the application with recommendations similar to the Borough Board relating to screening of air conditioning condensing units in front yards, awnings and sun control devices in non-complying yards and prohibition of external insulation in non-complying yards including in rear yards that are allowed to be reduced to 20 feet through Board of Standards and Appeals special permit pursuant to 73-622.

Community Board 18 met on January 18, 2012 and voted to recommend approval of the application.

Manhattan

Community Board 1 voted to approve the application on February 2, 2012 with the following comments:

- The wind turbine proposal shall not be enacted. If enacted, then require a certification of the Chair of the City Planning Commission and Community Board Review.
- Specify in the text amendment that Landmarks Preservation Commission criteria applies for alterations and construction on designated individual landmarks, buildings in historic districts and buildings calendared for designation hearings;
- Require Community Board review for rooftop greenhouse certification of the Chair of the City Planning Commission;
- Require a certification of the Chair of the City Planning Commission and Community Board Review for any substantial modification of a building's exterior to assure that such modification does not negatively impact the essential character of the building in its neighborhood context. Community Board 1 also recommended that the City Planning Commission develop and implement general design standards governing any substantial modification of an existing building's exterior; and
- Requested adequate budgeting for the Department of Buildings for increased enforcement costs that can result in assuring the implementation of this amendment.

The Community Board 2 full board voted to approve the application on February 23, 2012 by a vote of 34 in favor, 2 in oppositions and 4 abstentions, with the following conditions:

- Provisions allowing wind turbines on roofs should be eliminated.
- Community Board review should be incorporated into the approval process for substantial projects.
- Guidelines should be created to ensure that the built fabric of the City is not compromised as we try to move toward energy efficiency.
- There need to be sufficient mechanisms and funding for adequate enforcement by the Department of Buildings.

Community Board 3 voted to approve the application on January 24, 2012 with the following exceptions:

- Rooftop amenities such as as green roofs, recreational decks, and rooftop greenhouses – not including when in connection with schools; and
- Exemption of floor area in energy efficient thick walls for new buildings, unless a building provides at least 51 percent affordable housing.

Community Board 4 voted to approve the proposed amendment on February 1, 2012 expressing concerns regarding the following:

- Exemption of floor area for new energy efficient building walls that may result in increased building height.
- Permitting rooftop decks beyond height limits that may exacerbate the growing problem of noisy, disruptive outdoor spaces.
- Accessory office/storage space in relation to the rooftop greenhouse transparency. The Community Board suggested incorporating requirements for such accessory space to ensure that such space is accessory to the greenhouse and not to other uses in the building, and that it does not unduly reduce the transparency of the greenhouse.
- Noise and safety concerns regarding wind turbines in urban dense areas.

Community Board 5 voted on January 12, 2012 in support of the application by a vote of 33 in favor, no oppositions and 2 abstentions with the following comments:

- Since many buildings in Board 5 are built to the property lines, interior insulation should be exempted from floor area calculations for existing buildings.

- Require storm water detention systems instead of just permitting them.
- Allow rooftop greenhouse waiver of floor area and height on buildings with residential and sleeping accommodation, to capture many missed opportunities.
- The board expressed concern about safety, noise, bird safety that may arise from the wind turbines proposal.
- Recommended leadership on the part of the City by implementing a four year monitoring period of the proposed zoning amendments to understand evolving trends and keep the public informed.

Community Board 6 voted on February 8, 2012 in support of the application by a vote of 42 in favor, 3 oppositions and no abstentions.

Community Board 7 voted on February 7, 2012 in support of the application by a vote of 37 in favor, no oppositions and no abstentions with the following comments:

- Consider existing building architecture when allowing external insulation and refer such applications to the Community Board for review to evaluate the visible appearance.
- Applications with taller solar installations and wind turbines shall be reviewed by the Community Board to ensure that such installations will not prevent neighboring properties to install their own alternative energy sources. The board also pointed out need for coordination among City agencies for noise regulation for wind turbines.
- Consider revising the maximum bulkhead height allowance based on conditions where elevator access is provided to access a passive recreational space on the roof. Such height allowance should be reviewed by the Community Board.

Community Board 8 voted on February 15, 2012 to support the application by a vote of 25 in favor, 9 oppositions and 4 abstentions.

Community Board 10 voted on February 1, 2012 to support the application by a vote of 14 in favor, 13 oppositions and 2 abstentions subject to the following conditions:

- Exclusion of wind turbines due to noise and contextual aesthetic concerns.
- Height limits in The Special 125th District be maintained in regards to rooftop

greenhouses.

- Change the certification process for rooftop greenhouses to an authorization that gives community boards 45 days to issue recommendations. Apply authorization process to taller solar installations and wind turbines as well.

Community Board 12 Land Use Committee voted on February 1, 2012 to support the application by a vote of 6 in favor, no oppositions and one abstention, subject to the following conditions:

- Residential buildings be excluded from provisions related to wind turbines until a time when the Department of Buildings has further studied and established engineering standards for installation.
- Change the approval process for the installation of significant green rooftop structures (e.g. taller solar installations, rooftop greenhouses, and wind turbines) from the proposed Certification by only the Chair of the City Planning Commission to the City Planning Commission Authorization process that provides Community Boards 45 days to issue its recommendations.
- Coordination between City Planning and the New York State Housing and Community Renewal to ensure that guidelines are established to prevent landlords from unduly implementing MCI rent increases as a result of undertaking building improvements facilitated by the text amendment and to prohibit MCI rent increases if public subsidies are used to fund the building improvements.

Queens

Community Board 2 voted on February 2, 2012 to approve the application by a vote of 30 in favor, no oppositions and no abstentions.

Community Board 11 voted to approve the application on February 6, 2012 and sent a letter suggesting the following considerations:

- Air conditioning condensing units should be allowed in priority order; in rear yards whenever possible, in side yards if a rear yard is not accessible and in front yards only in the case of attached houses without rear or side yards.
- Wind turbine proposal should be reevaluated due to concern with noise, height and visual litter.

- Concern about additional 25 feet height allowed for rooftop greenhouses.

Staten Island

Community Board 1 approved the application on February 14, 2012 with a vote of 23 in favor, 0 opposed and 0 abstentions.

Community Board 2 voted unanimously to approve the application on February 21, 2012.

Community Board 3 voted unanimously to oppose the application on February 28, 2012 with a vote of none in favor, 22 opposed and no abstentions and submitted the following comments:

- Building insulation: The Board was concerned that a builder could merely provide highly efficient windows and take advantage of the wall thickness allowance as usable floor space. It was suggested that the City incorporate a chart that clearly specifies the exempted amount of floor space for each wall element which exceeds the energy code requirements. The Community Board also believes that it should be the responsibility of a city agency to verify whether a builder provides the amount of wall thickness it receives a floor area exemption for, as opposed to relying solely on professional certification by an architect contracted by the builder.
- Solar Energy: For solar installations not below a parapet or within 18” of a roof surface, the types of equipment permitted should be described in greater detail in the zoning text and not subject to interpretation.
- Other Rooftop Equipment: The Community Board is supportive of green technology generally when it is located below the height of a parapet, but does not believe the zoning should be amended to permit such equipment (specifically recreational decks and green roofs) above a height limit.
- Rooftop Greenhouses: The proposed provisions related to rooftop greenhouses should contain additional restrictions, such that a greenhouse must provide produce to an entity doing business within the building. In addition, the exempt floor space for rooftop greenhouses must not be used to gain additional floor space for rooftop entertainment or dining.
- Wind Energy: The Community Board believes the proposed allowable heights for wind

energy structures are inappropriately high for this community. Also, they should be limited to parks and other areas of vast open space.

Borough President Review

This application was considered by the Brooklyn Borough President, who issued a recommendation approving the application on February 7, 2012, enumerating concerns expressed by the Brooklyn Borough Board.

Queens Borough President sent a letter dated February 23, 2012 approving the application.

No recommendations were received from the Bronx, Manhattan or Staten Island Borough Presidents.

Borough Board Review

The Brooklyn Borough Board approved the zoning application by a vote of 23 in favor, no oppositions, and no abstentions, with the following comments:

- Incorporate screening of air conditioning condensing units in front yards from adjacent properties and require exhaust-tolerant vegetation. Incorporate maximum noise standards for such units for anywhere in the yards. In addition, require a minimum distance of 18 inches from lot lines for placement of such units.
- Allow awnings and other sun control devices only in non-complying front yards that are 5 feet or greater and rear yards that exceed 20 feet.
- Add clarity to assure that required driveways would not be reduced to less than 8 feet in width, including pre-existing driveways (such as those according to easements) for buildings constructed prior to the 1961 zoning regulations.
- Confirm whether rain water harvesting equipment would be permitted as a roof water tank or accessory mechanical and modify text accordingly.
- Limit bulkhead height to 25 feet in R8A Districts in Brooklyn Community District 7 and for height factor developments that are less than 120 feet in height.
- Establish wind energy systems as a permitted use in manufacturing districts, except

within 100 feet of districts permitting residential use. Restrict height of free standing wind energy systems, including as an accessory use, to 85 feet.

- Clarify how rooftop greenhouse height is measured for non-complying buildings, and permit such greenhouse waiver for a building with caretaker's sleeping accommodation when such units are not located directly below the roof containing a greenhouse.

Queens Borough Board approved the zoning application on February 6, 2012.

No recommendations were received from the Bronx, Manhattan or Staten Island Borough Boards.

City Planning Commission Public Hearing

On February 8, 2012 (Calendar No. 4), the City Planning Commission scheduled February 29, 2012, for a public hearing on this application (N 120132 ZRY). The hearing was duly held on February 29, 2012 (Calendar No. 13). There were 20 speakers in favor of the application and 2 speakers in opposition.

Representatives from the Regional Planning Association, Urban Green Council, Real Estate Board of New York (REBNY), Enterprise Community Partners and Natural Resources Defense Council testified in favor of the proposal stating that this is an important step in promoting green buildings in New York City.

A representative of the Citizens Housing and Planning Council (CHPC), a non-profit research organization on housing, testified in favor of the proposal, commending the Department of City Planning for the project and recommending several modifications, including clarifying the distinction between guardrails and fences allowed above a height limit, allowance of greater guardrail height for safety depending on the use of the roof, and allowing rooftop greenhouses as-of-right rather than by Chair's certification, to avoid expense and delays. The speaker also recommended that like other zoning amendments, the proposed amendments should be reviewed every five years to keep up with trends within green industries.

A representative from the American Institute of Architects New York Chapter (AIANY) testified in favor of the application. The speaker raised similar concerns to those expressed by the speaker from CHPC regarding guardrail heights and safety. The speaker also suggested that to the extent possible, regulations should appear in one code for clarity and ease in future changes.

Several architects practicing within New York City testified in favor of the proposal, describing it as important to accommodating more energy-efficient buildings. One architect of highly energy-efficient housing testified in favor of the proposal to allow greater flexibility for insulation of both existing and new buildings, and recommended that the proposal should go even further to allow greater insulation thickness to be exempted from floor area. Another architect commented on the positive effect the exemption of floor area for insulated walls would have, but recommended a FAR bonus be proposed to further this goal for extremely energy efficient buildings to relieve the cost burden.

Verbal and written testimony given by a representative of BKSK Architects requested specific language permitting insulation on a rooftop above a height limit and the creation of an FAR bonus for building insulation.

A representative of a company operating a large commercial agricultural rooftop greenhouse and the former director of an organization that designs and operates educational greenhouses testified in support of the entire proposal, and emphasized the benefits of educational and food production oriented rooftop greenhouses, noting that the requirements for the proposed Chair's certification are reasonable.

A representative from the Solar America Cities Partnership, which has received federal funding to promote solar energy generation in New York City, testified in favor of the solar energy proposal of the application. A representative from a wind turbine manufacturer headquartered in New York, which has installed small wind turbines in 60 cities in the region and around the world testified in favor of the wind energy proposal, and explained that industry standards require strict noise and safety testing for small wind turbines, as does the permitting process of

the New York City Department of Buildings.

The Chair of Manhattan Community Board 5's Land Use and Zoning Committee testified in favor of the application and recommended additional measures the City could take to promote green buildings.

A representative of the Brooklyn Borough President testified in favor of the application and reiterated the comments mentioned in the Borough Board resolution from February 7, 2012.

A representative of the Municipal Art Society testified in favor of the application, but expressed concerns that the proposal to accommodate external insulation on existing buildings could negatively affect the character of neighborhoods. The speaker recommended greater outreach to educate people regarding appropriateness of various rooftop features for recreation, stormwater detention and renewable energy generation but also expressed concerns regarding noise, safety and the aesthetics of wind turbines. The speaker also recommended that greenhouses be allowed on dormitories to capture additional educational and food production opportunities, that the City carefully monitor green building trends and report on them every four years, and that interagency cooperation occur to achieve better enforcement.

A representative of the Historic Districts Council testified in opposition to the proposal. The speaker agreed with the intent of the proposal but raised several concerns and recommended that Community Board review be required for rooftop greenhouse certification and for external insulation on existing buildings, to prevent negative effects on neighborhood character; that an energy audit be required before approval of a permit for external insulation; that design guidelines be developed for rooftop greenhouses, external insulation, sun control devices and bulkheads; that air conditioning condensing units and solar panels be prohibited on front facades; and that the City Planning Commission Chair and Community Board review individual installations of wind turbines. The speaker also recommended that the zoning text specifically mention that Landmarks Preservation Commission has jurisdiction over landmarked buildings and buildings in historic districts. Representatives of the Auburndale Improvement Association in Queens and the Bowery Alliance in Manhattan expressed similar concerns, while speaking in

favor of the amendment overall. The representative from the Auburndale Improvement Association also recommended prohibition of solar panels and air conditioning condensing units in front yards.

A representative of Enterprise Community Partners provided written testimony in support of the amendment recommending the phrase “solar energy systems” be clarified in the zoning text to include solar thermal technology.

A citizen speaking on behalf of the Committee for Environmentally Sound Development testified against the proposal, commenting that the proposal does not sufficiently encourage solar power generation for low-rise building owners.

There were no other speakers and the hearing was closed.

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 11-082. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the application for the zoning text amendment (N 120132 ZRY), as modified, is appropriate.

The Commission believes that the proposed text amendment would facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy

consumption and carbon emissions, generate clean and renewable energy, manage stormwater run-off on site, reduce the urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city by making it easier for property owners to incorporate a variety of green features.

The Commission believes that the text amendment provides additional flexibility to accommodate these features while setting appropriate limits on the appearance of additional bulk and avoiding adverse effects on the streetscape and public views. The enactment of these zoning changes would aid efforts to upgrade the City's building stock in a sustainable manner, reduce greenhouse gas emissions in support of PlaNYC goals, and provide other environmental benefits.

The Commission has carefully considered the recommendations and comments received during the public review of the application, and believes it is appropriate to incorporate several modifications.

Several Community Boards and civic groups requested additional community review of rooftop greenhouses that receive floor area or height waivers subject to the proposed certification process. While the Commission finds the ministerial process of a certification appropriate to limit the time and expense of receiving such an approval, it also believes it beneficial to inform the community about such greenhouses, to achieve transparency and facilitate enforcement of the zoning regulations. In response to these concerns, the Commission is modifying the proposed text to require the submission of a certification application for a rooftop greenhouse to the affected Community Board for informational purposes.

In response to the Brooklyn Borough Board's request for clarification regarding the measurement of height for rooftop greenhouses, the Commission is modifying the text to make it clear that the greenhouse is limited to a maximum of 25 feet in height.

Several Community Boards had recommendations regarding which buildings should receive the greenhouse waivers - Manhattan Community Board 3 recommended that the waiver be restricted to school buildings, Manhattan Community Board 5 recommended that the waiver be extended

to residential buildings, Staten Island Community Board 3 recommended that the waiver be limited to those operations that only provide produce to an entity within the building, and the Brooklyn Borough Board recommended that the waiver be extended to industrial buildings with caretaker units. The Commission observes that the purpose of the rooftop greenhouse waivers for floor area and height limits is to encourage educational and food production oriented greenhouses. Restricting these waivers only to school buildings would not achieve this objective, and extending waivers to buildings with residences or sleeping accommodations could introduce the temptation to convert greenhouses to living space. Restricting the waiver to greenhouses that only provide produce to an entity within the building would preclude most commercial rooftop greenhouses, eliminating from eligibility an important type of greenhouse that this waiver was intended to encourage. In addition, any limitation on where produce may be sold would serve to significantly compromise the financial viability of such a rooftop greenhouse operation. Therefore, the Commission believes the applicability of the greenhouse waivers, as originally proposed, is appropriate.

Manhattan Community Board 4 noted that the 20 percent of a rooftop greenhouse allowed to be exempted from transparency requirements as accessory office or storage should be accessory to the greenhouse. The Commission is modifying the text to specify that such space must be accessory to the rooftop greenhouse and not to other uses in the building.

The Commission has received testimony from the Brooklyn Borough Board, with requests for modifications related to the measurement of projection of sun control devices into a non-complying yard. The concern relates to where a rear yard is, for instance, only 28 feet in depth, an allowed projection of 2 feet, 6 inches measured from the edge of the required yard would leave only 6 inches of allowed projection for sun control devices. This would not serve the purpose of the proposal. In response to these comments, the Commission is modifying multiple locations in the zoning text where there is language describing the permitted amount of projection to include the phrase, "...maximum projection of 2 feet, 6 inches *from a building wall...*" This modification clarifies that sun control devices would in fact be permitted to extend 2 feet, 6 inches into a yard or other required open space of non-complying depth.

The Commission received a comment from practitioners questioning whether or not horizontal portions of a sun control device might be considered floor area through a strict reading of the zoning definition of “floor area.” The Commission is modifying the text for the definition of “floor area” to specify that sun control devices, if not accessible, would not be included in the calculation of floor area. Incorporating the restriction related to accessibility will eliminate the potential for confusion between balconies and sun control devices.

Manhattan Community Board 7 and the Brooklyn Borough Board raised concerns regarding the permitted 40 foot height of a bulkhead on top of a building 120 feet or taller when the option of 20 percent roof coverage is used to determine the size of the bulkhead. The Commission observes that the proposal is based on the technical requirements for equipment necessary on taller buildings. An accessible roof requires an elevator bulkhead with a typical height of up to 25 feet. In addition, a building that is 120 feet or taller generally requires a roof water tank about 15 feet high, which is typically placed on top of the elevator bulkhead to provide adequate pressure for plumbing fixtures or sprinkler systems on the uppermost story. The Commission believes that the proposal allows the flexibility to accommodate roof access and necessary water tanks, and any decrease in the height of the bulkhead from 40 feet for buildings 120 feet or higher would not be appropriate.

In response to the Historic Districts Council’s comments regarding requiring discretionary action and Community Board review for bulkheads, the Commission does not believe that these additional processes are appropriate or reasonable to enable a typical building to incorporate green features.

In response to comments in written testimony received from the Citizen’s Housing & Planning Council (CHPC), the Commission is modifying language related to the measurement of distance for air conditioners in front yards. The modified rule will read “not more than 18 inches from a street wall” as opposed to “within 18 inches of the street wall.” This phrasing clarifies that an air conditioner condensing unit must be entirely within the 18 inches.

In response to the suggestion from Staten Island Community Board 3 that the types of solar

energy installations permitted to be located above a parapet should be described in greater detail in the zoning text and not subject to interpretation, the Commission notes that the intent with this provision, as with many other similar zoning provisions, is to regulate maximum height and coverage of such devices, and yet maintain flexibility for new configurations of this technology that may develop in coming years. In addition, the Department of Buildings has more specific guidelines for what may be considered a solar energy generation system.

In response to a suggestion from a representative of Enterprise Community Partners that the phrase “solar energy systems” be clarified in the zoning text to include solar thermal technology, the Commission notes that “solar energy systems” is intended to encompass all generation systems that capture solar energy and either store or transfer energy for further use – which would include both photovoltaic panels and solar thermal installations, as well as other solar energy devices and configurations that may arise in the future as technology in this field continues to evolve.

Several Community Boards and speakers at the public hearing expressed concerns about noise, safety, or aesthetics of small wind turbines, and recommended limiting or removing the wind proposal from the amendment. The Commission notes that the noise and safety questions associated with large, utility-scale wind turbines are not relevant to the small turbines that would be permitted under the proposal. The Department of Buildings has procedures in place to assure the safety and structural integrity of small wind turbine installations. Moreover, the Commission notes that the New York City Noise Code regulates noise from such devices and other rooftop equipment. While wind power potential in an urban environment like New York may be limited, the proposal seeks to remove impediments in a targeted way, focusing on locations where wind energy in the City may make the most sense. The Commission also believes unwarranted wind energy installations are unlikely because of the costs associated with installing such equipment on a rooftop. In response to the recommendation by Bronx Community Board 10 regarding allowance of small wind turbines on City Island, the Commission observes that this text amendment would only allow wind turbines in City Island on top of buildings that are zoned M1-1. Such locations are limited, and City Island is one of the locations in the City where conditions may be favorable to generate consistent wind power. The Commission believes the proposal as

submitted strikes an appropriate balance. In response to the Staten Island Community Board 3 concern that wind turbines are inappropriate for their community, the amendment was narrowly focused on enabling wind energy systems only on buildings over 100 feet in height and on waterfront blocks zoned for commercial, industrial, or medium- or higher-density residential use. The Commission observes that the wind turbine provisions would have little applicability in Staten Island Community Board 3, limited to manufacturing districts along the West Shore.

In response to the recommendation from the Brooklyn Borough Board to establish wind energy systems as a separate use in Manufacturing Districts, the Commission notes that such a recommendation is out of scope of this text amendment, but that free-standing wind turbines accessory to another use on the property are currently allowed, subject to limits on height and setback, yards, and other regulations.

The Commission also received recommendations to place more specific requirements or additional restrictions on wind turbines when allowed as permitted obstructions. Small wind turbine technology remains an evolving technology, and accommodating its continued evolution requires a degree of flexibility. Further restrictions that add cost and time to approvals would not achieve the objective of accommodating these systems. The Commission also observes that accessory rooftop wind turbines are already allowed where they do not exceed a height limit, and that further regulating such installations would be out of scope.

The Commission recognizes that provisions allowing a wind turbine to exceed a height limit by up to 55 feet on buildings taller than 100 feet may be unclear and is modifying the text to eliminate the potential for this provision to be misconstrued to allow turbines at lower heights. The proposed text states that wind turbines would be permitted on "...buildings with a height of 100 feet or greater." The intent of the proposal is not to allow a turbine to be installed on a lower portion of a building that, at its highest point, is 100 feet high. Recognizing that there may be multiple heights for different portions of a building, the Commission is inserting "...on portions of..." clarifying that wind turbines may only be placed on individual roofs that are 100 feet in height.

In response to the recommendation from Manhattan Community Board 3 to allow exemption of floor area for thicker energy efficient walls only for new buildings with at least 51 percent affordable housing, the Commission believes that such a requirement would discourage a large number of buildings from becoming more energy efficient than what the code requires.

In response to the recommendation of the Brooklyn Borough Board and Brooklyn Community Board 14 that external insulation on existing buildings not be allowed as a permitted obstruction in rear yards that are allowed to be reduced to 20 feet in Special Ocean Parkway District through a Boards of Standards and Appeals Special Permit and in non-complying yards, the Commission observes that buildings with non-complying yards, often built prior to current zoning, exist in many locations throughout the City, and excluding such buildings would prevent these buildings from achieving the cost savings and energy benefits of external insulation. Moreover, other permitted obstructions are already allowed in the reduced 20 foot rear yards.

In response to recommendations received from Manhattan Community Board 7, the Historic District Council, the Bowery Alliance, and the Auburndale Improvement Association to require Community Board review for external insulation on existing buildings, the Commission observes that the proposal is designed to remove impediments for buildings that are not able to add external insulation today. Imposition of additional review procedures would not accomplish this goal.

In response to concerns regarding such insulation on landmarked buildings or buildings in historic district, the Landmarks Preservation Commission has jurisdiction over such buildings and will review any such external insulation.

In response to multiple parties requesting that the City mandate an energy audit as a pre-condition to allowing many of the energy efficiency measures included in this proposal, the Commission observes that the purpose of this amendment is to remove existing zoning impediments to incorporating a wide variety of potential energy efficiency upgrades for a building. Building owners generally make significant investments in energy efficiency improvements based on professional recommendations. The first step in this process is often an

energy audit, which identifies various steps that can be taken to improve efficiency, and the payback periods for these steps, enabling an owner to make an informed decision about potential improvements. The Department's outreach on Zone Green has suggested energy audits as a first step for homeowners seeking to improve the energy efficiency of their buildings, and audits are already required for larger buildings as part of the Greener, Greater Buildings legislation adopted by the City Council in 2009. Further requirements for audits under zoning, or conditioning of building modifications based on the results of such audit would impose additional costs on energy efficiency improvements and would not be appropriate. The Commission further observes that application of external building insulation is generally not the lowest-cost investment in energy efficiency, and that building owners are unlikely to make these investments if they do not offer substantial improvements in building performance.

In response to practitioners who requested specific language permitting insulation on a rooftop above a height limit, the proposed text does provide for "roof thickness, up to 8 inches" for the purpose of allowing such rooftop insulation as a permitted obstruction to building height limits for buildings, or portions of buildings, built prior to adoption of this amendment.

The Commission received comments from multiple parties expressing concern about the enforcement of the proposed floor area relief for new energy-efficient exterior walls. In order to provide for more effective monitoring of new buildings that receive floor area relief through this provision, the Commission is modifying this provision to state that when a new building or portion of a new building makes use of such floor area relief, this must be noted on the Certificate of Occupancy.

The Commission is modifying the text provision allowing floor area exemption for new high performing walls in order to accommodate potential future changes in the NYC Energy Conservation Code (Energy Code). The proposed text references provisions of the Energy Code to determine which new buildings would be eligible to deduct up to 8 inches of exterior wall thickness from floor area. The text instructs that the thermal efficiency (U-value) of the exterior wall be calculated with an assumption of no more than 40 percent fenestration. This 40 percent figure was chosen to match the existing Energy Code specification for maximum fenestration

area for this calculation. The Commission has become aware of the potential for this figure in the Energy Code to change in future code revisions. In response, the Commission is modifying this reference by substituting the more flexible language: "...the maximum fenestration area referenced in the NYCECC for the calculation of the baseline energy code requirement." This will ensure that this zoning allowance for insulation within new, high performing walls serves its intended purpose even if provisions of the Energy Code change.

In response to written testimony received from CHPC related to the absence of skylights as a permitted obstruction to a court, the Commission is modifying the list of permitted obstructions to courts higher than the level of the first story, by adding "skylights." This modification is consistent with the proposal's inclusion of recreational decks, green roofs, and other features on the list of obstructions permitted within courts.

The Commission heard testimony from professional and civic organizations about the relationship between the guardrail height permitted above a parapet in the proposal and the requirements of the New York City Construction Codes. While current building code mandates that a guardrail be *no less* than 3 feet, 6 inches above the accessible level of a roof, the text as proposed, would permit guardrails above a parapet wall *to a maximum height of* 3 feet, 6 inches above the accessible level of a roof. Practitioners pointed out that this establishes a de facto guardrail height requirement of 3 feet, 6 inches without any flexibility. The Commission is modifying this provision by raising the permitted guardrail height to 4 feet above the accessible level of a roof. This will provide needed flexibility in designing for a rooftop guardrail.

In addition, the Commission recognizes that the proposal specified a maximum guardrail height above the parapet, but did not distinguish between a guardrail (subject to these limits) and a fence (transparent fences, such as wire or chain link, are currently allowed without limits to height). The Commission has modified the guardrail height rule language to specify that such height limits apply where a guardrail is located within 2 feet of a parapet wall. Beyond this distance, transparent fences would remain allowed, without limits on height. This will create a necessary distinction that will not unduly restrict the height of fences located elsewhere on a rooftop, which may be necessary or desirable for safety or security purposes.

To address the inadvertent omission of one sentence within Section 24-68 (Permitted Obstruction in Courts), the Commission is modifying this section to include language permitting low obstructions such as decks, skylights, roof insulation and vegetated roofs within above-ground courts in connection with community facilities. It was the intent of the proposal to permit such technologies within courts on all buildings, and this correction is consistent with that purpose.

The Commission is also making minor modifications to language in various locations of the proposed text to improve the clarity and specificity of the Zone Green text provisions.

The Commission has carefully considered the recommendations and comments received during the public review of the application for the zoning text amendment (N 120090 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 impact on the environment; and be it further

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

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is to be deleted;
Matter with # # is defined in Section 12-10;

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

Article I

General Provisions

* * *

11-13

Public Parks

District designations indicated on #zoning maps# do not apply to #public parks#, except as set forth in Section 105-91 (Special District Designation on Public Parks). In the event that a #public park# or portion thereof is sold, transferred, exchanged, or in any other manner relinquished from the control of the Commissioner of Parks and Recreation, no building permit shall be issued, nor shall any #use# be permitted on such former #public park# or portion thereof, until a zoning amendment designating a zoning district therefore has been adopted by the City Planning Commission and has become effective after submission to the City Council in accordance with the provisions of Section ~~75-00~~ 71-10 (PROCEDURE FOR AMENDMENTS).

* * *

Chapter 2

Construction of Language and Definitions

* * *

12-10 Definitions

* * *

Accessory use, or accessory (8/27/98)

* * *

An #accessory use# includes:

* * *

(19) An ambulance outpost operated by or under contract with a government agency or a public benefit corporation and located either on the same #zoning lot# as, or on a #zoning lot# adjacent to, a #zoning lot# occupied by a fire or police station;

(20) Electric vehicle charging in connection with parking facilities;

(21) Solar energy systems.

* * *

Floor area (2/2/11)

"Floor area" is 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#. In particular, #floor area# includes:

* * *

- (n) floor space in exterior balconies if more than 67 percent of the perimeter of such balcony is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony.
- (o) any other floor space not specifically excluded.

However, the #floor area# of a #building# shall not include:

- * * *
- (10) floor space in exterior balconies provided that not more than 67 percent of the perimeter of such balcony is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony.
- * * *

(12) exterior wall thickness, up to 8 inches:

- (i) Where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch; or
- (ii) Where such wall thickness is part of an exterior wall constructed after (date of adoption), equal to the number of inches by which the wall’s total thickness exceeds 8 inches, provided the above-grade exterior walls of the #building# envelope are more energy efficient than required by the New York City Energy Conservation Code (NYCECC) as determined below:
 - (1) The area-weighted average U-factor of all opaque above-grade wall assemblies shall be no greater than 80 percent of the area-weighted average U-factor determined by using the prescribed requirements of the NYCECC, and
 - (2) The area-weighted average U-factor of all above-grade exterior wall assemblies, including vertical fenestrations, shall be no more than 90 percent of the area-weighted average U-factor determined by using the prescribed requirements of the NYCECC. For the purposes of calculating the area-weighted average U-factor, the amount of fenestration shall equal the amount of fenestration provided in such exterior walls, or an amount equal to the maximum fenestration area referenced in the NYCECC for the calculation of the baseline energy code requirement, whichever is less.

For the purposes of calculating compliance with this paragraph (ii), the term “above-grade” shall only include those portions of walls located above the grade

adjoining such wall. Compliance with this paragraph (ii) shall be demonstrated to the Department of Buildings at the time of issuance of the building permit for such exterior walls. The total area of wall thickness excluded from the calculation of #floor area# shall be reflected on the next issued temporary or final Certificate of Occupancy for the building, as well as all subsequent Certificates of Occupancy.

- (13) floor space in a rooftop greenhouse permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses).
- (14) floor space on a sun control device, where such space is inaccessible other than for maintenance.

* * *

**23-12
Permitted Obstructions in Open Space**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following obstructions shall be permitted in any #open space# required on a #zoning lot#:

- (a) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, fully screened from the #street# by vegetation;
- (b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:
 - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
 - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (ac) Balconies, unenclosed, subject to the provisions of Section 23-13;
- (bd) Breezeways;
- (ee) Driveways, private streets, open #accessory# off-street parking spaces, unenclosed #accessory# bicycle parking spaces or open #accessory# off-street loading berths,

provided that the total area occupied by all these items does not exceed the percentages set forth in Section 25-64 (Restrictions on Use of Open Space for Parking);

- (df) Eaves, gutters or downspouts, projecting into such #open space# not more than 16 inches or 20 percent of the width of such #open space#, whichever is the lesser distance;
- (g) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #open space# width, up to a maximum thickness of 8 inches.
- (eh) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per #dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;
- (i) Solar energy systems:
 - (1) on the roof of an #accessory building#, limited to 18 inches in height as measured perpendicular to the roof surface; or
 - (2) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (fj) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#;
- (gk) Terraces, unenclosed, fire escapes, ~~or~~ planting boxes ~~or air conditioning units~~, provided that no such items project more than six feet into or over such #open space#.

* * *

23-44

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:
 - (1) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, fully screened from the #street# by vegetation;

- (2) Arbors or trellises;
- (3) Awnings or canopies; and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:
- (i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
- (ii) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (4) Balconies, unenclosed, of a #building# containing #residences# subject to the applicable provisions of Section 23-13. Such balconies are not permitted in required #side yards#;
- (5) Canopies
- (6) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
- (7) Eaves, gutters or downspouts projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;
- (8) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

- (9) Fences, not exceeding four feet in height above adjoining grade in any #front yard#, except that for #corner lots#, a fence may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#;
- (10) Fire escapes, projecting into a #front yard#, only in such cases where the fire escape is required for the #conversion# of a #building# in existence before December 15, 1961;
- (11) Flagpoles;
- (12) Overhanging portions of a #building# in R4 and R5 Districts, except R4A, R4-1, R4B, R5A, R5B or R5D Districts, which are above the first #story# including the #basement# and which project not more than three feet into the required 18 foot #front yard#. In no case shall the lowest level of the projected portion be less than seven feet above the level of the #front yard# at the face of the #building#. Supports for the projected portion of any #building# are permitted obstructions within the required #front yard#, provided that the total area occupied by such supports does not exceed 15 percent of the area underneath the projected portion. No support may extend beyond the three-foot projection;
- (13) Parking spaces for automobiles or bicycles, off-street, open, #accessory#, within a #side# or #rear yard#;
- (14) Parking spaces, off-street, open, within a #front yard#, that are #accessory# to a #building# containing #residences#, provided that:
- (1i) in R1, R2, R3A, R3X, R3-1, R4A, R4-1 and R5A Districts, except in #lower density growth management areas#, such spaces meet all the requirements of paragraph (a) of Section 25-621 (Location of parking spaces in certain districts);
 - (2ii) in R3-2 Districts, R4 Districts other than R4A, R4-1 and R4B Districts, and R5 Districts other than R5A, R5B and R5D Districts, such spaces meet all the requirements of paragraph (b) of Section 25-621;
 - (3iii) in #lower density growth management areas#, such spaces are non-required and are located in a driveway that accesses parking spaces that are located behind the #street wall# of the #building# or prolongation thereof.

However, no parking spaces of any kind shall be permitted in any #front yard# in an R4B, R5B or R5D District. Furthermore, no parking spaces of any kind shall

be permitted in any #front yard# on a #zoning lot# containing an #attached# or #semi-detached building# in an R1, R2, R3A, R3X, R4A or R5A District, or in any #front yard# on a #zoning lot# containing an #attached building# in an R3-1 or R4-1 District.

- (15) Ramps for persons with physical disabilities;
- (16) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (17) Steps, provided that such steps access only the lowest #story# or #cellar# of a #building# fronting on a #street#, which may include a #story# located directly above a #basement#;
- (18) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#. #Accessory# swimming pools are not permitted obstructions in any #front yard#;
- (19) Terraces or porches, open;
- (20) Walls, not exceeding eight feet in height above adjoining grade and not roofed or part of a #building#, and not exceeding four feet in height in any #front yard#, except that for #corner lots#, a wall may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#.

(b) In any #rear yard# or #rear yard equivalent#:

~~Air conditioning condensation units, #accessory#, for #single # or #two family residences#, provided that such units are located not less than eight feet from any #lot line#;~~

- (1) Balconies, unenclosed, subject to the provisions of Section 23-13;
- (2) Breezeways;
- (3) Fire escapes;
- (4) Greenhouses, non-commercial, #accessory#, limited to one #story# or 14 feet in height above adjoining grade, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard#;

- (5) Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:
- (1i) if #accessory# to a #single-# or #two-family residence#, the height of a #building# containing such parking spaces shall not exceed ~~one #story#~~ ten feet in height above the adjoining grade and such #building# shall be #detached# from such #residence#; ~~and f~~Furthermore, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#. In addition, solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface shall be permitted upon the roof of such #accessory building# within the #rear yard#;
 - (2ii) if #accessory# to any other kind of #building# containing #residences#, the height of a #building#, or portion thereof, containing such parking spaces within the #rear yard#, shall not exceed ten feet above adjoining grade, including the apex of a pitched roof in R3, R4 or R5 Districts, or fourteen feet above #curb level# or #base plane#, as applicable, in R6, R7, R8, R9 or R10 Districts. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;
 - (3iii) enclosed #accessory# parking spaces for bicycles shall be #accessory# to a #residence# other than a #single-# or #two-family residence#, attached to a #building#, and the area dedicated to such spaces shall not exceed the area of bicycle parking spaces permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption).
- (6) Recreational or drying yard equipment;
- (7) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;
- (8) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

**23-461
Side yards for single- or two-family residences**

* * *

R3-1 R3-2 R4 R4-1 R4B R5

* * *

(c) Additional regulations

* * *

(3) Permitted obstructions in open areas between #buildings#

Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, downspouts, open #accessory# off-street parking spaces, steps, and ramps for access by people with disabilities, and steps as set forth in paragraph (a) of Section 23-44 shall be permitted obstructions in open areas required pursuant to paragraphs (c)(1) and (c)(2) of this Section, and provided such obstructions, not including #accessory# off-street parking spaces, may not reduce the minimum width of the open area by more than three feet. ~~Open #accessory# off-street parking spaces shall be permitted in such open areas.~~

* * *

**23-462
Side yards for all other buildings containing residences**

* * *

R4B R5B R5D

(b) In the districts indicated, no #side yards# are required; however, where a #building# containing #residences# on an adjacent #zoning lot# has a #side yard#, an open area with a minimum width of eight feet and parallel to the #side lot line# is required along the common #side lot line# between such #buildings#. Obstructions permitted pursuant to paragraph (c)(3) of Section 23-461 (Side yards for single- or two-family residences), shall be permitted in such open areas.

R6 R7 R8 R9 R10

(c) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall measure at least eight feet wide for the entire length of the #side lot line#. Obstructions permitted pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

**23-62
Permitted Obstructions**

In all #Residence Districts#, except as provided in Section 23-621 (Permitted obstructions in certain districts), the obstructions listed in paragraphs (a) through (h) in this Section shall be permitted to penetrate a maximum height limit or #sky exposure plane# set forth in Sections 23-63 (Maximum Height of Walls and Required Setbacks), 23-64 (Alternate Front Setbacks) or 23-69 (Special Height Limitations):

- (a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:
 - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;
 - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and
 - (3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 23-62 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

- (ab) Balconies, unenclosed subject to the provisions of Section 23-13;
- (bc) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 23-63, 23-64, or 23-65 (Tower Regulations);
- (ed) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;
- (e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (df) Dormers having an #aggregate width of street walls# equal to not more than 50 percent of the width of the #street wall# of a #detached# or #semi-detached single-# or #two-family residence#;
- (eg) ~~Elevators or stair bulkhead, roof water tanks (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (d), #abutting buildings# on a single #zoning lot# may~~

~~be considered to be a single #building#. Portions of elevator shafts and associated vestibules that provide access to a roof pursuant to paragraph (e) of this Section shall not be included in the limitations on width or surface area of this paragraph, (d);~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

- (1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.
- (2) all mechanical equipment shall be screened on all sides.
- (3) such obstructions and screening are contained within a volume that complies with one of the following:
 - (i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or
 - (ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (g), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

- (f) Elevator shafts, portions of which provide an elevator stop with access to a roof, and associated vestibules providing access to such roof, provided that such vestibules include no more than 60 square feet of #floor area#;
- (h) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings#

that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

- (gi) Flagpoles or aerials;
- (hj) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;
- (k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (m) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
 - (i) in R1 through R5 Districts, a height of 6 feet;
 - (ii) in R6 through R10 Districts, a height of 15 feet; and
 - (iii) when located on a bulkhead or other obstruction pursuant to paragraph (g) of this Section, a height of 6 feet;

- (3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

- (n) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;
- (o) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (p) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:
- (1) the highest point of the wind turbine assembly does not exceed 55 feet;
 - (2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#;
and
 - (3) the diameter of the swept area of the rotor does not exceed 15 feet;
- (q) Window washing equipment mounted on a roof;
- (r) Wire, chain link or other transparent fences.

23-621

Permitted obstructions in certain districts

R2A R3 R4 R4A R4-1 R5A

- (a) In the districts indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to those listed in paragraphs (c), (f) and (h) of Section 23-62 (Permitted Obstructions).

R2X

(b) In the district indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to those listed in paragraphs (c), (f) and (h) of Section 23-62 (Permitted Obstructions). Dormers may be considered permitted obstructions if:

* * *

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

(c) In the districts indicated, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, the permitted obstructions set forth in Section 23-62 shall apply to any #building or other structure#, ~~except that~~ In addition, a dormer may be allowed as a permitted obstruction within a required front setback distance above a maximum base height, the following rules shall apply:-

- (1) ~~Such dormers may~~ shall be allowed as a permitted obstruction, exceed a maximum base height specified for such district provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. For each foot of height above the maximum base height, the aggregate width of all dormers shall be decreased by one percent of the #street wall# width of the highest #story# entirely below the maximum base height.
- (2) Solar energy systems on a roof shall be limited to 4 feet or less in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher. However, on a roof with a slope greater than 20 degrees, such systems shall be limited to 18 inches in height as measured perpendicular to the roof surface.
- (3) Wind energy systems shall not be allowed as permitted obstructions.
- (4) Window washing equipment shall not be allowed as permitted obstructions.

R5D

~~(d) In R5D Districts, permitted obstructions shall be as set forth in Section 23-62, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (d), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.~~

* * *

23-66

Required Side and Rear Setbacks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs are permitted as set forth in Section 23-62 (Permitted Obstructions).

* * *

23-711

Standard minimum distance between buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

- (e) portions of #buildings# above 125 feet that exceed, in aggregate, a #lot coverage# of 40 percent, shall be spaced at least 80 feet apart; ~~and~~
- (f) in R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this paragraph, (f), shall apply to any #zoning lot# with two or more #buildings# where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this paragraph, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street line# do not intersect any other #building# containing #residences# shall be considered a “front building,” and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a “front building” shall be considered a “rear building.” The minimum distances set forth in the table in this Section shall apply, except that a minimum distance of 45 feet shall be provided between any such front and rear #buildings#; and
- (g) For #buildings# existing on (date of adoption), the minimum distances set forth in the table in this Section, and any non-complying distance greater than 8 feet, may be reduced by up to 8 inches of exterior wall thickness, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A non-complying distance of 8 feet or less shall be limited to a total reduction of 1 inch of wall thickness for each foot of such existing distance between buildings.

* * *

23-80

COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

23-861
General provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

In R3, R4 and R5 Districts, the minimum dimension between a #legally required window# and a #side lot line# shall be 15 feet. Such 15 foot dimension shall be measured in a horizontal plane perpendicular to the #side lot line# or vertical projection thereof. Furthermore, such area with a 15 foot dimension shall be open to the sky from ground level up for the entire length of the #side lot line#. Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, downspouts, open #accessory# off-street parking spaces, steps, and ramps for access by the handicapped, and steps shall be permitted obstructions in such open area, subject to the conditions set forth in paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and provided such obstructions ~~may~~ will not reduce the minimum width of the open area by more than three feet.

23-862
Minimum distance between legally required windows and lot lines on small corner lots in R9 or R10 Districts

R9 R10

In the districts indicated, on a #corner lot# less than 10,000 square feet in #lot area#, a #legally required window# may open on a #yard# bounded on one side by a #front lot line# and having a minimum width of 20 feet, provided that the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall not apply to such #yard#. However, awnings and other sun control devices, exterior wall thickness and solar energy systems on walls, as set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted within such minimum distance.

* * *

23-87
Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following obstructions shall be permitted within the minimum area and dimensions needed to satisfy the requirements for a #court#:

- (a) Arbors or trellises;
- (b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:

- (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
- (2) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (c) Eaves, gutters, downspouts, window sills, or similar projections extending into such #court# not more than four inches;
- (d) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #court# width, up to a maximum thickness of 8 inches.
- Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #courts# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #court#.
- (e) Fences;
- (f) Fire escapes in #outer courts#;
- Fire escapes in #outer court recesses# not more than five feet in depth;
- Fire escapes in #inner courts# where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;
- Fire escapes in #outer court recesses# more than five feet in depth where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;
- (g) Flag poles;
- (h) Open terraces, porches, or steps;
- (i) Recreational or drying yard equipment.;
- (j) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

In addition, for #courts# at a level higher than the first #story#, decks, skylights, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in Section 23-62 (Permitted Obstructions) shall be permitted.

* * *

**23-891
In R1 through R5 Districts**

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to all #zoning lots# with two or more #buildings# or #building segments# containing #residences#. All such #buildings# or #building segments# shall provide open areas ~~as follows:~~ in accordance with this Section. Only those obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways, shall not be permitted within such open areas.

- (a) An open area shall be provided adjacent to the rear wall of each such #building# or #building segment#. For the purposes of this Section, the “rear wall” shall be the wall opposite the wall of each #building# or #building segment# that faces a #street# or #private road#. The width of such open area shall be equal to the width of each #building# or #building segment#, and the depth of such open area shall be at least 30 feet when measured perpendicular to each rear wall. No such open areas shall serve more than one #building# or #building segment#. ~~Only those obstructions set forth in Section 23-44 shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways shall not be permitted within such open areas.~~

* * *

**24-33
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Residence Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:
- (1) Arbors or trellises;
 - (2) Awnings or canopies; and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

- (i) shall be limited to a maximum projection of 2 feet, 6 inches into such required #yard#; and
 - (ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (3) Canopies
- (4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
- (5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;
- (6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.
- Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.
- (7) Fences;
- (8) Flagpoles;
- (9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;
- (10) Solar energy systems, on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (11) Steps, and ramps for people with disabilities;

- (12) Terraces or porches, open;
 - (13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;
- (b) In any #rear yard# or #rear yard equivalent#:
- (1) Balconies, unenclosed, subject to the provisions of Section 24-165;
 - (2) Breezeways;
 - (3) Any #building# or portion of a #building# used for #community facility uses#, including #accessory# parking spaces for bicycles within such #building#, provided that the height of such #building# shall not exceed one #story#, nor in any event 23 feet above #curb level#, and further provided that the area within such #building# dedicated to #accessory# parking spaces for bicycles shall not exceed the area permitted to be excluded from #floor area#, pursuant to Section 25-85 (Floor Area Exemption). In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs pursuant to Section 24-51(Permitted Obstructions), shall be permitted above such an #accessory building#, or portion thereof. However, the following shall not be permitted obstructions:
 - (4i) in all ~~#~~Residence ~~d~~Districts#, any portion of a #building# containing rooms used for living or sleeping purposes, other than a room in a hospital used for the care or treatment of patients;
 - (2ii) in R1, R2, R3A, R3X, R3-1, R4A, R4B or R4-1 Districts, any portion of a #building# used for any #community facility use#;
 - (3iii) in all ~~#~~Residence ~~d~~Districts#, not listed in paragraph (b)(2) of this Section, beyond one hundred feet of a #wide street#, any portion of a #building# used for a #community facility use# other than a #school#, house of worship, college or university, or hospital and related facilities;
 - (4) Fire escapes;
 - (5) Greenhouses, #accessory#, non-commercial, limited to one #story# or 14 feet in height above natural grade level, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard# or #rear yard equivalent# on a #zoning lot#;
 - (6) Parking spaces, off-street, #accessory# to a #community facility use#, provided that the height of an #accessory building#, or portion of a #building# used for such purposes, shall not exceed 14 feet above #curb level#. However, such

#accessory building# or portion of a #building# shall not be a permitted obstruction in R1, R2, R3A, R3X, R3-1, R4A, R4B or R4-1 Districts;

- (7) Recreation or drying yard equipment;
- (8) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;
- (9) Solar energy systems on the roof of a #building# permitted as an obstruction to such #yard#, up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #community facility use# or attached parking structure; however, limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;
- (10) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

**24-35
Minimum Required Side Yards**

* * *

R6 R7 R8 R9 R10

- (b) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall be at least eight feet wide. Permitted obstructions pursuant to paragraph (a) of Section 24-33 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

**24-51
Permitted Obstructions**

In all #Residence Districts#, the following obstructions shall be permitted and may thus penetrate a maximum height limit or #sky exposure plane# set forth in Sections 24-52 (Maximum Height of Walls and Required Setbacks), 24-53 (Alternate Front Setbacks) or 24-591 (Limited Height Districts):

- (a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

- (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;
- (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and
- (3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 23-62 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

- (a**b**) Balconies, unenclosed, subject to the provisions of Section 24-165;
- (b**c**) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 24-52, 24-53 or 24-54 (Tower Regulations);
- (e**d**) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;
- (e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (d**f**) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (e), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

- (1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#.
However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street

walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

- (2) all mechanical equipment shall be screened on all sides.
- (3) such obstructions and screening are contained within a volume that complies with one of the following:
 - (i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or
 - (ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (f), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

- (g) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.
- (eh) Flagpoles or aerials;
- (fi) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;
- (gj) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the

accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

- (k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (l) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);
- (m) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (n) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
 - (i) in R1 through R5 Districts, a height of 6 feet;
 - (ii) in R6 through R10 Districts, a height of 15 feet; and
 - (iii) when located on a bulkhead or other obstruction pursuant to paragraph (f) of this Section, a height of 6 feet;
 - (3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

- (h) Spires or belfries;

- (p) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;
- (q) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (r) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:
 - (1) the highest point of the wind turbine assembly does not exceed 55 feet;
 - (2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#; and
 - (3) the diameter of the swept area of the rotor does not exceed 15 feet;
- (s) Window washing equipment mounted on a roof;
- (it) Wire, chain link or other transparent fences.

* * *

**24-55
Required Side and Rear Setbacks**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 24-165 (Balconies); and awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in Section 24-51 (Permitted Obstructions), are permitted to project into or over any open areas required by the provisions of this Section.

* * *

**24-65
Minimum Distance between Required Windows and Walls or Lot Lines**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum distance between required windows and walls or #lot lines# shall be as set forth in this Section, except that this Section shall not apply to required windows in #buildings# of three #stories# or less. For #buildings# existing on (date of adoption),

the minimum distances set forth in this Section, and any non-complying distance greater than 8 feet, may be reduced by up to 8 inches of exterior wall thickness from each #building# wall, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A non-complying distance of 8 feet or less shall be limited to a total reduction of 1 inch of wall thickness for each foot of such existing distance between buildings.

* * *

24-68

Permitted Obstruction in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall not be considered obstructions when located within a #court#:

- (a) Arbors or trellises;
- (b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:
 - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
 - (2) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (c) Eaves, gutters, downspouts, window sills or similar projections, extending into such #court# not more than four inches;
- (d) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #court# width, up to a maximum thickness of 8 inches.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #courts# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #court#.
- (e) Fences;
- (f) Fire escapes in #inner courts#, where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

Fire escapes in #outer courts#;

Fire escapes in #outer court recesses#, not more than five feet in depth;

Fire escapes in #outer court recesses#, more than five feet in depth, where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

(g) Flagpoles;

(h) Recreational or yard drying equipment;

(i) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(j) Terraces, open, porches or steps.

In addition, for #courts# at a level higher than the first #story#, decks, skylights, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in Section 24-51 (Permitted Obstructions) shall be permitted.

* * *

25-62

Size and Location of Spaces

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the developer or applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8 feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the developer's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces

shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

* * *

**26-42
Planting Strips**

In accordance with applicability requirements of underlying district regulations, the owner of the #development#, #enlargement# or #converted building# shall provide and maintain a planting strip. #Street# trees required pursuant to Section 26-41 shall be planted within such planting strip. In addition to such #street# trees, such strip shall be fully planted with grass or groundcover, except as provided in Section 26-421. Such planting strip shall be located adjacent to, and extend along, the entire length of the curb of the #street#. However, in the event that both adjoining properties have planting strips adjacent to the #front lot line#, such planting strip may be located along the #front lot line#. The width of such planting strip shall be the greatest width feasible given the required minimum paved width of the sidewalk on #street# segments upon which the #building# fronts, except that no planting strip less than six inches in width shall be required. ~~Driveways are permitted to traverse such planting strip, and utilities are permitted to be located within such planting strip.~~

**26-421
Modifications of planting strip requirements**

Driveways are permitted to traverse planting strips. Planting strips may be interrupted by utilities and paved areas required for bus stops.

On #zoning lots# containing #schools#, permeable pavers or permeable pavement may be substituted for grass or ground cover, provided that, beneath such permeable pavers or pavement, there is structural soil or aggregate containing at least 25 percent pore space, or other kind of engineered system that absorbs stormwater, as acceptable to the Department of Transportation. Any area improved with permeable pavers or pavement pursuant to this paragraph shall be no less than 3 feet in width except where necessary for compliance with the Americans with Disabilities Act.

* * *

**32-15
Use Group 6**

* * *

D. Public Service Establishments*****

* * *

Telephone exchanges or other communications equipment structures. In all districts the height above #curb level# of such structures not existing on December 15, 1961, shall not exceed that attributable to #commercial buildings# of equivalent #lot coverage#, having an average floor to floor height of 14 feet above the lobby floor which may be as much as 25 feet in height. For the purpose of making this height computation, the gross area of all

floors of the #building# including accessory mechanical equipment space except the #cellar# shall be included as #floor area#.

Solar energy systems

Such height computation for the structure shall not preclude the ability to utilize unused #floor area# anywhere on the #zoning lot# or by special permit, subject to the normal provisions of the Resolution.

* * *

**32-16
Use Group 7**

* * *

D. Auto Service Establishments

Automobile glass and mirror shops [PRC-B1]

Automobile seat cover or convertible top establishments, selling or installation [PRC-B1]

Electric vehicle charging stations and automotive battery swapping facilities [PRC-B1]

Tire sales establishments, including installation services [PRC-B1]

E. #Accessory Uses#

* In a C6-1A District, #uses# in Use Group 7 are not permitted

* * *

**33-23
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Commercial Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Arbors or trellises;

(2) Awnings or canopies; and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

- (i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
- (ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (3) Canopies
- (4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
- (5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;
- (6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.
- Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.
- (7) Fences;
- (8) Flagpoles;
- (9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;
- (10) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (11) Steps, and ramps for people with disabilities;

- (12) Terraces or porches, open;
 - (13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;
- (b) In any #rear yard# or #rear yard equivalent#:
- (1) Balconies, unenclosed, subject to the provisions of Section 24-165;
 - (2) Breezeways;
 - (3) Any #building# or portion of a #building# used for any permitted #use# other than #residences#, except that any portion of a #building# containing rooms used for living or sleeping purposes (other than a room in a hospital used for the care or treatment of patients) shall not be a permitted obstruction, and provided that the height of such #building# shall not exceed one #story#, excluding #basement#, nor in any event 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs pursuant to Section 33-42 (Permitted Obstructions), shall be permitted above such a #building#, or portion thereof.
 - (4) Fire escapes;
 - (5) Parking spaces for automobiles or bicycles, off-street, #accessory#, provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs, as set forth in Section 33-42, shall be permitted above such an #accessory building#, or portion thereof;
 - (6) Solar energy systems:
 - (i) on the roof of a #building# permitted as an obstruction to such #yard#, up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #commercial or community facility use# or attached parking structure;
 - (ii) on the roof of a #building# permitted as an obstruction to such #yard#, shall be limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;

(iii) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

(7) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than 8 feet from any #lot line#.

However, no portion of a #rear yard equivalent# that is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

33-25 **Minimum Required Side Yards**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, no #side yards# are required. However, if an open area extending along a #side lot line# is provided at any level, it shall be either:

- (a) at least eight feet wide at every point; or
- (b) at least five feet wide at every point, with an average width of eight feet, such average being the mean of the width of the open area at its narrowest point and its width at its widest point, provided that:
 - (1) such widest point shall be on a #street line#;
 - (2) no portion of a #building# shall project beyond a straight line connecting such two points; and
 - (3) in the case of a #zoning lot# bounded by a #side lot line# extending from #street# to #street#, such average shall be computed and such open area shall be provided as though each half of such #side lot line# bounded a separate #zoning lot#.

Permitted obstructions pursuant to paragraph (a) of Section 33-23(Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

33-42 **Permitted Obstructions**

In all #Commercial Districts#, the following obstructions shall be permitted and may thus penetrate a maximum height limit or #sky exposure planes#, as set forth in Sections 33-43 (Maximum Height of Walls and Required Setbacks), 33-44 (Alternate Front Setbacks) or 33-491 (Limited Height Districts):

- (a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:
 - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;
 - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and
 - (3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 33-42 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

- (b) Balconies, unenclosed, subject to the provisions of Section 24-165;
- (bc) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 33-43, 33-44 or 33-45 (Tower Regulations);
- (ed) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any given level;
- (e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (df) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (e), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

- (1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet

from a #narrow street line# or more than 20 feet from a #wide street line#.
However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

- (2) all mechanical equipment shall be screened on all sides.
- (3) such obstructions and screening are contained within a volume that complies with one of the following:
 - (i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or
 - (ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (f), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

- (g) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.
- (eh) Flagpoles or aerials;
- (fi) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;
- (gj) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more

than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

- (k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (l) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);
- (m) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (n) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
 - (i) in #Commercial Districts# mapped within #Residence Districts#, and in C3 and C4-1 Districts, a height of 6 feet;
 - (ii) in all other #Commercial Districts#, a height of 15 feet; and
 - (iii) when located on a bulkhead or other obstruction pursuant to paragraph (f) of this Section, a height of 6 feet.
 - (3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

- (h) Spires or belfries;
- (p) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;
- (q) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (r) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:
 - (1) the highest point of the wind turbine assembly does not exceed 55 feet;
 - (2) no portion of the wind turbine assembly is closer than 10 feet from any #lot line#; and
 - (3) in districts where new #residences# or new #joint living work quarters for artists# are allowed as-of-right or by special permit or authorization, or within 100 feet of such districts, the diameter of the swept area of the rotor does not exceed 15 feet;
- (s) Window washing equipment mounted on a roof;
- (t) Wire, chain link or other transparent fences.

* * *

**34-232
Modification of side yard requirements**

C1 C2 C3 C4 C5 C6

In the districts indicated, except as otherwise provided in Section 34-233 (Special provisions applying along district boundaries), no #side yard# shall be required for any #residential building#. However, if any open area extending along a #side lot line# is provided, such open area shall have a width of not less than eight feet. Permitted obstructions pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

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

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

* * *

(a) Permitted obstructions

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

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other #Commercial Districts#, the provisions of Section 33-42 shall apply to any #building or other structure#. In addition, a dormer may be allowed as a permitted obstruction pursuant to paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts), ~~and an elevator shaft and associated vestibule may be allowed as a permitted obstruction, pursuant to paragraph (f) of Section 23-62.~~

* * *

35-52
Modification of Side Yard Requirements

C1 C2 C3 C4 C5 C6

In the districts indicated, except as otherwise provided in Section 35-54 (Special Provisions Applying Adjacent to R1 through R6B Districts), no #side yard# shall be required although, if any open area extending along a #side lot line# is provided at any level, it shall have a width of not less than eight feet. Permitted obstructions pursuant to paragraph (a) of Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

However, in C3A Districts, #side yards# shall be provided in accordance with the regulations for R3A Districts as set forth in Section 23-461 (Side yards for single- or two-family residences).

35-53
Modification of Rear Yard Requirements

C1 C2 C3 C4 C5 C6

In the districts indicated, for a #residential# portion of a #mixed building#, the required #residential rear yard# shall be provided at the floor level of the lowest #story# used for #dwelling units# or #rooming units#, where any window of such #dwelling units# or #rooming units# faces onto such #rear yard#. If the level of such #yard# is at or higher than the first #story#, decks, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs shall be permitted pursuant to Section 23-62 (Permitted Obstructions).

* * *

36-521

Size of spaces

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the developer or applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8 feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the developer's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

* * *

37-53

Design Standards for Pedestrian Circulation Spaces

(a) Arcade

* * *

(3) Permitted obstructions

Except for #building# columns, and exterior wall thickness pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), an arcade shall be free from obstructions of any kind.

* * *

(b) #Bbuilding# entrance recess area

A #building# entrance recess area is a space that adjoins and is open to a sidewalk or sidewalk widening for its entire length and provides unobstructed access to the #building's# lobby entrance or to the entrance to a ground floor #use#.

* * *

(2) Permitted obstructions

Any portion of a #building# entrance recess area under an overhanging portion of the #building# shall have a minimum clear height of 15 feet. It shall be free of obstructions except for exterior wall thickness as set forth in Section 33-23, and #building# columns, between any two of which there shall be a clear space of at least 15 feet measured parallel to the #street line#. Between a #building# column and a wall of the #building#, there shall be a clear path at least five feet in width.

* * *

(c) Corner arcade

* * *

(2) Permitted obstructions

Except for #building# columns, and exterior wall thickness pursuant to Section 33-23, a corner arcade shall be free from obstructions of any kind.

* * *

(d) Corner circulation space

* * *

(2) Permitted obstructions

A corner circulation space shall be completely open to the sky from its lowest level, except for temporary elements of weather protection, such as awnings or canopies, provided that the total area of such elements does not exceed 20 percent of the area of the corner circulation space and that such elements and any attachments thereto are at least eight feet above #curb level#. A corner circulation space shall be clear of all other obstructions including, without limitation, door swings, #building# columns, #street# trees, planters, vehicle storage, parking or trash storage. However, exterior wall thickness may be added as pursuant to Section 33-23. No gratings, except for drainage, shall be permitted.

* * *

(f) Sidewalk widening

* * *

(3) Permitted obstructions

A sidewalk widening shall be unobstructed from its lowest level to the sky except for those obstructions permitted under paragraph (f)(2) of this Section, for exterior wall thickness pursuant to Section 33-23, and for temporary elements of weather protection, such as awnings or canopies, provided that the total area of such elements, measured on the plan, does not exceed 20 percent of the sidewalk widening area, and that such elements and any attachments thereto are at least eight feet above #curb level#.

* * *

(h) Through #block# connection

* * *

(2) Design standards for a through #block# connection

- (i) A through #block# connection shall provide a straight, continuous, unobstructed path at least 15 feet wide. If covered, the clear, unobstructed height of a through #block# connection shall not be less than 15 feet. Exterior wall thickness as set forth in Section 33-23 shall be a permitted obstruction to such path.

* * *

37-721

Sidewalk frontage

* * *

- (b) In the remaining 50 percent of such area, only those obstructions listed in Section 37-726 (Permitted obstructions) shall be allowed, provided such obstructions are not higher than two feet above the level of the public sidewalk fronting the #public plaza#, except for light stanchions, public space signage, railings for steps, exterior wall thickness pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), trash receptacles, trees and fixed or moveable seating and tables. Furthermore, planting walls or trellises, water features and artwork may exceed a height of two feet when located within three feet of a wall bounding the #public plaza#.

For #corner public plazas#, the requirements of this Section shall apply separately to each #street# frontage, and the area within 15 feet of the intersection of any two or more #streets# on which the #public plaza# fronts shall be at the same elevation as the adjoining public sidewalk and shall be free of obstructions.

* * *

37-726

Permitted obstructions

- (a) #Public plazas# shall be open to the sky and unobstructed except for the following features, equipment and appurtenances normally found in #public parks# and playgrounds: water features, including fountains, reflecting pools, and waterfalls; sculptures and other works of art; seating, including benches, seats and moveable chairs; trees, planters, planting beds, lawns and other landscape features; arbors or trellises; litter receptacles; bicycle racks; tables and other outdoor furniture; lights and lighting stanchions; public telephones; public restrooms; permitted temporary exhibitions; permitted awnings, canopies or marquees; permitted freestanding signs; play equipment; exterior wall thickness added pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents); permitted kiosks and open-air cafes; stages; subway station entrances, which may include escalators; and drinking fountains.

However, an area occupied in aggregate by such permitted obstruction shall not exceed the maximum percentage cited in paragraph (b) of this Section. In addition, certain of the obstructions listed in this paragraph, (a), shall not be permitted within the sidewalk frontage of a #public plaza#, as described in Section 37-721 (Sidewalk frontage).

- (b) Permitted obstructions may occupy a maximum percentage of the area of a #public plaza#, as follows:

For #public plazas# less than 10,000 square feet in area: 40 percent

For #public plazas# less than 10,000 square feet in area with a permitted open air cafe: 50 percent

For #public plazas# 10,000 square feet or more in area: 50 percent

For #public plazas# 10,000 square feet or more in area with a permitted open-air cafe: 60 percent.

The area of permitted obstructions shall be measured by outside dimensions. Obstructions that are non-permanent or moveable, such as moveable chairs, open air cafes, or temporary exhibitions shall be confined within gross areas designated on the site plan, and not measured as individual pieces of furniture.

Trees planted flush-to-grade in accordance with the provisions of Section 37-742 (Planting and trees) and tree canopies do not count as obstructions for the purpose of calculating total area occupied by permitted obstructions. Planting beds and their retaining walls for trees count as obstructions, except that lawn, turf or grass areas intended for public access and seating shall not count as obstructions, provided such lawns do not differ in elevation from the adjoining #public plaza# elevation by more than 6 inches. Exterior wall thickness added pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) in any #publicly accessible open area# or #public plaza# built prior to the (date of adoption) shall not count as obstructions for the purpose of calculating total area occupied by permitted obstructions.

* * *

- (c) Canopies, awnings, ~~and~~ marquees and sun control devices

(1) Entrances to #buildings# located within a #public plaza# may have a maximum of one canopy, awning or marquee, provided that such canopy, awning or marquee:

~~(1)~~(i) has a maximum area of 250 square feet;

~~(2)~~(ii) does not project into the #public plaza# more than 15 feet when measured perpendicular to the #building# facade;

~~(3)(iii)~~ is located a minimum of 15 feet above the level of the #public plaza# adjacent to the #building# entrance; and

~~(4)(iv)~~ does not contain vertical supports.

Such canopies, awnings, and marquees shall be designed to provide maximum visibility into the #public plaza# from adjoining #streets# and the adjacent #building#. However, canopies, awnings, and marquees associated with entrances to #buildings# containing #residences# located within a #public plaza# may project more than 15 feet into the #public plaza# and contain vertical supports if they are located entirely within 10 feet of the edge of the #public plaza#.

(2) Sun control devices may be located within a #public plaza#, provided that all such devices:

(i) shall be located above the level of the first #story# ceiling;

(ii) shall be limited to a maximum projection of 2 feet, 6 inches;

(iii) shall have solid surfaces that in aggregate, cover an area no more than 20 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(iv) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted within Section 33-42 (Permitted Obstructions);

* * *

43-23

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Manufacturing Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Arbors or trellises;

(2) Awnings ~~or canopies~~; and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

- (3) Canopies
- (4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
- (5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;
- (6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

- (7) Fences;
- (8) Flagpoles;
- (9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;
- (10) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (11) Steps, and ramps for persons with physical disabilities;
- (12) Terraces or porches, open;
- (13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;

(b) In any #rear yard# or #rear yard equivalent#:

- (1) Any #building# or portion of a #building# used for any permitted #use#, except that any portion of a #building# containing rooms used for living or sleeping purposes (other than a room in a hospital used for the care and treatment of patients, or #joint living-work quarters for artists#) shall not be a permitted obstruction, and provided that the height of such #building# shall not exceed one #story#, excluding #basement#, nor in any event 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs shall be permitted upon such #building#, or portion thereof, as listed within Section 43-42 (Permitted Obstructions);
- (2) Breezeways;
- (3) Fire escapes;
- (4) Parking spaces for automobiles or bicycles, off-street, #accessory#, provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#;
- (5) Solar energy systems on the roof of a #building# permitted as an obstruction to such #yard#:
 - (i) up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #commercial or community facility use# or attached parking structure; however
 - (ii) shall be limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;
- (6) Water-conserving devices, required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

43-42 Permitted Obstructions

In all #Manufacturing Districts#, the following obstructions shall be permitted to penetrate a maximum height limit or a #sky exposure plane# set forth in Sections 43-43 (Maximum Height of Front Wall and Required Front Setbacks), 43-44 (Alternate Front Setbacks) or 43-49 (Limited Height Districts).

- (a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:
 - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;
 - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and
 - (3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 43-42 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

- (~~a~~b) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 43-43, 43-44 or 43-45 (Tower Regulations);
- (~~b~~c) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any given level;
- (d) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (~~e~~e) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (b), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

- (1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.
- (2) all mechanical equipment shall be screened on all sides.
- (3) such obstructions and screening are contained within a volume that complies with one of the following:
 - (i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or
 - (ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (e), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

- (f) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.
- (dg) Flagpoles or aerials;
- (eh) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;

- (fi) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

- (j) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

- (k) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

- (l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

- (m) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
 - (i) a height of 15 feet;

 - (ii) when located on a bulkhead or other obstruction pursuant to paragraph (e) of this Section, a height of 6 feet;

 - (3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

- (gn) Spires or belfries;
- (o) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;
- (p) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (q) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:
 - (1) the highest point of the wind turbine assembly does not exceed 55 feet;
 - (2) no portion of the wind turbine assembly is closer than 10 feet from any #lot line#; and
 - (3) in districts where #residences# new #joint living work quarters for artists# are permitted as-of-right, by special permit or authorization, or within 100 feet of such districts, the diameter of the swept area of the rotor does not exceed 15 feet;
- (r) Window washing equipment mounted on a roof;
- (hs) Wire, chain link or other transparent fences.

* * *

**44-42
Size and Identification of Spaces**

M1 M2 M3

- (a) Size of spaces

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8 feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the applicant's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

In no event shall the dimensions of any parking stall be less than 18 feet long and 8 feet, 6 inches wide.

* * *

54-313

Single- or two-family residences with non-complying front yards or side yards

* * *

- (b) In all districts, for an existing #single-# or #two-family residence# with a #non-complying side yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying side yard# is permitted, provided the following conditions are met:
- (1) the portion of the #building# which is being vertically extended complies with the height and setback regulations applicable to an R3-2 District;
 - (2) the #non-complying side yard# where the #building# wall is being vertically extended is at least three feet in width and the minimum distance between such #building# wall and the nearest #building# wall or vertical prolongation thereof on an adjoining #zoning lot# across the common #side lot line# is eight feet;
 - (3) the #enlarged building# does not contain more than two #dwelling units#;
 - (4) that there is no encroachment on the existing #non-complying side yard# except as set forth in this Section; and
 - (5) the #enlargement# does not otherwise result in the creation of a new #non-compliance# or in an increase in the degree of #non-compliance#.

Notwithstanding the provisions set forth in paragraphs (a)(1) and (b)(1) of this Section, when an existing #building# has added exterior wall thickness pursuant to Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), such vertical extensions may align with the location of the finished exterior #building# wall of the existing #building#.

* * *

62-341

Developments on land and platforms

All #developments# on portions of a #zoning lot# landward of the #shoreline# or on #platforms# shall be subject to the height and setback provisions of this Section. However, when the seaward view from all points along the #shoreline# of a #zoning lot# is entirely obstructed by existing elevated roads, bridges or similar structures which are less than 50 feet above mean high water and within 200 feet of the #shoreline#, #developments# shall be exempt from the requirements of this Section. Height and setback regulations for #developments# on #piers# and #floating structures# are set forth in Sections 62-342 and 62-343.

- (a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

* * *

- (4) Permitted obstructions

The obstructions permitted pursuant to Sections 23-62, 24-51, 33-42 or 43-42 shall apply. In addition, the following regulations regarding permitted obstructions shall be permitted-apply:

- (i) Within an #initial setback distance#, a dormer may exceed a maximum base height specified in Table A of this Section or penetrate a required setback area above a maximum base height specified in Table C of this Section, provided that on any #street# frontage the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. At any level above the maximum base height, the width of a #street wall# of a dormer shall be decreased by one percent for every foot that such level of dormer exceeds the maximum base height. (See Illustration of Dormer)

* * *

- (iii) Wind energy systems

Regulations governing wind energy systems are modified pursuant to this paragraph:

In R6 through R10 Districts, Commercial Districts other than C1 or C2 Districts mapped within R1 through R5 Districts and C4-1, C7, C8-1, and Manufacturing Districts other than M1-1 Districts, wind energy systems located on a roof of a #building# shall not exceed a height equivalent to 50 percent of the height of such portion of the #building# or 55 feet, whichever is less, as measured from the roof to the highest point of the wind turbine assembly.

In C4-1, C7, C8-1 and M1-1 Districts, for #buildings# containing #commercial# or #community facility uses#, wind energy systems shall not exceed a height of 55 feet when located above a roof of the #building# as measured to the highest point of the wind turbine assembly.

In all districts, no portion of a wind energy system may be closer than 10 feet to a #waterfront public access area# boundary or a #zoning lot line#.

(b) Lower density districts

R1 R2 R3 R4 R5 C3 C4-1 C7 C8-1 M1-1

In the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the underlying district height and setback regulations are applicable or modified as follows:

* * *

(4) Other structures

All structures other than #buildings# shall be limited to a height of 35 feet, except that in C4-1, C7, C8-1 and M1-1 Districts, freestanding wind energy systems shall be permitted to a height of 85 feet, as measured from the base plane to the highest point of the wind turbine assembly.

(c) Medium and high density non-contextual districts

* * *

Table A

HEIGHT AND SETBACK FOR ALL BUILDINGS AND OTHER STRUCTURES IN MEDIUM AND HIGH DENSITY NON-CONTEXTUAL DISTRICTS*

* * *

(d) Medium and high density contextual districts

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

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

In the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the height and setback regulations of Sections 23-60, 24-50 and 35-24 shall not apply. In lieu thereof, the height and setback regulations set forth in this Section following regulations shall apply:

* * *

Developments on piers

* * *

- (a) Height and setback regulations on #piers#

The height of a #building or other structure# on a #pier# shall not exceed 30 feet. However, where a setback at least 15 feet deep is provided, the maximum height of a #building or other structure# shall be 40 feet. Such required setback shall be provided at a minimum height of 25 feet and a maximum height of 30 feet, and may be reduced to ten feet in depth along any portion of the #building or other structure# fronting on an open area of the #pier# having a dimension of at least 40 feet measured perpendicular to such fronting portion. In addition, wind energy systems shall be allowed, provided such a system does not exceed a height of 85 feet, as measured from the base plane to the highest point of the wind turbine assembly or, when located above a roof of the #building#, a height of 55 feet, as measured to the highest point of the wind turbine assembly, whichever is higher.

- (b) #B#building# width and spacing regulations on #piers#

* * *

Article VII Administration

Chapter 1 Enforcement, ~~and Administration~~ and Amendments

71-00 ENFORCEMENT AND ADMINISTRATION

* * *

71-10 PROCEDURE FOR AMENDMENTS

The City Planning Commission shall adopt resolutions to amend the text of this Resolution or the #zoning maps# incorporated therein, and the City Council shall act upon such amendments, in accordance with the provisions of the New York City Charter.

* * *

~~Chapter 5~~ ~~Amendments~~

~~75-00~~ ~~PROCEDURE FOR AMENDMENTS~~

~~The City Planning Commission shall adopt resolutions to amend the text of this Resolution or the #zoning maps# incorporated therein, and the City Council shall act upon such amendments, in accordance with the provisions of the New York City Charter.~~

* * *

Chapter 5 **Certifications**

75-00 **CERTIFICATIONS**

75-01 **Certification for Rooftop Greenhouses**

A rooftop greenhouse shall be excluded from the definition of #floor area# and may exceed #building# height limits, upon certification by the Chairperson of the City Planning Commission that such rooftop greenhouse:

- (a) is located on the roof of a #building# that does not contain #residences# or other #uses# with sleeping accommodations;
- (b) will only be used for cultivation of plants, or primarily for cultivation of plants when #accessory# to a #community facility use#;
- (c) is no more than 25 feet in height;
- (d) has roofs and walls consisting of at least 70 percent transparent materials, except as permitted pursuant to paragraph (f)(3) of this Section;
- (e) where exceeding #building# height limits, is set back from the perimeter wall of the #story# immediately below by at least 6 feet on all sides; and
- (f) has been represented in plans showing:
 - (1) the area and dimensions of the proposed greenhouse, the location of the existing or proposed #building# upon which the greenhouse will be located, and access to and from the #building# to the greenhouse;
 - (2) that the design of the greenhouse incorporates a rainwater collection and reuse system; and
 - (3) any portions of the greenhouse dedicated to office or storage space #accessory# to the greenhouse, which shall be limited to 20 percent of the floor space of the greenhouse, and shall be exempt from the transparency requirement in paragraph (d) of this Section.

Plans submitted shall include sections and elevations, as necessary to demonstrate compliance with the provisions of paragraphs (a) through (f) of this Section, as applicable. A copy of the proposed rooftop greenhouse plan shall be delivered to the affected Community Board, which may review such proposal and submit comments to the Chairperson of the City Planning Commission. The certification of a rooftop greenhouse shall not be complete until the earlier of the date that the affected Community Board submits comments regarding such proposal to City Planning or informs City Planning that such Community Board has no comments; or 45 days from the date that such proposal was submitted to the affected Community Board.

No building permits or certificates of occupancy related to the addition of #residences# or other #uses# with sleeping accommodations within the #building# may be issued by the Department of Buildings, unless and until such rooftop greenhouse has been fully dismantled. A Notice of Restrictions shall be recorded for the #zoning lot# providing notice of the certification pursuant to this Section. The form and contents of the legal instrument shall be satisfactory to the Chairperson of the City Planning Commission, and the filing and recording of such instrument shall be a precondition to the use of such rooftop greenhouse. The recording information for the rooftop greenhouse certification shall be referenced on the first Certificate of Occupancy to be issued after such notice is recorded, as well as all subsequent Certificates of Occupancy, for as long as the rooftop greenhouse remains intact.

* * *

81-252

Permitted obstructions

~~With the exception of unenclosed balconies conforming to the provisions of Section 23-13 (Balconies), the~~ Except as set forth in this Section, structures which under the provisions of Sections 33-42 or 43-42 (Permitted Obstructions) or 34-11 or 35-11 (General Provisions); are permitted to penetrate a maximum height limit or a #sky exposure plane# shall not be permitted as exceptions to the height limitations, setback requirements or rules for the measurement of #encroachments# or #compensating recesses# set forth in Section 81-26 (Height and Setback Regulations), nor shall they be excluded in determining daylight blockage pursuant to the provisions of Section 81-27 (Alternate Height and Setback Regulations).

The following shall be permitted as exceptions to the height regulations, setback requirements or rules for the measurement of #encroachments# or #compensating recesses# set forth in Section 81-26 (Height and Setback Regulations) and shall be excluded in determining daylight blockage pursuant to the provisions of Section 81-27 (Alternate Height and Setback Regulations).

- (a) Unenclosed balconies conforming to the provisions of Section 23-13 (Balconies); and
- (b) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with

the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

* * *

84-135

Limited height of buildings

For the purposes of this Section, the term “#buildings#” shall include #buildings or other structures#. No portion of any #building# may be built to a height greater than 85 feet above #curb level#, except that:

* * *

- (e) Sections 23-62 (Permitted Obstructions) and 33-42 (Permitted Obstructions) are hereby made inapplicable. Any portion of a #building# that exceeds an established height limit shall be subject to the following provisions:
- (1) The following shall not be considered obstructions and may thus penetrate a maximum height limit:
 - (i) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level
 - (ii) Elevator or stair bulkheads, roof water tanks, cooling towers and ~~or other~~ #accessory# mechanical equipment (including enclosure walls), ~~provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage at #curb level#, or the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet pursuant to Section 33-42 (Permitted Obstructions)~~
 - (iii) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
 - (iv) External wall thickness, pursuant to Section 33-42 (Permitted Obstructions)
 - (v) Flagpoles and aerials

- (vi) Heliostats and wind turbines energy systems
- (vii) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;
- (viii) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (ix) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);
- (x) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (xi) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed a height of 15 feet, or when located on a bulkhead or other obstruction pursuant to paragraph (f) of Section 33-42, do not exceed a height of 6 feet.

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(xii) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(xiii) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(xiv) Wire, chain link or other transparent fences;

(2) The maximum permitted size of enclosure walls surrounding elevator or stair bulkheads, roof water tanks, cooling towers and ~~or other~~ #accessory# mechanical equipment may be increased by authorization of the City Planning Commission, provided the Commission finds that:

(i) the width of such additional enclosure wall at each #building# face does not exceed 80 percent of the width of the enclosure wall as allowed in paragraph (e)(1) of this Section;

(ii) the additional area of the enclosure wall at each #building# face is not more than 50 percent of the area permitted as-of-right; and

(iii) the enclosure wall is compatible with the #building# and the urban design goals of the Special District and complements the design by providing a decorative top; and

(f) in #special height locations# in Appendices 2.2 and 3.2 of this Chapter, no portion of a #building#, including permitted obstructions, shall exceed a height of 450 feet above #curb level#.

* * *

84-333

Limited height of buildings

The maximum height of any #building or other structure#, or portion thereof, shall not exceed 400 feet on any portion of subzone C-1 shown as a #special height location# in Appendix 3.2 of this Chapter, except that permitted obstructions pursuant to Section 33-42 shall be allowed to penetrate a maximum height limit.

The maximum height of any #building or other structure#, or any portion thereof, located within subzone C-2 shall not exceed 180 feet above #curb level#, except that:

- (a) the maximum height of any #building or other structure#, or portion thereof, shown as a #special height location# shall not exceed the height set forth in Appendix 3.2; and
- (b) Sections 23-62 and 33-42 (Permitted Obstructions) are hereby made inapplicable. Any portion of a #building or other structure# that exceeds an established height limit shall be subject to the following provisions:
 - (1) The following shall not be considered obstructions and may this penetrate a maximum height limit:
 - (i) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# or a #building# at any level;
 - (ii) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
 - (iii) Elevator or stair bulkheads, roof water tanks, cooling towers or other accessory mechanical equipment (including enclosure walls), ~~provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #buildings# facing such frontage at #curb level#, or the #lot coverage# of all such obstructions, does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet pursuant to Section 33-42 (Permitted Obstructions);~~
 - (iv) Fences, wire, chain link or other transparent type;
 - (v) Flagpoles and aerials;

- (vi) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;
- (vii) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (viii) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);
- (ix) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (x) Solar energy systems:
 - (a) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (b) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed a height of 15 feet, or when located on a bulkhead or other obstruction pursuant to paragraph (f) of Section 33-42, do not exceed a height of 6 feet.
 - (c) on walls existing on (date of adoption), projecting no more than 10

inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(xi) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(xii) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(2) The maximum permitted size of enclosure walls surrounding elevator or stair bulkheads, roof water tanks, cooling towers ~~and or other #accessory#~~ mechanical equipment may be increased by authorization of the City Planning Commission, provided the Commission finds that:

(i) the width of such additional enclosure wall at each #building# face does not exceed 80 percent of the width of the enclosure wall as allowed in paragraph (b)(1) of this Section;

(ii) the additional area of the enclosure wall at each #building# face is not more than 50 percent of the area permitted as-of-right; and

(iii) the enclosure wall is compatible with the #building# and the urban design goals of the Special District and complements the design by providing a decorative top.

(c) ~~Notwithstanding the above, in~~ no event, shall the height of any #building#, including permitted obstructions, exceed 800 feet above #curb level#.

* * *

87-31 Permitted Obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#, ~~except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~

- (a) ~~the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~
- (b) ~~the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

93-41 Rooftop Regulations

(a) Permitted obstructions

(1) Subdistricts A, B, C, D and E

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within Subdistricts A through E, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~ In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

(b) (2) Subdistrict F

In Subdistrict F, the provisions of paragraph (d) of Section 33-42 (Permitted Obstructions) shall ~~not apply, except that.~~ In lieu thereof, the following shall apply:

(i) ~~#Building# bases and transition heights~~

For all #building# ~~bases and transition heights,~~ rooftop mechanical structures, including, but not limited to, elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment, and their required enclosures may penetrate a maximum height limit, provided that

~~either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~(ii) Towers~~

~~For all towers, rooftop mechanical equipment, including, but not limited to, elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment, and their required enclosures, may penetrate a maximum height limit. For towers above a height of 350 feet, such rooftop mechanical structures shall comply with the tower top articulation provisions set forth in Section 93-569 (Tower top articulation).~~

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

93-55

Special Height and Setback Regulations in the South of Port Authority Subdistrict E

(a) #Zoning lots# with Eighth Avenue frontage

* * *

(2) permitted obstructions, as listed in paragraph (a) of Section 93-41, may penetrate the #sky exposure plane#. In addition, a dormer, as listed in paragraph (c)(1) of Section 23-621, may penetrate the #sky exposure plane#.

* * *

93-77

Design Criteria for Public Access Areas in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

(a) Design criteria

* * *

(12) Canopies, awnings, and marquees and sun control devices

Where #buildings# front onto publicly accessible open spaces, private streets and pedestrian ways, canopies, awnings, ~~and~~ marquees and sun control devices shall be permitted pursuant to the standards set forth in paragraph (c) of Section 37-726 (Permitted obstructions).

* * *

94-072
Special plaza provisions

In Areas A, C and E, all #developments# which are located on a #zoning lot# with frontage along Emmons Avenue, except for a #zoning lot# of less than 8,000 square feet which was in existence as of November 1, 1972, shall provide and maintain a plaza for public use which complies with the following requirements:

* * *

(c) The size of the plaza shall be at least 4,000 square feet in one location and shall not at any point be more than two feet below or five feet above #street# level, with a minimum dimension of 35 feet. At least 15 percent of the plaza area shall be landscaped and planted with trees, except when a #zoning lot# abutting both Dooley Street and Emmons Avenue is #developed#, ~~then~~ such landscaping shall be at least 75 percent of the total plaza area provided with such #development#.

* * *

(f) A plaza may include as permitted obstructions, sculptures, kiosks, or open cafes occupying in the aggregate no more than 30 percent of the total plaza area. Ice skating rinks are also allowed as permitted obstructions within such plazas only for the months from October through March, provided the minimum area of such plaza is 7,500 square feet. Exterior wall thickness, awnings and other sun control devices pursuant to Section 37-726 (Permitted Obstructions) shall also be allowed as permitted obstructions.

* * *

97-441
Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the Special District, except that ~~the provisions of paragraph (d) shall not apply. In lieu thereof, the following regulations shall apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit or #sky exposure plane# provided that either:~~

~~(a) — the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

(b) ~~for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

98-422

Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# or other structures# within the #Special West Chelsea District#, except that as modified as follows:

(a) ~~Permitted Obstructions~~

(1) ~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a #sky exposure plane# or a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

(2) ~~Dormers~~ may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts). However, dormers may not exceed the maximum #building# height in Subareas C, F and G where the maximum base height and maximum #building# height are the same.

(b) ~~Ventilation and mechanical equipment~~

All mechanical equipment located within 15 feet of the level of the #High Line bed# that is within 25 feet of the #High Line#, measured horizontally, or within the #High Line frontage#, as applicable, shall be screened and buffered with no intake or exhaust fans or vents facing directly onto the #High Line#.

* * *

101-221

Permitted Obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Brooklyn District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other #accessory# mechanical equipment (including enclosures)~~ may

~~penetrate a maximum height limit, provided the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).~~

* * *

**104-322
Permitted Obstructions**

* * *

- (a) Chimneys, flues, intake and exhaust vents limited to a #lot coverage# of 900 square feet with neither length nor width of any single such obstruction, nor the total length or width of all such obstructions, greater than 30 feet;
- (b) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (d) Elevator and stair bulkheads to a maximum height of 15 feet above the permitted maximum height of mechanical equipment;
- (e) Flagpoles or aerials;
- (f) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such #sky exposure plane#;
- (g) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;
- (h) Pipes and supporting structures;
- (i) Railings;

- (j) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;
- (k) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);
- (l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (m) Solar energy systems:
 - (1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
 - (2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
 - (i) a height of 15 feet; and
 - (iii) when located on a bulkhead or other obstruction pursuant to paragraph (d) of this Section, a height of 6 feet;
 - (3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.
- (n) Spires or belfries;
- (o) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees,

vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

- (p) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;
- (q) Window washing equipment mounted on the roof;
- (r) Wire, chain link or other transparent fences.

* * *

107-223

Permitted obstruction in designated open space

The following shall not be considered as obstructions when located in #designated open space#:

- (a) Awnings and other sun control devices pursuant to Section 23-44 (Permitted Obstructions)
- (b) Balconies, unenclosed, subject to the provisions of Section 23-13; or
- (bc) Eaves, gutters or downspouts projecting into such #designated open space# not more than 16 inches; or
- (ed) Fences or walls, conditioned upon certification by the City Planning Commission that:
 - (1) such fences or walls will not obstruct or preclude public access or circulation of pedestrians, cyclists or horseback riders through the public easement within #designated open space#; and
 - (2) the location, size, design and materials of such fences or walls are appropriate to the character of the #designated open space#.
- (e) Exterior wall thickness, pursuant to Section 23-44 (Permitted Obstructions)
- (f) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

No #accessory# off-street parking facilities shall be permitted in #designated open space#. No #building or other structure# shall be erected in #designated open space# except as permitted by the provisions of Section 107-221 (Active recreational activities). Any existing #building or other structure# located within the #designated open space# on September 11, 1975, and not complying with the provisions of this Section or the other Sections specified in the preceding

paragraph, shall not be #enlarged# but may be continued as a #non-conforming use# or #non-complying building# subject to the applicable provisions of Article V (Non-Conforming Uses and Non-Complying Buildings) in accordance with the underlying district regulations.

* * *

111-20

SPECIAL BULK PROVISIONS FOR AREAS A1 THROUGH A7

* * *

(d) Area A4, A5, A6 and A7

Except as set forth herein, the bulk regulations of the underlying district shall apply.

* * *

- (2) The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).~~

* * *

114-121

Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other structures# in R6A, R6B, R7A, R7B, C4-2A and C8-2 Districts in the #Special Bay Ridge District#, except that ~~the provisions of paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 20 feet. In addition, dormers may penetrate a maximum~~

base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

115-231

Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Jamaica District#, except that the provisions of paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall apply:

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may penetrate a maximum height limit or #sky exposure plane#, provided that either:~~

- ~~(a) — the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~
- ~~(b) — for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).~~

* * *

116-231

Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other structures# in the #Special Stapleton Waterfront District#, except that the provisions of paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall apply:

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that either:~~

- ~~(a) — the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(b) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 20 feet.~~

~~In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

121-32 Height of Street Walls and Maximum Building Height

* * *

(b) Maximum #building# height

* * *

(2) permitted obstructions, as listed in paragraph (a) of Section 93-41, may penetrate the #sky exposure plane# and the height limit of 250 feet. In addition, a dormer, as listed in paragraph (c)(1) of Section 23-621, may penetrate the #sky exposure plane#.

* * *

125-31 Rooftop Regulations

~~(a) Permitted obstructions~~

~~The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Southern Hunters Point District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~~~

~~(1) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(2) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

128-31 Rooftop Regulations

~~The provisions of this Section shall apply to all #buildings# in C4-2 Districts within the Upland and Waterfront Subdistricts.~~

~~(a) Permitted obstructions~~

~~The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# in C4-2 Districts within the Upland and Waterfront Subdistricts, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~

- ~~(1) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~
- ~~(2) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).~~

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, and #conversions# of #non-residential buildings# to #residences#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

131-40 HEIGHT AND SETBACK REGULATIONS

131-41 Rooftop Regulations

~~(a) Permitted obstructions~~

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Coney Island District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts) only in the Mermaid Avenue Subdistrict.

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

END OF AMENDMENT TEXT

The above resolution (N 120132 ZRY), duly adopted by the City Planning Commission on March 28, 2012 (Calendar No. 18), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,

ALFRED C. CERULLO, III, MARIA M. DEL TORO, RICHARD W. EADDY, ANNA

HAYES LEVIN, ORLANDO MARIN, SHIRLEY A. MCRAE, Commissioners



BRONX COMMUNITY BOARD # 1

3024 THIRD AVENUE

BRONX, NEW YORK 10455

(718) 585 – 7117 * Fax (718) 292 – 0558 * E-mail brxcb1@optonline.net

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RUBEN DIAZ, JR.
BOROUGH PRESIDENT

CEDRIC L. LOFTIN
DISTRICT MANAGER

GEORGE L. RODRIQUEZ
CHAIRPERSON

March 2, 2012

New York City Department of City Planning
One Fordham Plaza
Bronx, New York 10451

Dear Ms. Samol:

The Bronx Community Board #1 is providing The New York City Department of City Planning with this letter of support for the Zone Green City wide Text Amendment. The item was presented and approved by the Economic Development-Land Use & Housing Committee at their February 8, 2012 and the Full Board on February 23, 2012.

If you have any questions, I can be reached at (718) 585-7117.

Very truly yours,

Cedric L. Loftin
District Manager



The City of New York
Bronx Community Board Three

1426 Boston Road, Bronx, NY 10458
Telephone No.:(718)378-8054 – Fax No.:(718)378-8188/8226
E-mail Address: brxcomm3@optonline.net

DIAL	Government Services
311	& Information for NYC
Comm. Bd. Info go to: bronxmail.com	

RUBEN DIAZ, JR.
BRONX BOROUGH PRESIDENT

GLORIA ALSTON
CHAIRWOMAN

JOHN W. DUDLEY
DISTRICT MANAGER

February 15, 2012

Ms. Carol Samol
Director, Bronx Office
NYC Dept. of City Planning
One Fordham Plaza
Bronx, NY 10458-5891

RE: ZONE GREEN TEXT AMENDMENT

Dear Ms. Samol:

At a meeting of Bronx Community Board Three held Tuesday, February 14, 2012, in which there was a quorum of members present and entitled to vote, approval was given to support the Zone Green Text Amendment proposed by the NYC Dept. of City Planning. Bronx Community Board Three understands that this text amendment would serve to remove zoning barriers to green building features in the City of New York and would further facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy consumption and carbon emissions, generate clean and renewable energy, manage storm water on site and reduce the effect of urban heat islands through vegetation on roofs otherwise promoting a healthy and green city.

Thank you for your efforts in this matter.

Sincerely,

John W. Dudley
District Manager

Cc: Gloria Alston, Chairwoman
Rev. Bruce Rivera, Chairperson, Housing, Land-Use and Economic Development committee

EXECUTIVE OFFICERS

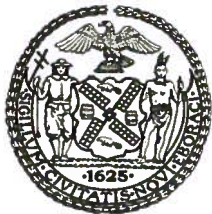
Rev. Bruce Rivera
1st Vice-Chairperson

Min. Abraham Jones
2nd Vice-Chairperson

Berniesha Coleman
Secretary

Juanita Hamilton
Treasurer

Rita Jones
Sgt.-at-Arms/Parliamentarian



THE CITY OF NEW YORK
BOROUGH OF THE BRONX
COMMUNITY BOARD 7



PAUL FOSTER, CHAIRMAN

FERNANDO P. TIRADO, DISTRICT MANAGER

January 18, 2012

Carol Samol, Director
Department of City Planning Bronx Office
One Fordham Plaza, 5th Fl.
Bronx, NY 10458-5891



Dear Ms. Samol,

After reviewing your agency's presentation at the December Land Use Committee meeting on the Zone Green Text Zoning Amendment, which seeks to update green friendly conservation products and building structural techniques, the Board has voted in support of this amendment. This letter serves as acknowledgment of the Board's support to be used with your agency's submission to the City Planning Commission.

If you have any questions regarding this matter, please contact the office at 718-933-5650. Thank you.

Sincerely,

Paul Foster
Chairman, BxCB7

Lisa Sills-Short

Lisa Sills-Short
Land Use & Zoning Committee Chair, BxCB7



COMMUNITY BOARD NO. 8 BRONX

5676 Riverdale Avenue, Suite 100 • Bronx, New York 10471-2194

Telephone: 718-884-3959 • Fax: 718-796-2763

E-Mail: brxcb8@optonline.net

Website: www.nyc.gov/brnxc8

Honorable Ruben Diaz, Jr.
Bronx Borough President

OFFICERS:

Chairperson
Robert Fanuzzi

Vice Chairperson
Maria Khury

Secretary
Joyce M. Pilsner

Treasurer
Philip Friedman

District Manager
Nicole M. Stent

February 16, 2012

COMMITTEE CHAIRS:

Aging
Karen Pesce

Budget
Brendan Contant

Economic Development
Sergio Villaverde

Education
Sylvia Alexander

Environment & Sanitation
Rosemary Ginty

**Health, Hospitals &
Social Services**
Steven Froot

Housing
Thomas C. Durham

Land Use
Charles G. Moerdler

Law, Rules & Ethics
Irving Ladimer

Libraries & Cultural Affairs
Robert G. Abbott

Parks & Recreation
Bob Bender

Public Safety
Arlene Garbett Feldmeier

Traffic & Transportation
Daniel Padernacht

Youth
Andrew Cohen

Amanda M. Burden, FAICP, Chair
NYC Department of City Planning
22 Reade Street
New York, NY 10007

Re: **Zone Green Text Amendment**
CEQR No. 12DCP068Y
ULURP No. N120132ZRY
Citywide
SEQRA Classification: Type I

Dear Chair Burden:

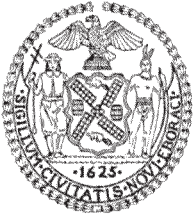
At its regular Board meeting held on February 14, 2012, Community Board No. 8 Bronx passed the following resolution by a vote of 27 in favor, 5 opposed, and 1 abstention:

RESOLVED, that Community Board No. 8 Bronx approves Department of City Planning application No. N120132ZRY regarding proposal for a city-wide Zone Green Text Amendment to remove barriers to construction of green building features in the City of New York. The proposed amendments to the regulations would facilitate retrofitting of existing buildings and construction of new buildings with features that help: reduce energy consumption and carbon emissions, generate clean and renewable energy, manage storm water run-off on site, reduce urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city.

Sincerely,


Robert Fanuzzi
Chairman

RF:pm
c: Thomas Wargo, Director
Zoning Division, NYC DCP
Nestor Danyluk, Bronx NYC DCP



COMMUNITY BOARD NUMBER 9
1967 TURNBULL AVENUE
BRONX, NEW YORK 10473

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RUBEN DIAZ JR.
BRONX BOROUGH PRESIDENT

FRANCISCO M. GONZALEZ
DISTRICT MANAGER

AL HEYWARD
CHAIRMAN

February 27, 2012

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HARDING PARK

PARKCHESTER

PARK STATION

**SOUNDVIEW/
BRUCKNER**

UNIONPORT

Carol Samol, Director
Department of City Planning-Bronx Office
One Fordham Plaza, 5th Floor
Bronx, NY 1058-5891

Re: N 120-132-ZRY Zone Green Text Amendment

Dear Ms. Samol,

After reviewing and approving your agency's presentation on the Zone Green Text Amendment at the January 9, 2012 Land Use Committee, the committee submitted its recommendation to the Board that said amendment be approved. On January 19, 2012, a full quorum, unanimous vote ensued and the motion carried in support of and approving the Zone Green Text Amendment. This letter serves as acknowledgment of the Board's support to be used with your agency's submission to the City Planning Commission.

If you have any questions regarding this matter, please contact the office at 718-823-3034. Thank you.

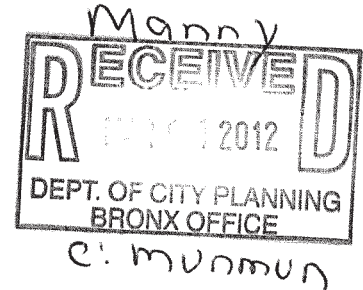
Sincerely,

Al Heyward

Chairman, BxCB9
BxCB9

Zenali Tirado, Esq.

Land Use & Zoning Committee Chair,



cc: Manny Lagares – Department of City Planning



Ruben Diaz, Jr.
Borough President

BRONX COMMUNITY BOARD No. 10

3165 East Tremont Avenue • Bronx, New York 10461

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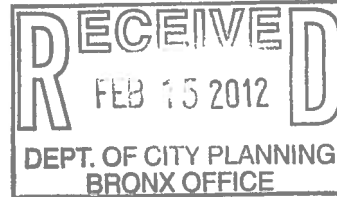


John Marano
Chairperson

Kenneth Kearns
District Manager

February 9, 2012

Hon. Amanda Burden, Chair
City Planning Commission
for the City of New York
22 Reade Street
New York, NY 10007



Re: Zone Green Text Amendments

Honorable Chair:

After reviewing the presentation regarding the Zone Green Text Amendment at the Board's January 19, 2012 meeting, the Board voted in favor of issuing a letter of support to the City Planning Commission for the Zone Green Text Amendments, with the requirement that the City Island Special District be exempted from allowing wind turbines as permitted obstructions.

The proposed text would allow wind turbines on waterfront lots be permitted obstructions and allow them to be built at a height 85' when mounted on a building within the three M1-1 zoning districts on City Island. The community feels strongly that this additional height does not fit in with the unique character of City Island and impedes on the original intent of the general purposes within 112-00 of the of the Zoning Resolution.

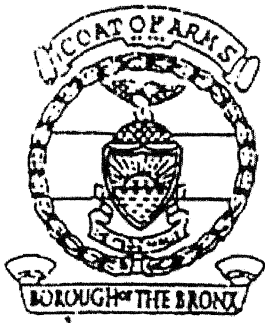
The full Board voted for this letter of support with modifications as follows:

In Favor (31) Opposes (0) Abstention (1)

If you have any questions regarding this mater, please contact the office at (718) 892-1161.

Sincerely,

John Marano, Chairman
Bronx Community Board #10



BRONX COMMUNITY BOARD 11
1741 COLDEN AVE
BRONX, NY 10462
www.bronxmall.com/commboards/cd11.html
 Email: bx11@cb.nyc.gov
(718) 892-6262, FAX: (718) 892-1861



Dominic Castore
Chairman

Ruben Diaz Jr.
Borough President

Jeremy Warneke
District Manager

COMMITTEES

*Bronx Park
 East/Olinville*

*Community Development
 and Budget Priorities*

Education/Youth

*Indian
 Village/Westchester Hgts*

Land Use

*Morris Park/Pelham
 Parkway/Van Nest*

Pelham Gardens East

Pelham Gardens West

February 21, 2012

RE: Zone Green Text Amendment N 120132ZRY

Amanda M. Burden
 City Planning Commission
 Calendar Information office
 22 Reade Street, Room 2E
 New York, New York 10007

Dear Ms. Burden:

Community Board 11 in the Bronx reviewed the zone Green Text Amendment **N120132ZRY** at our Land Use Committee and our full board meeting. We have voted to support the first four points in the application.

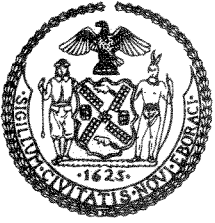
Community Board 11 had a problem with item five listed in the application, the wind turbines. We feel that developers, building owners and utility companies will place these turbines as of right with no recourse from the community. We are also concerned about the noise that would be generated from these turbines and how they would change the iconic skyline of the City.

In closing, we support the application but ask that the wind turbines be removed.

If you have any questions, please feel free to call Jeremy Warneke, our District Manager at the number above.

Sincerely,

Dominic Castore
 Chairman



THE CITY OF NEW YORK Borough Of The Bronx

COMMUNITY BOARD #12

FATHER RICHARD F. GORMAN, *CHAIRMAN*
CARMEN ROSA, *DISTRICT MANAGER*

4101 WHITE PLAINS ROAD
BRONX, NEW YORK 10466
TELEPHONE: (718) 881-4455/6
FAX: (718) 231-0635

31 January 2012

Mr. Thomas Wargo, Director of Zoning
New York City Department of City Planning
22 Reade Street
New York, New York 10007

RE: Zone Green Text Amendment

Dear Director Wargo:

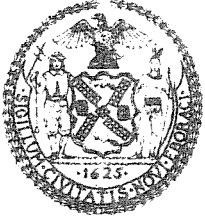
At its regularly scheduled meeting for the month of January convened on Thursday evening, 26 January 2012, at 7:30 PM., in "Town Hall"—i.e., 4101 White Plains Road at the intersection of East 229th Street in The Borough of The Bronx—the membership of Community Board 12 (The Bronx) voted unanimously in favor of the Land Use Committee recommendation to New York City Department of City Planning that the above referenced Text Amendment be approved as presented at the 26 January 2012 Public Hearing.

As always, we thank you for allowing us the opportunity to comment on this matter.

Sincerely,

Father Gorman
Chairman





CITY OF NEW YORK
Community Board No. 2

350 JAY STREET - 8TH FL.

BROOKLYN, N.Y. 11201

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MARTY MARKOWITZ
Borough President

JOHN DEW
Chairperson

ROBERT PERRIS
District Manager

February 15, 2012

DEPARTMENT OF
CITY PLANNING

FEB 17 2012

BROOKLYN OFFICE

Ms. Amanda M. Burden, FAICP
Chair, City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chair Burden:

Brooklyn Community Board 2 has reviewed and made a determination on the "Zone Green" text amendment proposed by the Department of City Planning.

On May 19, 2010, the Land Use Committee of Community Board 2 voted unanimously (9-0-0) to recommend approval of the text amendment. The community board voted 17 in favor, 12 opposed, two abstentions (17-12-2) on January 11, 2012 to recommend approval, but with the added condition that text related to wind turbines be removed from the proposed changes.

Thank you for the opportunity to comment.

Sincerely,

John Dew

cc: Hon. Marty Markowitz
Brooklyn Borough President
Hon. Stephen Levin
Hon. Letitia James
New York City Council
Purnima Kapur, Brooklyn Borough Director
Department of City Planning

JD:RP

Lech
C. Steven
→ Pl. forwarded
to T.M.W.
& Howa

THE CITY OF
NEW YORK



BUSHWICK

Community Board No. 4
315 Wyckoff Avenue, 2nd Floor
Brooklyn, NY 11237

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Julie Dent- Chairperson
Nadine Whitted - District Manager

ELECTED OFFICIALS

Hon. Marty Markowitz
Borough President
Hon. Diana Reyna
34th Council District
Hon. Erik Martin Dilan
37th Council District

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Financial Secretary
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VIRGIE JONES
Correspondence Secretary
ODOLPH WRIGHT
Parliamentarian

February 21, 2012

Ms. Anna Slatinsky
Brooklyn Office
NYC- Department of City Planning
16 Court Street
Brooklyn New York 11201

Dear Ms. Slatinsky:

At the Wednesday, February 15, 2012 public hearing and full meeting of Brooklyn Community Board #4, the full voted unanimously to approve the Green Building Text Amendment Proposal as presented. Accordingly, these changes would remove barriers to development and renovation of sustainable buildings. Those in attendance at the meeting displayed much interest in the ecology, a healthier environment and most importantly, saving energy and money. The proposals' features of energy efficient building walls, sun control devices, solar panels and rooftop equipment, which would theoretically save owners as well as renters in heating costs was well received.

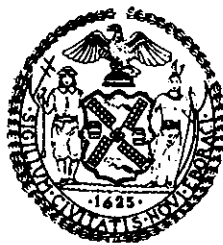
Should this proposal become a reality, and the current zoning laws are adjusted to accommodate the changes, finally we in New York City can boast of being a "Greener City" with modernized zoning laws.

Should you require additional information concerning this, please feel free to call me at the above number or I could be reached via email nwhitted@cb.nyc.gov

Sincerely,

Nadine Whitted

Nadine Whitted
District Manager



FRED Nuereb

Chairperson

Jeremy Laufer
District Manager

THE CITY OF NEW YORK
BOROUGH OF BROOKLYN
COMMUNITY BOARD #7

MARTY MARKOWITZ
Borough President

February 16, 2012

Ms. Amanda Burden
Director
Department of City Planning
22 Reade Street
New York, New York 10007-1216

Re: Zone Green Text Amendments
ULURP #: N120132ZRY

At the February 15, 2012 meeting of Community Board 7, our Board voted on the following resolution:

Be It Resolved:

Community Board 7 of Brooklyn commends the Department of City Planning (DCP) for developing the Zone Green Text Amendments proposal. Community Board 7 firmly believes that allowing greener building to be constructed or retrofitted will contribute to a healthier environment, reduced burden on the city infrastructure and have numerous economic benefits to our community and the City of New York. This Community Board's commitment to green zoning predates the current DCP proposal as we called for environmentally green building to be a cornerstone of our 197-a Plan, approved in 2009.

Community Board 7 after studying the Zone Green Text Amendments proposal believe there is a need to modify and clarify the amendment to:

a) Screen front yard air conditioning units

The placement of these units should not be permitted in the front yard of any one to three family homes within our community district as stated in the Brooklyn Borough Board Resolution submitted to DCP. These units should only be permitted in the rear or side yards or roofs of homes. We also call on the City of New York to regulate the noise associated with these units to ensure they have a minimum impact upon the quality of life of neighbors in adjacent homes.

b) Sun control devices and awnings

We endorse the Brooklyn Borough Board Resolution calling for sun control devices

and awnings be permitted in non-compliant rear yards that exceed a depth of 20 feet and in non-compliant front yards not less than five feet, thus increasing opportunity to place such shading devices while assuring that snow does not slide off into the public right-of-way.

c) Bulkhead maximum height

The proposed text amendment would permit a bulkhead to rise to a height of 40 feet in an R8 A zoning districts. Presently, the bulkhead height is a maximum of 25 feet and this was what our community agreed to when we approved contextual zoning regarding portions of our community district along Fourth Avenue from 15th Street to 25th Street. We call upon the DCP to respect the height limits that this community consented to as part of the contextual zoning resolution. Community Board 7 also endorses the Brooklyn Borough Board Resolution calling for the restriction of the bulkhead maximum height to be capped at 25 feet.

Be it further resolved that:

Community Board 7 calls upon DCP to study and investigate how to implement the Zone Green Text Amendments within our community district, paying special attention to the unique nature of our exceptional and historic views from Sunset Park and Battle Hill in Greenwood Cemetery ; our geographic location and relationship to the waterfront and the proposals set forth in our 197-a plan regarding the future planning and development of our districts manufacturing, commercial and recreation potential. Community Board 7 is particularly concerned with the proposals concerning the placement of wind turbines along waterfront buildings, lots and piers that would obstruct the views from the upland to the waterfront. Furthermore, the Community Board calls upon DCP to restrict the height of the permitted planting that would be allowed on green roofs within Community District 7, specifically the planting of trees that would obstruct the views upland to the waterfront.

Further, Community Board 7 calls upon the City of New York to provide addition funding to the Department of Buildings (DOB) to ensure it can properly carry out its mission to protect the people of New York City when the Zone Green Text Amendments become effective as these changes will impact the DOB.

The Board vote was 44 – in favor, 0 – opposed, with 0 – abstentions.

If you or your staff have any questions on our resolution or the issues we have raised, please contact us at your convenience.

Thank you for the opportunity to weigh in on this matter.

Sincerely,



Fred Xuereb
Chairman



Jeremy Laufer
District Manager



Community Board Ten

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Communitybd10@nyc.rr.com

BRIAN KIERAN
Vice Chairperson
ELEANOR SCHIANO
Secretary
MARY ANN WALSH
Treasurer

JOANNE SEMINARA
Chairwoman
JOSEPHINE BECKMANN
District Manager

February 13, 2012

Ms. Amanda M. Burden, FAICP, Director
NYC Department of City Planning
22 Reade Street, Room 3E
New York, NY 10007

Dear Ms. Burden:

At a duly publicized meeting of Community Board 10 held on January 23, 2012, members voted overwhelmingly in favor of N 120132 ZRY, Zone Green Text Amendment, with the following provisions:

- **Add definition of the term “wind turbine” structure adding limitations as to the diameter of the support structures (allowing diameter only as required for structural stability). Define further to ensure no accessory use within the support structure.**
- **Add more restriction on height of wind turbines, allowing freestanding wind turbines over 35’ in height to be constructed only by Special Permit.**
- **With respect to permitted locations of AC condensing units:**
 - **In front yards, prohibit AC condensing units anywhere in the front yard (all residential zones and especially Bay Ridge Special District.)**
 - **In side yards, allow AC condensing units only within 18” of the side wall of the structure.**

I have attached a copy of the Zoning and Land Use Committee Report and Recommendation for your information.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,



Josephine Beckmann
District Manager

JB:dg
Att.

MARTY MARKOWITZ, BOROUGH PRESIDENT

ZONING AND LAND USE COMMITTEE

Community Planning Board #10/Brooklyn

January 10, 2012 @7:00 pm

ZONING AND LAND USE SUBCOMMITTEE PRE-MEETING @ 6:30 pm

Attendees: See attachment

Item #1: Existing enclosed café at Tanoreen Caterers at 7523 3rd Avenue

Filed is for change of ownership, no other change.

See Minutes attached and prepared by Ron Gross, Chair Sub-Committee for Sidewalk Cafes

General ZALUC Meeting was called to order @ 7:00 pm.

Attendees: See attachment

Item #1 -Special Permit Review – 1246 77th Street Rear Extension

BSA Calendar #191-11 BZ

The application requests a Special Permit to allow the proposed rear enlargement of the existing residence. The residence is an attached brick one-family house with a driveway easement to the rear. The house has an existing one story extension. The two adjoining neighbors have two story extensions identical to the one proposed by this application and were erected legally under past zoning regulations. The applicant requests to add a Second story to her one story, thereby making it identical to the two adjoining neighbors.

Current regulations do not allow this additional floor area as of right.

Ms. Zerillo, the home owner, was present as was a representative from the office of her attorney Sheldon Lobel. Sufficient information as presented including drawings, statements and photos.

The Committee discussed the issue and felt that the enlargement would be in keeping with the character of the row of houses and did not impose negative impact on any neighbors.

Therefor the committee recommends that the Board vote in favor of the Special Permit.

Item #2 – Review and Comment on Proposed Green Text Amendment to the Zoning Resolution

This Zoning Text Amendment seeks to promote green buildings by removing zoning impediments to the construction and retrofitting of green buildings

Six Main Features of the proposal were discussed and are summarized herein. The rationales for the proposed changes were explained by Richard Jacobs in an informative power point presentation and also in the attached NYCPlanning Zone Green Text Amendment Summary Sheet.

The Six Main Features are as follows:

- 1. Energy Efficient Building Walls
Allow existing buildings to add exterior insulation within the property line while exempting it from floor area calculations and yard regulations.
- 2. Sun Control devices
Above the ground floor, allow sun control devices and awnings to project 2-6" over required open areas, but not 30% of the façade from which they project.
- 3. Solar Energy
Allow solar panels on flat roofs anywhere below the parapet regardless of building height. Taller solar installations would be subject to limits on roof coverage and height. On sloping roofs, panels would be allowed to be float mounted at less than 18" high.

ZONING AND LAND USE COMMITTEE

Community Planning Board #10/Brooklyn

January 10, 2012 @7:00 pm

- 4. Other Rooftop Equipment
Allow low lying features such as green roofs, recreational decks and skylight anywhere below the parapet, regardless of building height, Guard rails no more than 30% opaque would be allowed up to 3'6" above the top surface of the roof.
Greater volume would be allowed above the maximum building height to accommodate modern bulkheads with requirements for setback and screening of equipment.
- 5. Rooftop Greenhouses
Allow a greenhouse to be exempt from floor area and height limits (up to 25" and set back minimum of 6' from the roof edge) provided it is located on top of a building that does not contain residences or sleeping accommodations.
These would be by certification of the Chair of the City Planning Commission only.
- 6. Wind energy
On buildings taller than 100', a wind turbine assembly may rise up to 55' above the rooftop (including pole and rotor) providing it is set back at least 10 feet from any property line. In addition, free standing or building mounted turbines would be allowed in commercial development near the waterfront. Installations must follow all requirements from the Department of Buildings.

Committee was very receptive to this Text Amendment because it embraces new technologies and encourages positive action regarding our energy challenges. It further enables building owners to incorporate energy features without a zoning "sacrifice". The Committee felt that, overall, the changes in regulations would not result in a negative impact on our community. Committee recommends that the Board endorse the Green Text Amendment with the following provisions:

1. Add definition of the term "wind turbine" structure adding limitations as to the diameter of the support structures (allowing diameter only as required for structural stability).
Define further to ensure no accessory use within the support structure.
2. Add more restriction on height of wind turbines, allowing freestanding wind turbines over 35' in height to be construction only by Special Permit.
3. With respect to permitted locations of AC condensing units:
In front yards, prohibit AC condensing units anywhere in the front yard (all residential zones and especially Bay Ridge Special District.)
In side yards, allow AC condensing units only within 18" of the side wall of the structure.

Meeting was adjourned at 9:15 PM

Respectfully Submitted:

Ann Falutico, Committee Chair, Zoning and Land Use Committee



BROOKLYN COMMUNITY BOARD 14
FLATBUSH-MIDWOOD COMMUNITY DISTRICT
810 East 16th Street
Brooklyn, New York 11230

MARTY MARKOWITZ
Borough President

ALVIN M. BERK
Chairman

SHAWN CAMPBELL
District Manager

February 24, 2012

Ms. Amanda Burden
Director, Department of City Planning
22 Reade Street
New York, NY 10007

Dear Ms. Burden:

As you may know, as an attendee of the February 7, 2012 meeting of the Brooklyn Borough Board, I voted in favor of the Brooklyn Borough President's resolution forwarded to you on February 9, 2012 concerning the Zone Green Zoning Text Amendment.

Most specifically germane to Brooklyn Community Board 14 are the Borough President's concerns relating to the screening of air conditioning condensing units in front yards of homes, and the need for property line setbacks in any yards; the possible narrowing of pre-1961 zoning regulated driveways when permitting thicker exterior walls; the installation of awnings and other sun control devices in non-compliant yards; and the preclusion of external insulation exterior wall thickness as a permitted obstruction of required open space and required rear yards when such yard depth is not greater than 20 feet in the area in CB14 regulated under ZR 73-622.

At our February 13, 2012 meeting Community Board 14 members voted to endorse the Zone Green Text Amendment with the caveats included in the Brooklyn Borough President's resolution, and to add our opposition to the allowance of any additional wall thickness, for the purpose of applying exterior insulation, that would intrude into already non-conforming front, rear, or side yards.

Community Board 14 is otherwise pleased that the proposal removes impediments to the construction and retrofitting of greener buildings that will operate more efficiently and provide for a healthier environment.

Thank you for your consideration.

Sincerely,


Alvin M. Berk

cc: Hon. Marty Markowitz, Brooklyn Borough President
Ms. Purnima Kapur, Brooklyn Office Director, Dept. of City Planning
Mr. Thomas Wargo, Director, Zoning Division, Dept. of City Planning

Phone: 718-859-6357 • Fax: 718-421-6077
Email: info@cb14brooklyn.com • Web: www.cb14brooklyn.com



COMMUNITY BOARD NO. 18

1097 BERGEN AVENUE • BROOKLYN, NEW YORK 11234-4841
718.241.0422 tel
718.531.3199 fax
email:bkbrd18@optonline.net

MICHAEL R. BLOOMBERG
Mayor
MARTY MARKOWITZ
Borough President
SAUL NEEDLE
Chairperson
DOROTHY TURANO
District Manager

January 19, 2012

City Planning Commission
Calendar Information Office
22 Reade Street – Room 2E
New York, New York 10007-1216

Re: U.L.U.R.P. #N 120132 ZRY
Zone Green Text Amendment

Dear Mr. Wargo:

At the regularly scheduled Board Meeting of Community Board #18 held on Wednesday, January 18, 2012, the Board voted to recommend approval of the above referenced Zone Green Text Amendment.

If you need any additional information, please do not hesitate to contact our Office.

Sincerely,

Dorothy Turano
District Manager

cc: Mr. Thomas C. Wargo, Director, Department of City Planning
Hon. Marty Markowitz, Brooklyn Borough President
Mr. Robert LiMandri, Commissioner, Department of Buildings

CITY PLANNING COMMISSION
2012 JAN 24 AM 11:10
DEPT. OF CITY PLANNING

COMMUNITY BOARD #1 – MANHATTAN
RESOLUTION

DATE: FEBRUARY 28, 2012

COMMITTEE OF ORIGIN: PLANNING AND COMMUNITY INFRASTRUCTURE
LANDMARKS COMMITTEE

PLANNING VOTE:	7 In Favor	0 Opposed	0 Abstained	0 Recused
LANDMARKS VOTE:	7 In Favor	1 Opposed	0 Abstained	0 Recused
BOARD VOTE:	24 In Favor	6 Opposed	1 Abstained	0 Recused

RE: Zone Green Text Amendment - N 120132 ZRY

WHEREAS: The Green Codes Task Force which consisted of a group of leading practitioners convened by the Urban Green Council at the request of Mayor Bloomberg and Council Speaker Quinn, released a set of recommendations to amend City regulations to promote green buildings, and

WHEREAS: The Department of City Planning proposes a Citywide zoning text amendment to remove zoning impediments to implementation of green features in construction of new buildings and retrofitting all buildings in New York City, and

WHEREAS: This proposal is intended to give owners more choices for the investments they can make to save energy, save money, and improve environmental performance, and

WHEREAS: This proposal is one of a series of green initiatives the Department of City Planning has been undertaking to promote sustainable communities throughout New York City and will help bring our buildings into the 21st century, and

WHEREAS: This proposal would allow existing buildings to add external insulation within the property line, while exempting it from floor area calculations and yard and open space regulations and for new buildings up to eight inches of additional wall thickness could be exempted from floor area, encouraging high-performance buildings without changing the amount of usable space in the building, and

WHEREAS: This proposal would allow sun control devices and awnings to project 2'-6" over required open areas above the ground floor which can help reduce air-conditioning needs and lighting bills by providing glare-free natural light, and

WHEREAS: The proposal would allow solar panels on flat roofs anywhere below the parapet, regardless of building height because solar power can provide pollution-free energy for electricity or hot water, reducing utility bills and carbon emissions, and

WHEREAS: This proposal would allow green roofs, recreational decks, other storm water detention systems and skylights anywhere below the parapet, regardless of building height and will, by certification of the Chair of the City Planning Commission, allow s greenhouse to be exempt from floor area and height limits, provided that it is located on top of a building that does not contain residences or sleeping accommodations and does not exceed 25 feet in height and is set back six feet from the roof edge because greenhouses can enable year-round local food production and provide valuable educational opportunities within a dense urban environment, and

WHEREAS: This proposal would allow a rooftop wind turbine assembly to rise up to 55' above the rooftop on buildings taller than 100 feet and on waterfront blocks up to half the height of the building or 55 feet, whichever is less, provided all wind installations comply with requirements set forth by the Department of Buildings because wind energy generation in New York City makes the most sense where winds are consistent – on taller buildings and near the waterfront, and

WHEREAS: This proposal would allow greater flexibility for the location of air conditioning condenser units for more efficient systems for one- and two-family residences, and

WHEREAS: This proposal clarifies rules for electric vehicle charging or battery swapping facilities and solar energy generation, which are cleaner than traditional fueling or energy generation facilities, and

WHEREAS: This Proposal would allow permeable pavements as an alternative where required to accommodate the high levels of foot traffic generated by schools in Lower density districts, and

WHEREAS: Community Board One endorses Green Building and generally favors zoning changes to foster Green Building, but is concerned that certain aspects of the proposed changes could be misused in a manner not intended by the proponents of such changes, such as construction of rooftop additions nominally characterized as greenhouses, but in reality constituting party spaces, and

WHEREAS: Community Board One is concerned the provisions regarding retrofitting of existing buildings with external insulation creates the potential for massive alterations of building exteriors in a manner that could negatively alter the essential nature of such buildings in their neighborhood context, and

WHEREAS: Community Board One is concerned that wind turbines can present safety, livability and aesthetic issues to neighboring buildings because of noise, vibration, shadows and unsightliness, and

WHEREAS: Community Board One anticipates that the alteration and construction latitude granted by the proposed Text Amendment would bring with it increased need for enforcement vigilance, and

WHEREAS: CPC materials call for “protecting the character and quality of life of our neighborhoods” as a goal, there are no provisions that would ensure this in the proposed text amendment, now

THEREFORE

BE IT

RESOLVED

THAT: Manhattan Community Board 1 recommends adoption by the City Planning Commission of N 120132 ZRY Zone Green Text Amendment, subject to the following changes and caveats:

1. That the wind turbine provisions not be enacted;
2. That the enacting legislation specify that nothing in this Text Amendment is intended to alter the criteria that Landmarks Preservation Commission applies in consideration of applications for alterations or construction on designated individual landmarks, buildings in historic districts, and buildings calendared for designation hearings, and that such applications continue to be considered according to criteria that would be applied irrespective of any “green” merits of such alterations or construction;
3. That applications under the provisions of the Zone Green Text Amendment that require a certification of the Chair of the City Planning Commission (such as for rooftop greenhouses) also be made to require Community Board Review;
4. That any substantial modification of a building’s exterior require a certification of the Chair of the City Planning Commission and Community Board Review to assure that such modification not negatively impact the essential character of the building in its neighborhood context; and
5. To the extent that the wind turbine provisions are enacted, notwithstanding our contrary recommendations, that any such wind turbine construction require a certification of the Chair of the City Planning Commission and Community Board Review, and

BE IT

FURTHER

RESOLVED

THAT: Manhattan Community Board 1 recommends that the City Planning Commission consider the development and implementation of general design standards governing any substantial modification of an existing building’s exterior, and

BE IT
FURTHER
RESOLVED

THAT: Manhattan Community Board 1 recommends that adequate budgeting be provided to the Department of Buildings for the increased enforcement costs that can be expected from assuring that projects taking advantage of the Zone Green Text Amendment provisions comply with the limitations specified in those provisions.

Brad Hoylman, Chair
Bo Riccobono, First Vice Chair
Alison Greenberg, Second Vice Chair
Bob Gormley, District Manager



Antony Wong, Treasurer
Susan Kent, Secretary
Keen Berger, Assistant Secretary

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

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Greenwich Village ♦ Little Italy ♦ SoHo ♦ NoHo ♦ Hudson Square ♦ Chinatown ♦ Gansevoort Market

March 2, 2012

Amanda Burden, Chair
Department of City Planning
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on February 23, 2012, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

N 120132 ZRY Zone Green Text Amendment: Department of City Planning proposal for a Citywide zoning text amendment to remove zoning impediments to the construction and retrofitting of green buildings. This proposal would give owners more choices for the investments they can make to save energy, save money, and improve environmental performance.

WHEREAS, In 2030, 85 percent of our buildings will be buildings that exist today and the Green Zone Text Amendment would remove zoning impediments to the construction and retrofitting of green buildings thus reducing New York City's energy use and carbon emissions; and,

WHEREAS, CB#2, Man., supports the goal of this text amendment to make New York City more energy efficient; and

WHEREAS, CB#2, Man. has concerns about potential, unintended consequences of the proposal and especially that there are not sufficient provisions to "protect the character and quality of life of our neighborhoods;" and

WHEREAS, wind turbines would be allowed, on buildings taller than 100 feet, and could rise up to 55' above the rooftop (including the pole and rotor); and,

WHEREAS, the proposed setback of 10 feet is not be enough to reduce visibility, 55 feet of additional height above the current zoning envelope is excessive, there is no limit on the number of wind turbines, and questions on noise pollution are not resolved; and,

WHEREAS, greenhouse structures would be allowed on some roofs and would not be subject to the FAR and height limitations defined in the Zoning Resolution, which opens up the possibility of undesirable uses on rooftops; and

WHEREAS, in an effort to eliminate window air conditioners, condenser units would be allowed on roofs and in rear yards, right up to property lines and there could be negative aesthetic and noise impacts on neighbors; and

WHEREAS, the amendment would permit exterior insulation (and its covering), window awnings, sun control devices, sun generators, and solar panels on roofs, all of which could compromise neighborhood character; and

WHEREAS, while the NYC Landmarks Preservation Commission would have jurisdiction over any changes to designated (and calendared) buildings, CB#2, Man. has concerns that consideration of “green” merits could take precedence over preservation of historic fabric; and

WHEREAS, CB#2, Man. is further concerned that substantial modifications could be approved with certification by the Chair of the City Planning Commission, but without a Community Board review; and

WHEREAS, CB#2, Man. believes that enforcement of the new rules could be problematic.

THEREFORE BE IT RESOLVED, that CB#2, Man. recommends approval of the Zone Green Text Amendment only if:

- provisions allowing wind turbines on roofs are eliminated,
- Community Board review is incorporated into the approval process for substantial projects,
- guidelines are created to ensure that the built fabric of the city is not compromised as we try to move toward energy efficiency, and
- there are sufficient mechanisms and funding for adequate enforcement by the Department of Buildings.

Vote: Passed, with 34 Board members in favor, 2 in opposition (M. Derr, D. Reck) and 4 abstentions (T. Bergman, D. Gruber, S. Secunda, A. Wong)

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

Sincerely,



Brad Hoylman, Chair
Community Board #2, Manhattan



David Reck, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

BH/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Pauline Yu, CAU
Vivian Awner, Community Board Liaison, Dept. of City Planning
Land Use Review Unit, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Derek Lee, Man. Borough Commissioner, NYC Department of Buildings
Thomas C. Wargo, Director, Zoning Division, Dept. of City Planning



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD NO.3

59 East 4TH Street - New York, N.Y. 10003

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www.cb3manhattan.org - info@cb3manhattan.org

Dominic Pisciotta, Board Chair

Susan Stetzer, District Manager

February 1, 2012

Hon. Amanda M. Burden, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: N 120132 ZRY
Zone Green Text Amendment

Dear Chair Burden:

At its January 2012 monthly meeting, Community Board #3 passed the following motion:

WHEREAS the goals of N 120132 ZRY Green Zone Text Amendment are to reduce greenhouse emissions by 30 percent and to reduce spending on heating and cooling in buildings by \$15 billion; and

WHEREAS CB3 supports the goals of the Zone Text Amendment in general; and

WHEREAS CB3 is concerned about potential abuse of the rules allowing exemption from code (floor area) in return for additional wall thickness; and

WHEREAS CB3 is concerned that allowing rooftop amenities such as green roofs, recreational decks, and rooftop greenhouses will lead to diminished quality of life for residents (e.g. noise issues); so

THEREFORE BE IT RESOLVED that CB3 approves the text amendment with the following exceptions: we do not approve of rooftop amenities such as green roofs, recreational decks, and rooftop greenhouses, with the exception of schools; and we do not approve of an exemption for developers from floor area recalculation, except in the case of buildings which provide at least 51% affordable housing.

If you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads 'Dominic Pisciotta'.

Dominic Pisciotta, Chair
Community Board #3

cc: Arthur Huh, DCP
Nicole Campo, DCP
James Merani, DCP



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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COREY JOHNSON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

February 13, 2012

Hon. Amanda M. Burden, Chair
New York City Planning Commission
22 Reade Street
New York, NY 10007-1216

Re: Proposed Green Text Amendment – N 120132 ZRY

Dear Chair Burden:

At the January 11, 2011 joint meeting of Manhattan Community Board 4's (CB4) Chelsea Preservation and Planning (CP&P) and Clinton/Hell's Kitchen Land Use (C/HKLU) Committees, the Department of City Planning (DCP) presented the proposed Green Text Amendment. At its regularly scheduled meeting on February 1, 2012, on the joint recommendation of the CP&P and C/HKLU Committees, the Board voted to approve the following the proposed Green Text Amendment subject to the following conditions.

1. Energy-Efficient Building Walls

While CB4 agrees with creating incentives to improve building insulation and applauds the reasoning behind this provision we are concerned that it would have undesirable consequences in high density districts without overall height limits. For a small building on a small lot, the amount of floor area to be recovered from 8" exterior walls would be minimal, but for a large building on a large lot the potential results are additional floors and increased height.

Consider, for example, a 100' square lot zoned for a Floor Area Ratio (FAR) of 10 with required setbacks at sixty and one hundred feet, with 10 foot high stories. If both setbacks are ten feet and are on all four building faces, the floor area recovered from the 8" walls would permit a 15 story building instead of a 14 story building. If instead the first setback is 15 feet, the result would be 20 stories instead of 18.

CB4 believes that because of the cost savings resulting from insulation, owners of large buildings will not need significant incentives to increase energy efficiency; therefore these additional stories are an unnecessary price to pay in high density districts. CB4 requests that DCP study the effects of this provision in high density districts and suggests that it be modified so as not to permit an increase in building height for buildings of greater than a defined FAR.

2. Solar Energy

CB4 questioned the restriction on solar panels to 25% roof coverage and appreciates the clarification that the 25% restriction applies only to that portion four feet or more above roof level in order to reduce visibility from the street, and that there is no limit to roof coverage by solar panels less than four feet above roof level.

3. Other Rooftop Equipment

CB4 has an ongoing problem with the use of outdoor spaces on or associated with buildings for bars, restaurants and parties. Rooftop venues, both licensed establishments and private spaces used for parties, have been especially disruptive because noise can disturb people who are at a great distance from the actual party space. CB4 understands that roofs can be made accessible without the addition of decks, that decks that do not exceed the building height limit are already permitted and that decks can have beneficial uses, such as aiding in the capture of storm water with blue-roof systems. However, CB4 is concerned that permitting decks above the building height limit will exacerbate the growing problem of noisy, disruptive outdoor spaces and understands that other community boards have expressed similar concerns. CB4 requests that DCP study this effect of the provision to see if this non-beneficial impact can be reduced or eliminated.

4. Rooftop Greenhouses

Zoning Resolution (ZR) Section 75-01 provides a certification process by which a rooftop greenhouse will be excluded from the definition of FAR and may exceed building height limits. CB4 welcomes the placement of greenhouses on rooftops and agree with its restriction to buildings without residences. CB4 also agrees with the other general provisions of the section with the exception of ZR § 75-01(f)(3). ZR § 75-01(f)(3) permits accessory office or storage space, limited to 20% of the floor space of the greenhouse, to be exempt from the transparency requirement of ZR § 75-01(d). CB4 is concerned that an office in a rooftop greenhouse may be viewed as an attractive amenity for a building or that a building would use the greenhouse for general storage. In each case, transparency would be reduced for uses unrelated to the greenhouse itself. CB4 is also concerned that storage space occupying the permitted 20% of greenhouse floor space could take the form of shelving or other thin storage along multiple sides of the greenhouse, thus significantly reducing transparency.

CB4 requests that the text be modified to:

- Require that the office or storage space be accessory to the greenhouse itself, not to the building on which the greenhouse rests; and
- Require that the office or storage space be configured and positioned to occlude the minimum amount of transparent wall, for example not to exceed a percentage of linear wall space equal to the percentage of floor space it occupies.

5. Wind Energy

While CB4 supports the development of sustainable energy sources, the Board cannot support the use of

wind turbines in a dense urban setting. During the review of this amendment CB4 learned that wind turbines are already permitted on buildings and that the purpose of the amendment is to set limits on turbine height and diameter, and to establish minimum setbacks. The selection of buildings and the determination of the number of turbines to place on a building and their positioning are left to owners and installers.

In a community where building heights and setbacks are established through a rigorous process that includes multiple stakeholders, including DCP and the Community Board, CB4 is sensitive to the potential impact large wind turbine structures could have on undermining the existing zoning restrictions and regulations.

Furthermore, despite assurances that the economics of small, building-mounted turbines in NYC are unfavorable, that it is difficult to find optimal wind conditions in a built-up area, and that buildings need special engineering to handle the lateral forces generated by turbines, CB4 remains concerned that future inducements could spur the proliferation of turbines despite these factors, increasing the likelihood of accidents and unacceptable noise. CB4 understands that Department of Buildings (DOB) and Department of Environmental Protection (DEP) are charged with regulating these issues, respectively, but the Board has found that enforcement by these two agencies can be problematic, especially during periods of budget distress. For both safety and noise reasons, CB4 requests that at the very least wind turbines not be allowed on or close to residential buildings. At a future date, the Board would be glad to reconsider its position against wind turbines on residential buildings, if and when it becomes clear that the technology is effective, safe, and quiet.

Thank you for the opportunity to provide comments and submit recommendations on this important zoning.

Sincerely,



Corey Johnson, Chair
Manhattan Community Board 4



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

[signed 1/9/2012]
Gretchen Minneman, Co-Chair,
Clinton/Hell's Kitchen Land Use Committee



J. Lee Compton, Co-Chair
Chelsea Preservation and Planning Committee

[Signed 2/13/12]
Bret Firfer, Co-Chair
Chelsea Preservation and Planning Committee

cc: NYC Council Speaker Christine Quinn
Manhattan Borough President Scott Stringer
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
NYS Assemblywoman Linda Rosenthal
Congressman Jerrold Nadler

Manhattan Community Board Five

Vikki Barbero, Chair

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Wally Rubin, District Manager

January 13, 2012

Hon. Amanda Burden
Chair
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007

RE: A PROPOSED REVISION BY THE DEPARTMENT OF CITY PLANNING TO THE ZONING RESOLUTION TO REMOVE REGULATORY BARRIERS TO GREEN BUILDING PRACTICES

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, January 12, 2012, the Board passed the following resolution by a vote of 33 in favor, 0 opposed, 2 abstaining:

WHEREAS, The Department of City Planning is proposing a Citywide zoning text amendment called Zone Green to remove zoning impediments to the construction and retrofitting of buildings to improve energy efficiency and environmental performance; and

WHEREAS, according to the Department of City Planning it costs New Yorkers \$15 billion each year to heat and power buildings, and these buildings are responsible for 80% of the City's carbon emissions and it is expected that in 2030, 85% of our buildings will be buildings that exist today so their improved performance is critical to reducing New York City's energy use and carbon emissions; and

WHEREAS, Zone Green encompasses four major components -- high performance building envelope, sun control devices to reduce summer cooling needs, rooftop features, and other sustainable features such as solar energy generation and charging electric vehicles, all with the goal of empowering property owners to build or retrofit buildings to 21st century standards:

HIGH PERFORMANCE BUILDING ENVELOPE:

WHEREAS, while the proposed text amendment would allow *existing buildings* to add *external* insulation within the property line, exempting it from [floor area](#), Community Board Five believes this provision will not address the zoning impediment of high performance building design in CB5's District primarily because most existing buildings in midtown and other areas with high density zoning are built out to the existing side and front lot lines and thus would not be able to benefit from the exemption; and

WHEREAS, under the proposed text amendment for *new buildings* whose walls are more efficient than required by the New York City Energy Conservation Code, up to eight inches of additional wall thickness could be exempted from floor area, encouraging higher performing buildings without changing the amount of usable space in the building and the Board believes this provision should apply to existing buildings as well; and

SUN CONTROL DEVICES:

WHEREAS, sun control devices -- such as awnings -- can help reduce air-conditioning and lighting bills by providing natural light while also creating some additional detail and interest on a building façade, and the proposed text amendment would now permit sun control devices and awnings above the ground floor to project 2 feet 6 inches over required open areas such as rear yards but these sun control devices could cover no more than 30% of the façade; one prominent example of this kind of sun control scheme is the metal rods on the façade of The New York Times building on West 40th Street and 8th avenue; and

WHEREAS, solar power can provide pollution-free energy for electricity or hot water, reducing utility bills and carbon emissions and the proposed text amendment would now allow solar panels on flat roofs anywhere below the parapet as long as they are not visible from the street, regardless of building height; the proposal would also allow portions of solar installations that are higher than 4 feet with additional restrictions; and

ROOFTOP FEATURES:

WHEREAS, although the proposal would also allow low-lying features such as *green roofs*, recreational *decks*, other *storm water detention systems* and *skylights* anywhere below the parapet, regardless of building height, it does not require elements like storm water detention systems which Community Board Five believes is a missed opportunity; and

WHEREAS, the Department of City Planning notes that greenhouses on industrial, commercial and school buildings can enable year-round local food production and provide valuable educational opportunities and thus will now permit, by Certification of the Chair of the City Planning Commission and with certain height, set back and water consumption rules, a greenhouse to be exempt from floor area and height limits, provided that it is located on top of a building that does not contain residences or sleeping accommodations; however this restriction will mean that many opportunities to promote local agriculture and education may be missed, such as dormitory buildings, nursing homes, and residential buildings that are over bulk and believes that there has not been a clear rationale presented for not including these uses and that every opportunity to support local agriculture should be embraced; in particular, we note that there are hundreds of residential buildings in CB5 that are built out to their maximum FAR and may want to construct a greenhouse which the proposed regulations will not permit; and

WHEREAS, Community Board Five notes that a Certification from the Chair of the City Planning Commission can often be a process that takes upward of a year and recommends that the Department of City Planning draft clear application standards so as to simplify review of these proposed greenhouses; and

WHEREAS, the Department of City Planning notes that wind energy generation in New York City makes the most sense where winds are consistent -- on taller buildings and near the waterfront -- and the proposed text would allow turbines up to 55' on buildings taller than 100' provided it is set back at least 10 feet from any property line and comply with requirements set forth by the Department of Buildings; and while Community Board Five believes that every possible renewable energy source needs to be explored and examined carefully to determine the potential in New York City, the Board nonetheless believes that a convincing argument has not been presented which would permit the construction of wind turbines 55' above a height of 100' which would have a profound impact on the visual character of many blocks in Midtown and may also present significant concerns with respect to overall safety, noise, bird safety, and ice during the winter months; and

LEADERSHIP, INNOVATION AND BEST PRACTICES:

WHEREAS, Community Board Five recognizes that best practices and technology in green building are rapidly evolving and strongly urges the Department to carefully monitor these trends and prepare a report at least every four years that documents how well these proposed zoning changes have worked and whether further modifications or larger revisions are needed; Community Board Five notes that this reporting requirement will help the City better understand evolving trends and more quickly address outdated zoning provisions, new regulatory best practices, and keep the public informed; and

WHEREAS, Community Board Five is deeply supportive of environmentally sensitive building practices and commends the Department of City Planning for examining impediments to these practices but we remain concerned that New York City is far from a leader in this field; and

WHEREAS, many other American cities have amended their zoning codes to reflect the best practices in green building and have gone much further than the proposed amendment by looking more carefully at requirements that can be put in place to improve the performance of new buildings as well as creative incentives for green building; and

WHEREAS, Community Board Five believes New York City needs to be a leader in green building design and encourages the Department of City Planning to be bold and go beyond removing regulatory hurdles by setting high performance building design standards such as the Passive House Standard and sustainability standards such as the LEED standard so to require and/or give incentives to certain green building practices; and

WHEREAS, Community Board Five is concerned about the interagency cooperation that is required for the enforcement and implementation of this text amendment and urges the Department of City Planning to work very carefully with Department of Buildings, Landmarks Preservation Commission, Economic Development Corporation, Department of Environmental Protection and other relevant agencies to implement and enforce these requirements as well as explore how the City may better incentivize higher performing buildings; and

WHEREAS, Community Board Five recommends that approvals which require discretionary review such as Special Permits and authorizations be amended to include a finding requiring an applicant to demonstrate that they have, to the greatest extent feasible, incorporated green building and landscape design features; and

WHEREAS, while Community Board Five strongly endorses the goals and intentions of the proposed Zone Green revisions to the Zoning Resolution to remove regulatory barriers to green building practices, it objects specifically to a number of the elements of the proposed text amendment; and therefore be it

RESOLVED, Community Board Five **recommends approval with conditions** of a proposed revision by the Department of City Planning to the Zoning Resolution to remove regulatory barriers to green building practices. Those conditions are:

- Review the suitability for an allowance for wind turbines of 55' height on buildings over 100' tall in midtown Manhattan;
- Include requirements for storm water retention systems;
- Expand the restriction on floor area waivers for greenhouses to include buildings with dwelling units and simplify the process to apply for and obtain a Certification;
- Review the restriction on electric vehicle charging stations in a residential district instead of the plan to permit only in commercial districts;
- Review the restriction on solar energy generation in residential districts instead of the plan to permit only in commercial districts;
- Include ways to allow *existing buildings* that are built to existing side and front lot lines to add *external* insulation without adding to [floor area](#);
- Add and set high performance building design standards such as the Passive House Standard and sustainability standards such as the LEED standard so to require and/or give incentives to certain green building practices;
- Establish a reporting requirement that will help the City better understand evolving trends and more quickly address outdated zoning provisions, new regulatory best practices, and keep the public informed;

- Create a mechanism to ensure interagency cooperation to ensure successful implementation of this text amendment;
- Introduce a new finding for applications that require discretionary review such as Special Permits and authorizations, which requires an applicant to demonstrate that they have to the greatest extent feasible incorporated green building and landscape design features.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Katherine McDonough
Chair, Land Use and Zoning Committee



MANHATTAN COMMUNITY BOARD SIX

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Claude L. Winfield

Vice Chair

Beatrice Disman

Treasurer

Aaron Humphrey

Secretary

February 17, 2012

Amanda Burden
Chair
Department of City Planning
22 Reade Street
New York, NY 10007

Re: DCP #N120132ZRY-Zone Green Text Amendment – Citywide amendment

Dear Ms. Burden:

At the February 8th, Full Board meeting of Community Board 6 the following resolution was adopted:

WHEREAS, the Department of City Planning is proposing a city-wide Zone Green Text Amendment to remove zoning barriers to green building features in the City of New York; and,

WHEREAS, the proposed text amendment (DCP #N120132ZRY) would facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy consumption and carbon emissions, generate clean and renewable energy, manage storm water on site, reduce urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city.; and,

WHEREAS, the key elements of the proposal include:

- Allowing external insulation of existing buildings within the property line while exempting it from floor area and yard calculations, and encouraging new high-performance buildings by exempting thicker, more efficient walls from floor area calculations;
- Permitting sun control devices, which can help reduce energy consumption for air conditioning through shading and also reduce energy consumption for lighting by providing glare free natural light (which removes need for artificial lighting). These devices are sometimes prohibited because of projection over required open areas;
- Allowing solar panels, skylights, green roofs and other rooftop features to project above a height limit, and allowing greater volume, similar to what is already allowed in many special purpose districts, above the maximum building height to accommodate modern bulkheads, with requirements for setback and screening of equipment.

- Allowing waivers of floor area and height limits for rooftop greenhouses used for educational and agricultural purposes, by certification of the Chair of the City Planning Commission, on buildings that do not contain residences or sleeping accommodations; and
- On taller buildings and on waterfront blocks, allowing small wind turbines to rise above a maximum height limit, with limits on height and setback from property lines and waterfront access areas; and,

WHEREAS, the application for the city-wide Zone Green Text Amendment was referred out by the City Planning Commission on December 12, 2011; is not subject to the Uniform Land Use Review Procedure (ULURP) and does not require a public hearing by the community board; and,

THEREFORE, be it

RESOLVED, it is the sense of this Board that the amendment proposed in the application will be consistent with preserving the landmark status of buildings whenever it is implemented in such buildings; now,

BE IT FURTHER RESOLVED, that this Board supports the sustainability promoted by the proposed zoning amendment (DCP #N120132ZRY), and recommends that the zoning amendment be sufficiently encompassing and flexible to allow other desirable “green” technologies to be included on buildings as they become feasible.

VOTE : 42 in Favor 3 Opposed 0 Abstention 0 Not Entitled

Yours truly,



Toni Carlina
District Manager

Cc: Hon. Scott Stringer
Hon. Dan Garodnick
Hon. Jessica Lappin
Hon. Rosie Mendez
Dominick Aswini
Terrence O’Neal

RESOLUTION

Date: February 7, 2012

Committees of Origin: Land Use and Parks & Environment

Re: Zone Green Text Amendment, ULURP Nos. N120132ZRY

Full Board Vote: 37 In favor 0 Against 0 Abstentions 0 Present

Citywide zoning map and text amendments that seek to modernize the Zoning Resolution to remove impediments to the construction and retrofitting of greener buildings. Based on the work of the Green Codes Task Force, the Department of City Planning has formulated a proposed amendment to the Zoning Resolution with the aim of removing certain zoning impediments to the construction and retrofitting of greener buildings (the "Zone Green Text Amendment").

This resolution is based on the following facts and joint committee discussions and comments received since the initial presentation by Monika Jain from the Department of City Planning on January 30, 2012.

The proposal provides for energy efficient construction, the installation of exterior sun control devices, the installation of solar panels and wind turbine assemblies, as well as for different types of roof surfaces for renewable energy, collection of grey water and the placement of boilers and cogeneration facilities, and lastly, a provision for roof top features on contextual and non-contextual buildings and roof top greenhouses only for schools, industrial or commercial uses.

The promotion of energy conservation and sustainable environmental policies are consistent with Community Board 7/Manhattan's (CB7) Core Principles. This City Planning initiative is welcome and the energy efficiency is equally desirable for financial, health and environmental reasons.

Given the variety and age of the building stock within our district, there are some text provisions that will affect the external appearance and shape of our avenue skylines. Those provisions promote energy efficiency by retrofitting solutions that can be applied over the existing facades on contextual buildings or on top of both new and existing buildings and these may require some revision.

The following concerns were raised which we trust the Department of City Planning will consider before the Zone Green Text Amendment is approved city-wide.

1. High Performance Building Envelope

For non-designated building stock constructed primarily of brick, stone and terracotta, the application of exterior applied insulation material up to eight inches (8") thick may alter not only the appearance but also the ability to maintain and keep the structure sound and waterproof. CB7 believes that the criteria for determining the amount of exterior insulation to be applied to a building should also consider the existing architecture and context of a block or street. While the standards and definitions are admirable as stated in the text amendment, basing the insulation

installation solely on thermal performance should be only one of two criteria; the other is the appearance of the building.

The definitions are:

“Thermal resistance (R-value) of at least 1.5 per inch;

Or

Where such wall thickness is within an exterior wall constructed after (date of adoption), equal to the amount that such wall is greater than eight inches in thickness provided the above-grade exterior walls of the #building# envelope are more energy efficient than required by the New York City Energy Conservation Code (NYCECC)...”

If exterior applied insulation is to be permitted to exterior walls and to visible, sloping, or pitched roof coverings, CB7 requests that applications for this type of modification be provided to the Community Board for review for two reasons: first, so neighbors can determine or advise if the alteration could have an impact on their property; and second, to evaluate that the change does not impact the visible appearance by changing the color texture and material, and thereby gradually altering the context and character of the neighborhood. Upgrading flat roofs, either concealed behind parapets, or that are not visible from the street, could be exempted from the public review.

2. Rooftop Features

There were two issues raised about the addition of permitted mechanical and energy saving systems and devices on roofs. The first concerns the type of equipment that can be placed above the parapet, in particular wind turbines, and extensive elevated solar panels. Both constructions, while providing alternate energy sources for one building, could have an adverse effect on adjacent or neighboring properties. Those opposed to the installation of wind turbines have concerns about the excessive height required for this type of alternate energy source if it were to function correctly. As wind turbines are not often located in dense urban areas, it is unknown if there would be increased noise; and if noise is a design factor, how the noise could be mitigated. There needs to be coordination with other agencies that regulate and monitor equipment noise from alternate energy equipment. In a dense neighborhood, with a relatively uniform height, these types of construction could be detrimental to the character and skyline of the community. The second issue concerns the placement of raised solar panels that could prevent a neighboring structure from installing their own alternate roof top energy source. For these reasons, as with item 1 above, CB7 would request that applications for wind turbines and raised solar energy panels, be reviewed by the Community Board.

3. Placement of Bulkheads

Removing the sky exposure plane criteria under which roof top mechanical equipment can be located is a necessary change to accommodate the variety and placement of new energy saving systems. The modification to allow an increased bulkhead based on either a proportional area of the street-wall setback or a proportional area of the roof is problematic. The rationale for the height should be based on environmental and energy measures needed to accommodate the alternate energy sources and devices and not on a mathematical calculation for the largest bulkhead feasible. Additionally, bulkheads could be accepted if there is elevator access to the roof and if there is passive recreational space on the roof.

CB7 believes that the component of the Zone Green Text Amendment permitting the height and configuration of rooftop bulkheads should be revised to condition any additional bulkhead height to the needs of specific green initiatives being provided. The proposed rooftop alteration should, as with other substantial exterior changes, be reviewed by the community board.

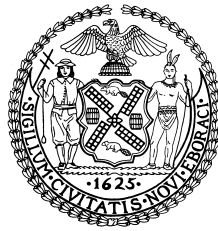
4. Referral to Community Boards

The initiatives that can be incorporated into new construction do not have the same considerations as retrofitting existing buildings, or where buildings may be occupied during the energy upgrade installations. The proximity of any proposed alternate energy sources or changes in the building envelope can affect adjacent owners and residents. Notwithstanding the importance of any single energy improvement or a combination of several of the proposed energy initiatives, CB7 believes that a neighborhood is the best judge to determine the extent of change and whether an adverse effect exists to neighboring residents and owners. CB7 requests that any certification for any roof top features (including enlarged bulkheads), and alterations to the building envelope made by the Department of City Planning under the Zone Green Text Amendment should include a referral to and opportunity for comment from the relevant Community Board, when such green modifications are proposed that affect the exterior or silhouette of a property.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan **approves** the DCP Zone Green Text Amendment to encourage sustainability and energy conservation in New York City with the considerations detailed above.

Nicholas Viest
Chair

Latha Thompson
District Manager



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**The City of New York
Manhattan Community Board 8**

February 17, 2012

Hon. Amanda M. Burden
Chair
The Department of City Planning
22 Reade Street
New York, New York 10007

Re: Application N 120132 ZRY Zone Green Text Amendment

Dear Chair Burden:

At the Full Board meeting on Wednesday, February 15, 2012 Community Board 8M approved the following resolution by a vote of 25 in favor, 9 opposed and 4 abstentions.

Whereas, The Department of City Planning is proposing a city-wide Zone Green Text Amendment to remove zoning barriers to green building features in the City of New York. The proposed text amendment would facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy consumption and carbon emissions, generate clean and renewable energy, manage storm water on site, reduce urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city. This action is not subject to the Uniform Land Use Review Procedure (ULURP).

THEREFORE BE IT RESOLVED that Community Board 8M approves application N 120132 ZRY Zone Green Text Amendment.

Kindly advise this office of your decision made concerning this matter.

Sincerely,

Nicholas Viest
Chair

cc: Honorable Michael Bloomberg, Mayor of the City of New York
Honorable Scott Stringer, Manhattan Borough President
Honorable Carolyn Maloney, 14th Congressional District Representative
Honorable Liz Kruger, NYS Senator, 26th Senatorial District
Honorable Micah Kellner, Assemblyman, 65th Assembly District
Honorable Dan Quart, Assemblyman, 73rd Assembly District
Honorable Jessica Lappin, NYC Council Speaker, 5th Council District
Honorable Daniel Garodnick, NYC Council Member, 4th Council District
Thomas Wargo, Director, Zoning Division, NYC Department of City Planning



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD 10

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HENRIETTA LYLE

Chair

PAIMAAN LODHI

District Manager

**Resolution on
ULURP Application No. N 120132 ZRY – Zone Green Text Amendment
by NYC Department of City Planning**

Whereas, the Department of City Planning (“DCP”) is proposing a City-wide Zone Green Text Amendment to remove zoning barriers to green building features in the City;

Whereas, the proposed text amendment would facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy consumption and carbon emissions, generate clean and renewable energy, manage stormwater on site, reduce urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city;

Whereas, the proposed text amendment would allow external insulation of existing buildings within the property line while exempting it from floor area and yard calculations, and encouraging new high-performance buildings by exempting thicker, more efficient walls from floor area calculations;

Whereas, the proposed text amendment would permit sun control devices, which can help reduce energy consumption for air conditioning through shading and also reduce energy consumption for lighting by providing glare free natural light, which are sometimes prohibited because of projection over required open areas;

Whereas, the proposed text amendment would allow solar panels, skylights, green roofs and other rooftop features to project above a height limit, and allowing greater volume above the maximum building height to accommodate modern bulkheads, with requirements for setback and screening of equipment;

Whereas, the proposed text amendment would allow waivers of floor area and height limits for rooftop greenhouses used for educational and agricultural purposes, by certification of the Chair of the City Planning Commission, on buildings that do not contain residences or sleeping accommodations;

Whereas, the proposed text amendment would allow small wind turbines of no taller than 55 feet on buildings taller than 100 feet and on waterfront blocks to rise above a maximum building heights;

Whereas, Manhattan Community Board 10 generally supports DCP’s effort to modernize the Zoning Resolution to remove impediments to the construction and retrofitting of greener buildings, but has concerns with the more intensive uses described in the text amendment related

to rooftop greenhouses and wind turbines and therefore believes that the proposed text amendment should be modified to meet the following conditions:

- The exclusion of wind turbines from this proposed text amendment due to concerns over noise and contextual aesthetics.
- The height limits established in the 125th Street Rezoning be followed in regards to the installation of green rooftop structures.
- A change in the approval process for the installation of significant green rooftop structures (e.g. taller solar installations, rooftop greenhouses, and wind turbines) from the proposed Certification by the Chair of the City Planning Commission to the City Planning Commission Authorization process that provides Community Boards 45 days to issue its recommendations.

Therefore, be it resolved that Manhattan Community Board 10 votes to approve ULURP No N 120132 ZRY subject to the satisfaction of the above stated conditions.

At a regularly General Board Meeting on February 1, 2012, Manhattan Community Board 10 voted to support this resolution by a vote of 14 in favor, 13 opposed, and 2 abstentions.

LAND USE COMMITTEE

February 1, 2012

**RESOLUTION : SUPPORTING ZONE GREEN TEXT AMENDMENT PROPOSED BY
NYC DEPARTMENT OF CITY PLANNING**

- Whereas:** the Department of City Planning (“DCP”) is proposing a City-wide Zone Green Text Amendment (the “Text Amendment”) to revise the New York City Zoning Resolution in order to remove zoning-related barriers to green building features in the City; and
- Whereas:** the Text Amendment would facilitate retrofitting of existing buildings and construction of new buildings with features that help reduce energy consumption and carbon emissions, generate clean and renewable energy, manage storm water on site, reduce urban heat island effect through vegetation on roofs, and otherwise promote a healthy and green city; and
- Whereas:** the Text Amendment would allow external insulation of existing buildings within the property line while exempting it from floor area and yard calculations, and encouraging new high-performance buildings by exempting thicker, more efficient walls from floor area calculations; and
- Whereas:** the Text Amendment would permit sun control devices, which can help reduce energy consumption for air conditioning through shading and also reduce energy consumption for lighting by providing glare free natural light, which are sometimes prohibited because of projection over required open areas; and
- Whereas:** the Text Amendment would allow solar panels, skylights, green roofs and other rooftop features to project above the maximum building height limit and would allow greater volume above the maximum building height to accommodate modern bulkheads, subject to setback requirements and screening of equipment; and
- Whereas:** the Text Amendment would allow waivers of floor area and height limits for rooftop greenhouses used for educational and agricultural purposes, by Certification of the Chair of the City Planning Commission, on buildings that do not contain residences or sleeping accommodations;
- Whereas:** the Text Amendment would allow wind turbines of no taller than 55 feet on buildings taller than 100 feet and no more than half the height of the building upon which they are mounted on buildings less than 100 feet tall; and ;
- Whereas:** Community Board 12-Manhattan generally supports DCP’s effort to modernize the New York City Zoning Resolution to remove impediments to the construction and retrofitting of greener buildings, but has concerns regarding the installation of wind turbines on residential buildings, in particular the old building stock that predominates Washington Heights and Inwood, the Certification approval process

proposed which does not provide an opportunity for public review and comment of applications to install more intensive rooftop uses such as greenhouses or wind turbines, and the possibility that installation facilitated by the Text Amendment might unduly trigger major capital improvement (MCI) rent increases. Now, therefore be it

Resolved: Community Board 12-Manhattan supports the Zone Green Text Amendment proposed by the Department of City Planning subject to the following conditions.

- a) Residential buildings be excluded from provisions of the Text Amendment that pertain to wind turbines until such time as the Department of Buildings has further studied and established engineering standards, requirements and limitations for installation of wind turbines on residential buildings and in particular older residential structures.
- b) Change the approval process for the installation of significant green rooftop structures (e.g. taller solar installations, rooftop greenhouses, and wind turbines) from the proposed Certification by only the Chair of the City Planning Commission to the City Planning Commission Authorization process that provides Community Boards 45 days to issue its recommendations.
- c) Coordination between City Planning and the New York State Housing and Community Renewal (which includes the former New York State Department of Housing and Community Renewal) to ensure that guidelines are established to prevent landlords from unduly implementing MCI rent increases as a result of undertaking building improvements facilitated by the Text Amendment and to prohibit MCI rent increases if public subsidies are used to fund the building improvements.

The resolution was approved by the following votes:

Land Use Members:	6-0-2
Other Board Members:	1-0-4
Members of the Public:	5-0-8



DANA T. MAGEE
CHAIR

DEBRA A. DERRICO
DISTRICT MANAGER

THE CITY OF NEW YORK
Community Board Two
BOROUGH OF STATEN ISLAND

460 BRIELLE AVENUE
STATEN ISLAND, NEW YORK 10314
718-317-3235
FAX: 718-317-3251

February 23, 2012

Mr. Thomas Wargo
Director, Zoning Division
City Planning Commission
Calendar Information Office
22 Reade Street, Room 3E
New York, New York 10007

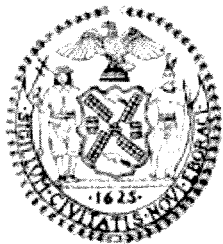
Dear Mr. Wargo:

On Tuesday, February 21, 2012 Community Board Two voted unanimously to support New York City Department of City Planning Application Number N120132ZRY, Zone Green Text Amendment, a proposed citywide text amendment to remove zoning impediments to the construction and retrofitting of green buildings.

If you have any questions or require additional information, please call.

Very truly yours,

Dana T. Magee
Chairman



The City of New York

Queens Community Board 11

46-21 Little Neck Parkway, Little Neck, NY 11362
Tel (718) 225-1054 Fax (718) 225-4514
QN11@cb.nyc.gov www.nyc.gov/queenscb11

Serving the Communities of Auburndale, Bayside, Douglaston, Hollis Hills
Little Neck and Oakland Gardens

Jerry Iannece Chairperson / **Susan Seinfeld** District Manager

February 10, 2012

Amanda Burden
Director
Dept. of City Planning
22 Reade Street
New York, NY 10007

RE: Zone Green Text Amendment-N120132ZRY

Dear Ms. Burden:

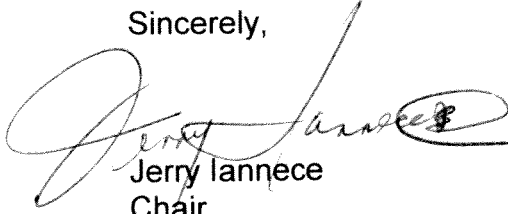
On January 19th the Community Board 11 Environment and Zoning Committee met to review the Zone Green Text Amendment. The full Board reviewed the application and Committee report at the Board Meeting on February 6th.

Community Board 11 supports the proposed Zone Green Text Amendment; however, there were three items that they believe the department should consider revising.

- 1- The new text will allow for the placement of air conditioning condensers, for one and two family homes, to be placed not only in the rear yard but also the side yard and in the front of the building wall and its prolongation, with screening. The main concern is that the requirement of screening of the condenser in the front yard would be very difficult to enforce. The Board would like the text to include a priority order for the placement of a condenser, so that the unit is placed in the rear yard whenever possible; the side yard if the rear yard is not accessible; and the front yard, **ONLY**, if residences are attached and have no rear or side yards in which to place it.
- 2- There was a great concern with the height, noise and visual litter of wind turbines (compare with antennas and cell phone towers). The members believe that the turbines create a more negative impact than the solar options for energy conservation. Therefore, the wind turbine placements, especially on top of tall buildings should be reevaluated.
- 3- There was also concern that greenhouses, although allowed only on commercial developments that do not have residences or sleeping accommodations, will be allowed to be 25' high. Members feel that this is oversized and virtually adds another two stories to an existing building.

We would appreciate the City Planning Commission's consideration of these concerns before approving the text amendment as written. Thank you.

Sincerely,



Jerry Iannece
Chair



Susan Seinfeld
District Manager

cc: John Young
Hon. Mark Weprin
Hon. Daniel Halloran

Community/Borough Board Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax: (212) 720-3356

Application No. N120132ZRY
CEQR#
Community District No. 1 Borough Staten Island

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission Room 2E, at the above address

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable

Docket Description: Modification and Renewal Application for N 120132ZRY - Zone Green Text Amendment

Applicant (s):
NYC Department of City Planning
22 Reade Street
New York, NY 10007

Applicant's Representative:
Thomas Wargo, Director Zoning Division
NYC Department of City Planning
22 Reade Street
New York, NY 10007

Community Board No. 1
Staten Island

Borough: Staten Island

Borough Board:

Date of Public Hearing: February 6, 2012 **Location: CB#1 Office, 1 Edgewater Plaza Suite #217**

Was a quorum present: Yes NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but no fewer than 7 members.

Vote adopting recommendation taken: 02/14/12 **Location: All Saints Church, 2329 Victory Blvd.**
Recommendation: Approve application as submitted.

Approve

Approve with Modifications/Conditions

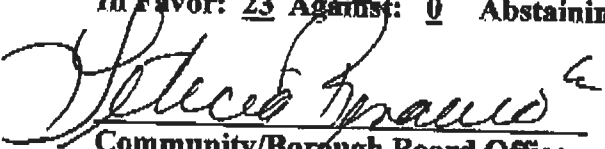
Disapprove

Disapprove with Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)
Community Board #1

Voting:

In Favor: 23 Against: 0 Abstaining: 0 Total members appointed to the Board: 39


Community/Borough Board Officer

Chairwoman
Title

February 17, 2012
Date



DANA T. MAGEE
CHAIR

DEBRA A. DERRICO
DISTRICT MANAGER

THE CITY OF NEW YORK
Community Board Two
BOROUGH OF STATEN ISLAND

460 BRIELLE AVENUE
STATEN ISLAND, NEW YORK 10314
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February 23, 2012

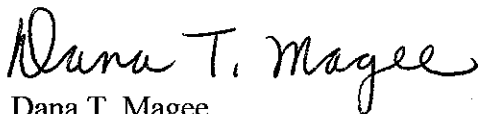
Mr. Thomas Wargo
Director, Zoning Division
City Planning Commission
Calendar Information Office
22 Reade Street, Room 3E
New York, New York 10007

Dear Mr. Wargo:

On Tuesday, February 21, 2012 the full board of Community Board Two voted unanimously to support New York City Department of City Planning Application Number N120132ZRY, Zone Green Text Amendment, a proposed citywide text amendment to remove zoning impediments to the construction and retrofitting of green buildings.

If you have any questions or require additional information, please call.

Very truly yours,



Dana T. Magee
Chairman

*The
City
of
New York*



BOROUGH OF STATEN ISLAND
COMMUNITY BOARD 3

655-218 Rossville Avenue, Staten Island, N. Y. 10309

Telephone: (718) 356-7900

Fax: (718) 966-9013

Email: sicb3@cb.nyc.gov

Website: www.nyc.gov/sicb3

February 29, 2012

Amanda M. Burden, Director/Commissioner
Department of City Planning
22 Reade Street
New York, N.Y. 10007-1216

Re: N120132ZRY Zone Green Text Amendment

Dear Director Burden:

At our General Board Meeting on February 28, 2012 board members voted unanimously (22-0-0) to oppose the Zone Green Text Amendment.

Following the presentation by City Planning and a review of the Zone Green Text Amendment, Community Board 3, strongly urges City Planning to review the following to insure that features of the proposals are not vulnerable to loopholes.

Energy efficient building walls:

Community Board 3 is uncertain that offering zoning relief will promote owners to upgrade existing buildings with green features.

The proposal for new buildings needs specific interpretations regarding the percentages of increased efficiency pertaining to walls, windows, efficient HVAC systems etc. It was explained that for new buildings which would substantially exceed the required code, (20% for wall, 10% for walls and windows) that up to eight inches of wall thickness would be exempted from floor area. It would be prudent for City Planning to incorporate a chart that clearly specifies the exempted amount of floor space for each element which exceeds the energy code requirements. The hypothetical loophole is that by merely incorporating super efficient windows a builder will profit from increased interior floor space. In order to gain interior floor space a builder will not be required to actually use the exempted space for energy efficient purposes.

The final flaw to this proposal is the lack of enforcement controls. The community board rejects the provision that a registered architect can inspect and certify, this should be solely the responsibility of a city agency, not an architect contracted by the builder.

Solar Energy

Solar installations, that would be subject to limits on roof coverage and height (other than below a parapet, or on sloping roofs that would be allowed to be flat mounted less than 18") should be described in detail and not subject to interpretation of the code.

Other Rooftop Equipment

The proposal to allow features above the maximum building height with a setback and screening of equipment attracts exploitation of this code. We have no objection to green roofs, decks and skylights anywhere below a parapet, nor do we object to guardrails in this situation. However, recreational decks and green roofs should be held to current zoning codes, specifically in the Special South Richmond Development District (SRD).

Rooftop Greenhouses

This amendment may be appealing to other boroughs where vertical development is the only opportunity available; conversely, Staten Island has not reached that point yet. On commercial and school buildings we have no objections if the space is used solely for the purpose of food production and educational opportunities. We believe this amendment needs explicit restrictions. If schools, and commercial buildings such as restaurants, catering halls, bars etc. are to be exempt, the sole purpose of a greenhouse must be to provide produce for the entity doing business at the location. There should be no exceptions. Buildings with Greenhouses permitted the floor area exemption, must be required to sign a Deed Restriction or Declaration preventing them from selling or leasing the greenhouse as separate element of the building, and agree that food production will be exclusively for the use of the business contained in the building. More importantly, the exempt floor space provision must not be used to gain additional floor space for rooftop entertainment or dining.

With all do respect to the current Chair of City Planning, we protest the resolution that sole discretion for certification be given by the Chair. Each community is unique, residents and community members should be afforded the opportunity to review and determine what is best for their neighborhoods.

Wind Energy

This proposal, absolutely not in our community. To build structures in manufacturing and commercial zones 100 feet or taller with a 55 foot rooftop wind turbine, 10 feet from a property line is outrageous. Our west and south shore waterfront is a precious commodity, suitable for economical development. With the proper development, residents will welcome growth and employment opportunities. Staten Island is mainly a low-rise residential community; residents will not welcome tall buildings with turbines adjacent to their homes. In the right environment, like Fresh Kills Park, or in vast open space wind turbines will not be offensive to the community.


Amanda M. Burden, Director/Commissioner
Department of City Planning
February 29, 2012

Page 2 of 3

Truly, Community Board 3 believes the intent of Zone Green has merit, but we strongly petition City Planning to reassess and modify the proposal.

Thank you for your dedicated support of our community,

Sincerely,



Frank Morano
Chairman of the Board



Charlene Wagner
District Manager

FM/CW:sw

cc: Mayor Michael R. Bloomberg
Borough President James P. Molinaro
Councilman Vincent Ignizio
Councilman James Oddo
Councilwoman Debi Rose
Len Garcia-Duran, City Planning Director Staten Island



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

February 9, 2012

Ms. Amanda M. Burden
Director
Department of City Planning
22 Reade Street
New York, New York 10007

Dear Ms. Burden:

At its stated meeting on February 7, 2012, the Brooklyn Borough Board (Borough Board) adopted the enclosed resolution by a vote of 23 yes, 0 no, and 0 abstention, for the proposed Zone Green Zoning Text Amendment.

I want to applaud the Department of City Planning (DCP) for developing this text amendment that would remove impediments to the construction and retrofitting for allowing greener buildings to be compliant with zoning regulations as such buildings operate more economically while providing for a healthier environment, reducing the burden on city infrastructure and supporting our ecology.

The Borough Board is also pleased that the proposal promotes energy-efficient building walls and sun control devices for both existing and new buildings by exempting the added wall thickness from floor area, open space and yard regulations. In terms of permitted height, the proposal eases existing restrictions to promote installation of solar energy systems, wind energy systems, rooftop greenhouses and other types of rooftop equipment.

Though the Borough Board does have a few concerns and is seeking modifications from the City Planning Commission and City Council that are noted in the enclosed resolution. Unresolved issues that might benefit from further modifications pertain to: screening of air conditioning condensing units in front yards of small homes and noise levels and property line setback in any yard; the inability to incorporate awning and other sun control devices in non-complying front and rear yards; possible narrowing of pre-1961 zoning regulated driveways when permitting thicker exterior walls; lack of clarity of whether rain water harvesting equipment would be permitted as a roof water tank; whether bulkheads should exceed 25 feet in specific locations; whether wind energy systems should be defined as a Use and should free standing wind energy systems be regulated more explicitly in terms of where permitted and to what height. When regarding rooftop greenhouses, consideration

Amanda M. Burden, Director

February 9, 2012

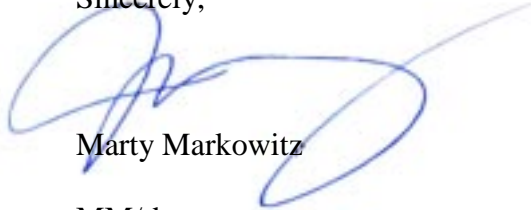
Page - 2 -

should be given to whether permitted height should be less restrictive for non-compliant buildings and since residential use precludes greenhouses, whether that also means having a caretakers sleeping accommodation precludes having a greenhouse.

Finally, while the proposal merely addresses planting strips in terms of permitting driveway and utility crossings and to accommodate more extensive paved areas for schools (permeable pavers/pavement as a substitution) and bus stops, it once again brings to light prior requests to incorporate curbside planting requirement along Fourth Avenue (aka Brooklyn Boulevard) and sections of Ocean Avenue and Kings Highway as noted in my recommendations for the Midwood and Homecrest rezonings. The Borough Board believes that the City should analyze and implement means to provide streetscaping/landscaping, in consultation with affected community boards and their elected officials, to achieve planting for all new development.

If you have any questions, your office may contact Mr. Richard Bearak, my director of Land Use, at (718) 802-4057. Thank you for this opportunity to comment.

Sincerely,



Marty Markowitz

MM/rb

Enc.

cc: Members of the Brooklyn Borough Board
Ms. Purnima Kapur, Brooklyn Office Director
Department of City Planning
Mr. Thomas Wargo, Director, Zoning Division
Department of City Planning



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

BROOKLYN BOROUGH BOARD RESOLUTION

February 7, 2012

The Brooklyn Borough Board commends the Department of City Planning (DCP) for developing the Zone Green Text Amendment proposal. This proposal would remove impediments to construction and retrofiting, allowing greener buildings to be compliant with zoning regulations. As such buildings will operate more economically while providing for a healthier environment, reducing the burden on city infrastructure and supporting our ecology. The proposal promotes energy-efficient building walls and sun control devices for both existing and new buildings by exempting the added wall thickness from floor area, open space and yard regulations. In terms of permitted height, the proposal eases existing restrictions to promote the installation of solar energy systems, wind energy systems, rooftop greenhouses and other types of rooftop equipment.

The Board believes that the proposed text change, with incorporation of its recommendations, should be approved by the City Planning Commission and City Council.

The Board believes there is a need to modify and clarify the amendments concerning:

a) The screening of front yard air conditioning units from adjacent one-to-three-family-homes, without regard to whether such yard is required or provided, require vegetation that is heat exhaust tolerant and incorporate maximum noise standards for all yard placements. In addition such units should be placed at least 18 inches from lot lines to mitigate exhaust and intake concerns. Though, front yard placement should not be permitted in Community District 6, 7, 10 and 17.

b) Provide for awning and other sun control devices in non-compliant rear yards that exceed a depth of 20 feet and in non-compliant front yards not less than five feet (increasing the opportunity to place such shading devices while assuring that snow does not slide off into the public right-of-way).

- c) Add clarity that would assure that driveways in required open space and required yard areas would not be reduced to less than eight feet in width by permitted obstructions, including pre-existing driveways (such as those according to easements) for buildings constructed prior to the 1961 zoning regulations.
- d) Preclude external insulation exterior wall thickness as a permitted obstruction of required open space and required rear yard when such yard area is not greater than 20 feet pertaining to one and two family residents granted by either the special permit of the Board of Standards and Appeals or in regulations of the Special Ocean Parkway District Subdistrict.
- e) Confirm that rain water harvesting equipment would be permitted as a roof water tank or accessory mechanical equipment or if not, modify the text accordingly.
- f) Restrict bulkhead height to 25 feet in the R8A district in Community District 7 and for developments pursuant to sky exposure plane height and setback that are less than 120 feet in height.
- g) Establish wind energy systems as a Use in Manufacturing Districts except for within 100 feet of districts permitting residential use.
- h) Regulate height of free standing wind energy systems, including as an accessory use to 85 feet.
- h) Permit rooftop greenhouses on buildings that:
 - 1) Contain a caretaker sleeping unit provided that such are not directly below the roof area containing a greenhouse;
 - 2) are non-compliant with height and setback regulations.

Be it resolved that the Brooklyn Borough Board approves the text amendment subject to the modifications as follows:

1. That for air conditioning condensation units pursuant to: ZR 23-12 (a) and ZR 23-44 (a) (1), shall provide for front yard screening from the side lot line, shall have vegetation standards prescribed that take into account heat exhaust, have a maximum permitted noise standard at lot lines be established and be at least 18 inches from lot lines, with no front yard placement permitted in Community District 6, 7, 10 and 17. In addition, that the section of the Zoning Resolution pertaining to basic requirements for front yard be

amended to regulate provided front yards when not required to preclude placement of air conditioning condensation units in Community District 6, 7, 10 and 17.

2. That for awnings and other sun control devices pursuant to: ZR 23-12 (b) (1); ZR 23-44 (a) (3) (i); ZR 24-33 (a) (2) (i); ZR 33-23 (a) (2) (i); and, ZR 43-23 (a) (2) (i), shall permit rear yard encroachment when a non-compliant rear yard exceeds 20 feet and front yard encroachment when a non-compliant yard is at least five feet.

3. That for driveways pursuant to: ZR 25-62; ZR 36-521 and ZR 44-42 (a), ZR 23-12, ZR 23-44, ZR 24-33 and ZR 43-23, shall include, in addition to required parking spaces, legal parking spaces, including those pertaining to buildings developed prior to the 1961 zoning ordinance. Furthermore, that ZR 25-62, (a); ZR 36-521; and ZR 44-42 shall be cross-referenced in ZR 23-12; ZR 23-44; ZR 24-33; ZR 33-42; and, ZR 43-23.

4. That external insulation exterior wall thickness pursuant to ZR 23-12 (g); ZR 23-44 (a) (8); ZR 24-33 (a) (6); ZR 33-23 (a) (6); and, ZR 43-23 (a) (6): shall not be a permitted obstruction of required open space and required rear yard when such yard area is not greater than 20 feet pursuant to one and two family residents granted by either the special permit of the Board of Standards and Appeals or in regulations of the Special Ocean Parkway District Subdistrict.

5. That for rain water harvesting equipment to be considered as a roof water tank or accessory mechanical equipment pursuant to: ZR 23-62 (g); ZR 24-51 (f); ZR 33-42 (f); and, ZR 43-42 (e) or shall include as a direct reference in those sections.

6. That for maximum bulkhead height pursuant to: ZR 23-62 (g) (3) (b); ZR 24-51 (a) (f) (3) (ii); and, ZR 33-42 (f) (3) (b), shall be restricted to 25 feet in the R8A district in Community District 7 and for development pursuant to sky exposure plane height and setback regulation, such building is at least 120 feet in height to permit a bulkhead height obstruction of 40 feet.

7. That for Wind Energy Systems shall be a primary use pursuant to ZR 42-17 except not within 100 feet of districts permitting residential use.

8. That for free-standing Wind Energy Systems, whether as a primary or accessory use, pursuant to ZR 33-43; ZR 33-44; ZR 43-43 and ZR 43-44, shall be restricted to a height of 85 feet.

9. That for a non-residential building containing a caretaker sleeping unit, greenhouses to shall be pursuant to ZR 75-01 (a) provided that such unit is not directly below the roof area containing a greenhouse.

10. That a building non-compliant with height and setback regulations shall be permitted to have a greenhouse pursuant to ZR 75-01 (c).

Be it further resolved that the Borough Board calls on the City to investigate and implement a means to incorporate curbside planting requirement along Fourth Avenue (aka Brooklyn Boulevard) and sections of Ocean Avenue and Kings Highway; as noted in Borough President Marty Markowitz's recommendations for the Midwood and Homecrest rezonings. Such investigation shall be done in consultation with affected community boards and their elected officials.

Queens Borough Board Recommendation

DEPARTMENT OF CITY PLANNING

APPLICATION: ULURP #N120132 ZRY

FEB 23 2012

COMMUNITY BOARD: CW

QUEENS OFFICE

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the Department of City Planning, pursuant to Section 200 of the NYC Charter, proposing text amendments to the NYC Zoning Resolution to facilitate the retrofitting of existing buildings and to promote construction of new buildings that are consistent with sustainable building practices, equipped to be energy efficient and have low impact on area infrastructure.

PUBLIC HEARING

There was a presentation to the Queens Borough Board on Monday, February 6, 2012.

CONSIDERATION

Subsequent to a review of the application the following issues and impacts have been identified:

- This application was filed as part of New York City's ongoing efforts to promote use of the newest technologies, building techniques and strategies to encourage energy efficiency and conservation practices in our built environment. The proposed zoning text amendments would remove impediments or prohibitions in the existing text that would inhibit installation or use of environmentally sustainable practices.;
- The current NYC Zoning Resolution has been in effect since 1961. In the interim fifty plus years, there have been major changes and advances in technology, materials and building practices that may have been prohibitively expensive, cost effective, unforeseen or not feasible.;
- The proposed text amendments address a range of issues affecting construction of energy efficient walls, location of sun control devices, installation of solar energy devices, location and sizes of rooftop equipment, rooftop greenhouses, guidelines for the installation of wind energy devices.;
- The Queens Borough Board, with a quorum present, voted by voice to approve this application at a meeting held on Monday, February 6, 2012. A concern was raised that the proposed text amendments should be reviewed by the Fire Department of New York (FDNY) to assure that the proposed changes would not inadvertently create unsafe conditions for firefighters. The Department of City Planning representative said that the proposed text amendments have been drafted in close consultation with the FDNY.

RECOMMENDATION

Based on the above consideration, the Queens Borough Board hereby recommends approval of the proposed text amendments.


PRESIDENT, BOROUGH OF QUEENS


DATE