

TECHNICAL MEMORANDUM 001  
M1 HOTEL TEXT AMENDMENT  
CEQR No. 18DCP042Y  
ULURP Nos.: N 180349 ZRY and N 180349(A) ZRY  
October 12, 2018

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## A. INTRODUCTION

The New York City Department of City Planning (DCP) proposes a zoning text amendment to establish a City Planning Commission special permit (the CPC special permit) for new hotel development in M1 districts citywide (ULURP No. N180349 ZRY). The CPC special permit would be required for transient accommodations including hotels, motels, tourist cabins, and boatels. This would allow for more balanced neighborhood growth, prevent land use conflicts with industrial businesses in core industrial areas, while ensuring that sufficient opportunities for industrial, commercial, and institutional growth remain (the proposed action).

The Draft Environmental Impact Statement (DEIS) for the proposed action was accepted as complete on April 23, 2018 by DCP, acting on behalf of the CPC as lead agency. A public notice for the hearing on the DEIS was published in the *City Record* on July 10, 2018 as well as the New York State Department of Environmental Conservation *Environmental News Bulletin* on July 11, 2018, and was also placed in a local newspaper, the *New York Post*, on July 9, 2018. The City Planning Commission held a public hearing on the DEIS in the CPC Public Hearing Room located at 120 Broadway, New York, NY, on July 25, 2018. The period for the public to submit written comments remained open until August 6, 2018.

Subsequent to the issuance of the DEIS, DCP filed an amended zoning text to address issues raised during the public review process. The amended zoning text is referred to as the "Amended Text" and was filed pursuant to ULURP No. N 180349(A) ZRY. The Amended Text was evaluated in the EIS as Airport Areas Inclusion Alternative in Chapter 22, "Alternatives." The Notice of Completion for the Final Environmental Impact Statement (FEIS) was issued on October 5, 2018 (CEQR No. 18DCP042Y).

Following the issuance of the Notice of Completion of the FEIS, additional modifications to the proposed action are proposed by the CPC. This Technical Memorandum examines whether the potential CPC modifications to the original text amendment would result in any significant adverse environmental impacts not already identified in the FEIS. The potential CPC modifications would not alter the development assumptions in the Reasonable Worst Case Development Scenario (RWCDs) for the original text amendment evaluated in the FEIS; therefore, as set forth below, this Technical Memorandum concludes that the proposed action with potential CPC modifications would not alter the analyses or conclusions of the FEIS.

## B. DESCRIPTION OF THE POTENTIAL CPC MODIFICATIONS

The zoning text, as proposed to be modified by the CPC, is provided in **Appendix 1**. These modifications would consist of the following:

### Hotel for a Public Purpose

With the CPC modification, the definition of "hotel for a public purpose" would be clarified to read: "a transient hotel operated exclusively for the public purpose of temporary housing assistance."

## **M1-5A and M1-5B Districts**

With the CPC modifications, the zoning text would be modified to clarify that the proposed hotel special permit would not supersede the existing regulations of M1-5A and M1-5B districts. In addition, the CPC modifications would clarify the applicability of overlapping requirements for multiple special permits in M1-5A and M1-5B districts.

## **Sites within Historic Districts**

The CPC modifications would clarify that projects located within Historic Districts designated by the Landmarks Preservation Commission that are eligible to apply for a special permit pursuant to ZR Section 74-711 would be required to seek only one special permit under ZR Section 74-711.

## **Excluded Areas**

The CPC modifications would modify the zoning text to clarify that the existing prohibition on new hotels within M1 districts in the Special Hunts Point District pursuant to ZR Section 108-11 would not be affected, and that the proposed special permit would not be applicable within the special district.

## **Vesting**

The CPC modifications would modify the zoning text to clarify that enlargements and conversions of transient hotels that received a building permit from the DOB prior to the date of referral (April 23, 2018) are eligible to be vested under the special vesting provisions in this text.

The CPC modifications would clarify that, in addition to the proposed special vesting rules, the right to continue construction pursuant to the standard vesting zoning regulations set forth in ZR Section 11-30 et. seq., will also apply to developments, enlargements and conversions of a transient hotel.

## **Findings**

The CPC modifications would incorporate a finding for the CPC to evaluate the suitability of the site plan within the surrounding context, including factors such as the location and design of the building's street wall as well as any landscaping around the building. The CPC modifications would also expand upon the finding related to vehicular and pedestrian congestion by adding text that states such use will not "unduly inhibit vehicular or pedestrian movement."

## **C. ENVIRONMENTAL EFFECTS OF THE PROPOSED MODIFICATIONS**

As described above, the proposed CPC modifications would result in clarifications to the zoning text and would not alter the development assumptions in the reasonable worst-case development scenario (RWCDs) analyzed in the FEIS. Accordingly, the modifications would not result in any new or different development than was assessed prototypically in the FEIS, and likewise, no changes to the analyses and conclusions set forth in the FEIS.

## **Conclusion**

The potential CPC modifications would not result in any new or different potential environmental impacts than those analyzed in the FEIS.

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# Appendix 1

Modified Zoning Text

Matter underlined is new, to be added;  
Matter ~~struck out~~ is to be deleted;  
Matter within # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution.

## **ARTICLE IV MANUFACTURING DISTRICT REGULATIONS**

### **Chapter 2 Use Regulations**

\* \* \*

#### **42-10 USES PERMITTED AS-OF-RIGHT**

#### **42-11 Use Groups 4A, 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B**

M1

Use Groups 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B as set forth in Sections 32-13, 32-14, 32-15, 32-16, 32-18 and 32-21.

Use Group 4A shall be limited to all health facilities requiring approval under Article 28 of the Public Health Law of the State of New York that, prior to July 10, 1974, have received approval of Part I of the required application from the Commissioner of Health, ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), and houses of worship. Such #uses# are not subject to the special permit provisions of Sections 42-32 and 74-921.

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be subject to the special provisions of Section 42-111 (Special provisions for hotels in M1 Districts). For the purposes of this Section, inclusive, #transient hotels# shall include #motels#, #tourist cabins# and #boatels#.

#### **42-111 Special provisions for hotels in M1 Districts**

In M1 Districts, #transient hotels# shall be permitted only as set forth in this Section. The City Planning Commission may permit #transient hotels# in an M1 district pursuant to a special permit set forth in another Section of this Resolution, or pursuant to Section 74-803 (Transient hotels within M1 Districts), as applicable.

(a) Such special permit for #transient hotels# pursuant to Section 74-803 shall be applicable to:

- (1) #development# of a #transient hotel#;
- (2) a change of #use# or #conversion# to a #transient hotel#, or an #enlargement# containing a #transient hotel# of a #building# that, as of [date of adoption], did not contain such #use#; or
- (3) #enlargement# or #extension# of a #transient hotel# that existed prior to [date of adoption] that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

A special permit shall not be required for a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose.

In addition, a special permit pursuant to the provisions of Section 74-803 shall not be required for #developments#, #enlargements#, #extensions# or changes of #use# of #transient hotels# in:

- (1) the areas designated on the maps in APPENDIX K (Excluded Areas in M1 Districts) of this Resolution;
- (2) a #Special Mixed Use District# or where any M1 District is paired with a #Residence District#;
- (3) an M1 District where another special permit in this Resolution permitting such #use# is applicable, subject to approval by the City Planning Commission, including, but not limited to, a special permit for a #transient hotel# applicable within a Special Purpose District or in a Historic District designated by the Landmarks Preservation Commission;

(c) Within M1-5A and M1-5B Districts

Within an M1-5A or M1-5B District, a special permit pursuant to Section 74-803 shall be required in conjunction with a special permit pursuant to Section 74-781 (Modifications by special permit of the City Planning Commission of uses in M1-5A and M1-5B Districts) except that a permit pursuant to Section 74-781 shall not be required for a #transient hotel# located above the ground floor level, where the #floor area# used for such #use# on the ground floor does not exceed an amount minimally necessary to access and service such #transient hotel#.

Any #transient hotel# existing prior to [date of adoption] within an M1 District shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the limitations set forth in this Section and subject to the applicable #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, or the active operation of substantially all the #uses# in the #building or other structure# is discontinued, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use#, or may be #used# for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of Section 74-803 or other applicable section of this Resolution. In addition, in the event a casualty damages or destroys a #transient hotel# within an M1 District that was in such #use# as of [date of adoption], such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).

In addition to the provisions of Section 11-30 (**BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT**) regarding the right to continue construction, if on or before April 23, 2018, a building permit for a #development, enlargement# or #conversion# to a #transient hotel#, or a partial permit for a #development# of a #transient hotel# was lawfully issued by the Department of Buildings, such construction may be started or continued. In the event that construction has not been completed and a certificate of occupancy including a temporary certificate of occupancy, has not been issued by [date - three years after the effective date], the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction). Any special permit approved by the City Council for a #transient hotel# prior to [date of adoption] shall be permitted and this Section shall not apply to such #transient hotel#, subject to the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution).

\* \* \*

**42-30  
USES PERMITTED BY SPECIAL PERMIT**

\* \* \*

**42-32  
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

\* \* \*

M1 M2 M3

Trade expositions, with rated capacity of more than 2,500 persons [PRC-D]

M1

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), pursuant to the provisions of Section 42-111 (Special provisions for hotels in M1 Districts).

M1 M2 M3

#Uses# listed in a permitted Use Group for which #railroad or transit air space# is #developed#

\* \* \*

## **ARTICLE VII ADMINISTRATION**

### **Chapter 4 Special Permits by the City Planning Commission**

\* \* \*

#### **74-80 TRANSIENT HOTELS**

##### **74-801 In R10H Districts**

In R10H Districts, the City Planning Commission may permit #transient hotels#. Where a #building# in existence on December 15, 1961, is located on a #zoning lot#, a substantial portion of which is located in an R10H District and the remainder in a #Commercial District#, the Commission may also permit the #conversion# of specified #floor area# within such #building# from #residential use# to #transient hotel use# without regard to the #floor area#, supplementary #use# or density regulations otherwise applicable in the #Commercial District#. The Commission may also allow any subsequent #conversion# of such specified #floor area# to and from

#residential# or #transient hotel use# to occur without further Commission approval, subject to the conditions of the special permit.

As a condition precedent to the granting of such #use# or #bulk# modifications, the Commission shall find that such modifications will not impair the essential character of the #Residence District#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

## **74-802**

### **In M1-6D Districts**

In M1-6D Districts, in areas that have not met the residential development goal set forth in paragraph (a) of Section 42-483 (Commercial uses), the City Planning Commission may permit #developments# or #enlargements# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as-of-right, in accordance with Section 42-481 (Residential use), provided the Commission finds that:

- (a) a sufficient development site ~~are~~ is available in the area to meet the residential development goal; or
- (b) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# resulting from a #development# or #enlargement# is consistent with such character of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

## **74-803**

### **Transient hotels within M1 Districts**

In M1 Districts, pursuant to Section 42-111 (Special provisions for hotels in M1 Districts), #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building#, the #building's# orientation and landscaping;

- (b) the site plan demonstrates that the proposed #street wall# location and the design and landscaping of any area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations will result in a site design that does not impair the character of the existing streetscape;
- (c) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement; and
- (d) such #use# will not impair the essential character or future use or development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

\* \* \*

**ARTICLE X  
SPECIAL PURPOSE DISTRICTS**

**Chapter 8  
Special Southern Hunts Point District**

\* \* \*

**108-11  
Use Modifications in the Special Hunts Point District**

In the #Special Hunts Point District#, hotels or motels shall not be permitted within the areas designated on the #Special Hunts Point District# Map in Appendix A. Within such areas, Section 74-803 (Transient hotels within M1 Districts) shall not be applicable.

\* \* \*

**APPENDIX K – Excluded Areas in M1 Districts**

The boundaries of the excluded areas in M1 Districts are shown on the maps in this APPENDIX.

<u>Borough</u>	<u>Community District</u>	<u>Name of Excluded Area in M1 District</u>	<u>Map No.</u>
	<u>3</u>	<u>East Elmhurst/LGA</u>	<u>1</u>

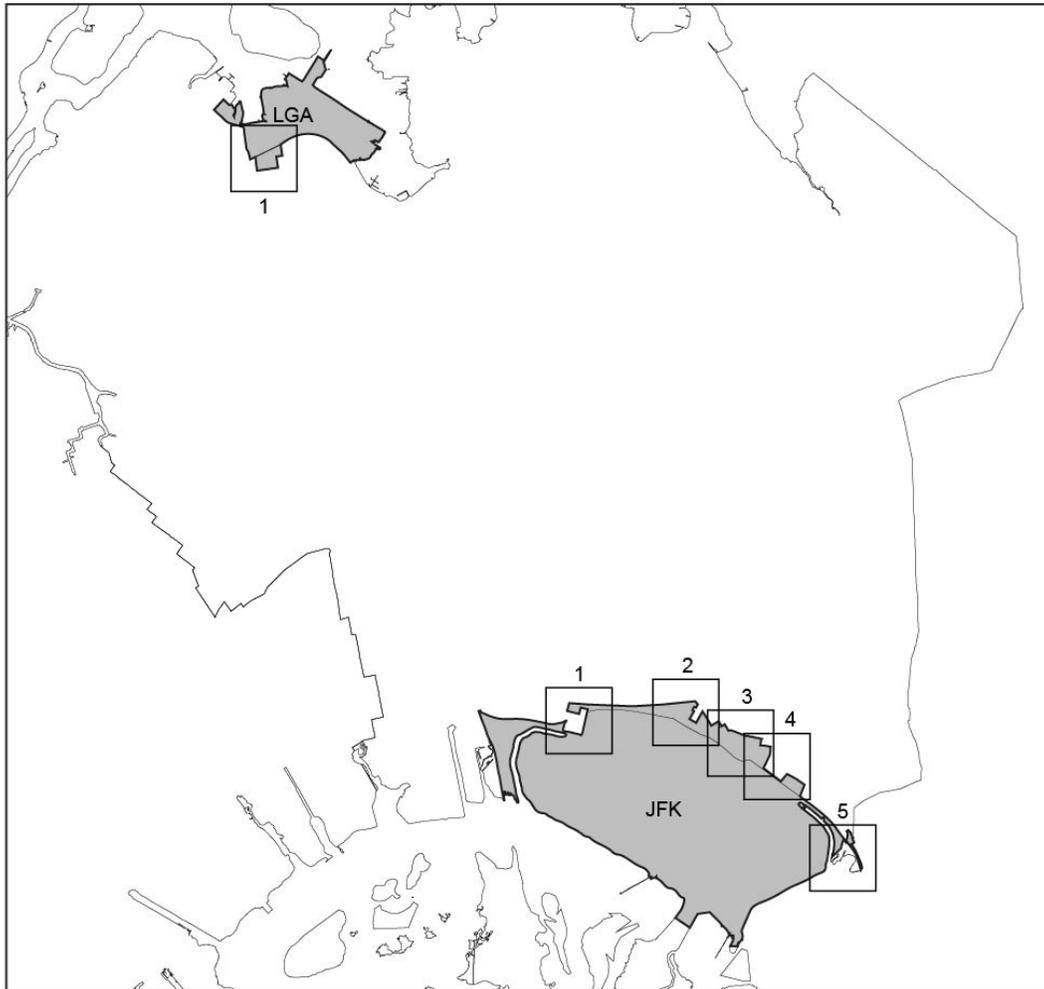
<u>Queens</u>			
	<u>10</u>	<u>Ozone Park/JFK</u>	<u>1</u>
	<u>13</u>	<u>Springfield Gardens/JFK</u>	<u>2-5</u>

INDEX MAP OF EXCLUDED AREAS

The numbers on this Index Map correspond with the map numbers for this borough.

[PROPOSED MAP]

Queens

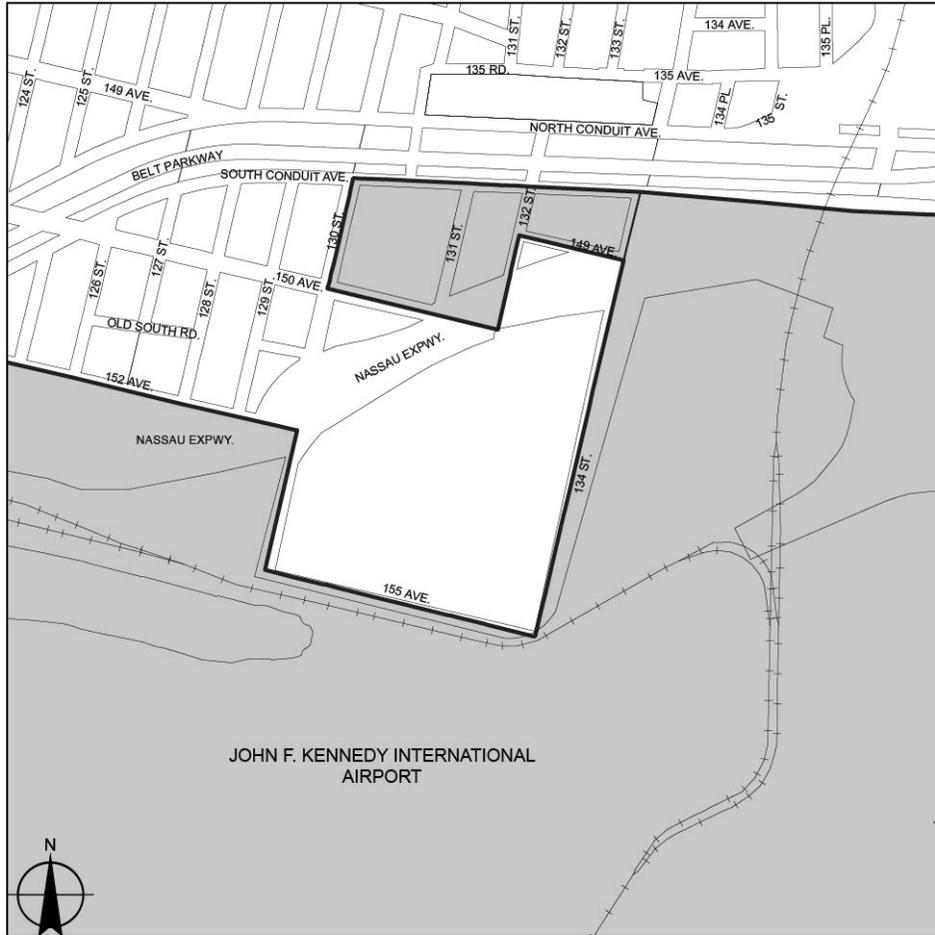


 Excluded Area



[PROPOSED MAP]

Map 1 Ozone Park/JFK



■ Excluded Area

Portion of Community District 10, Borough of Queens

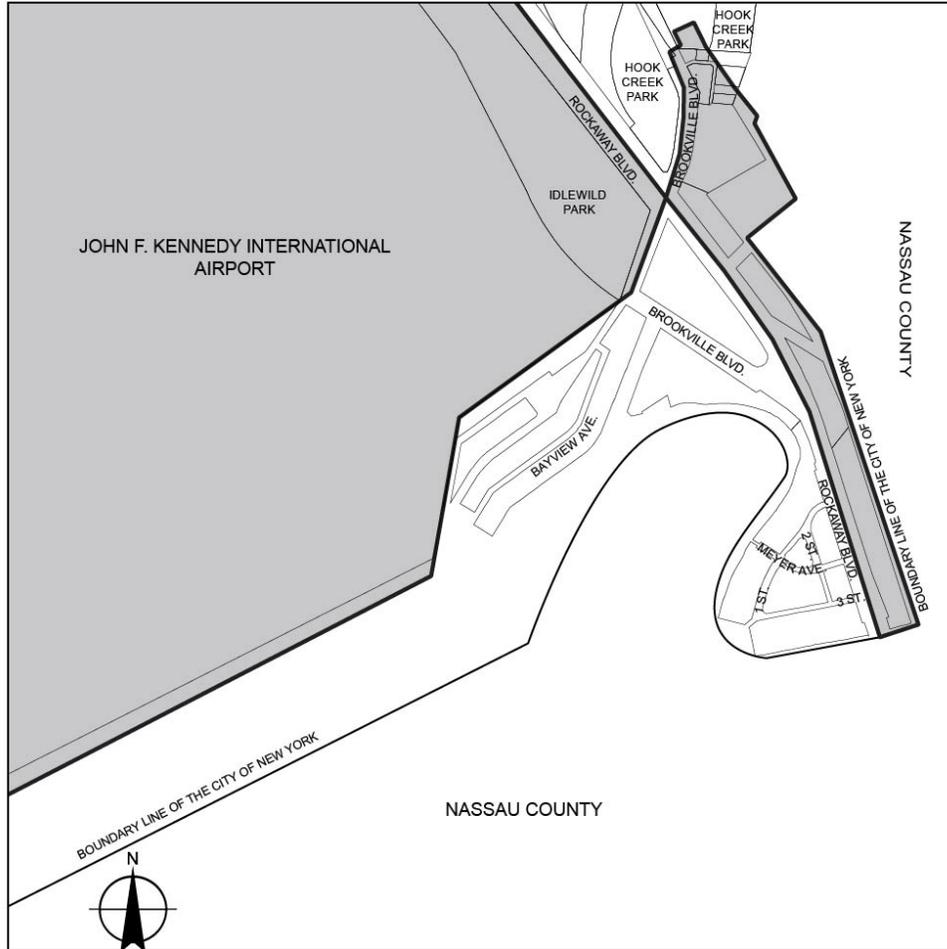






[PROPOSED MAP]

Map 5 Meadowmere/JFK



 Excluded Area

Portion of Community District 13, Borough of Queens