



April 23, 2017 / Calendar No. 12

N 180238 ZRM

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, for the purpose of modifying floor area regulations for Phase 2 of Hudson Boulevard and Park in Article IX, Chapter 3 (Special Hudson Yards District) Borough of Manhattan, Community District 4.

This application for an amendment of the Zoning Resolution (ZR) was filed by the Department of City Planning on January 24, 2018. The proposed text amendment to Section 93-32 of Article IX, Chapter 3 would modify and clarify the transfer of floor area and contribution-in-kind regulations for Phase 2 of the Hudson Boulevard and Park within the Special Hudson Yards District in Manhattan Community District 4.

BACKGROUND

The Department of City Planning (DCP) proposes a zoning text amendment to modify and clarify floor area regulations in the Special Hudson Yards District (SHYD) in order to facilitate the development of Phase 2 of the Hudson Boulevard and Park (HB&P). The SHYD, bounded by West 30th Street to the south, West 41st Street to the north, Eighth Avenue to the east and Eleventh and Twelfth avenues to the west, was adopted by the City Planning Commission (CPC) in 2005 (N 040500(A) ZRM et al.). The SHYD was intended to foster a mixed-use, medium- to high-density business district with an extensive open space network. The primary open space in this network is the HB&P: a linear north-south park bordered by a new tree-lined boulevard that, upon completion, will run from West 33rd Street to West 39th Street, midblock between Tenth and Eleventh avenues. The HB&P has been planned in two phases; Phase 2 is the subject of this text amendment.

Phase 1 of the HB&P, which runs from West 33rd Street to West 36th Street (referred to as Blocks 1 through 3), was acquired and built out by the City and opened to the public in 2015. Phase 2, which runs from West 36th to West 39th Street (Blocks 4 through 6), remains in private ownership and is not yet under construction. The HB&P is flanked by Subareas A2-A5 and D1 of the SHYD,

which are high-density commercial districts. Most of the SHYD has an underlying zoning of C6-4, but special floor area regulations allow property owners to increase their floor area ratio (FAR) up to a maximum of 33.0 FAR in specific subareas. While the redevelopment of the SHYD is largely underway with new commercial and residential mixed-use development, many of the lots surrounding Phase 2 of the HB&P remain vacant and are mapped with zoning districts that limit uses to low-density manufacturing and industrial uses.

The approved plan for the SHYD anticipated the development of Phase 2 occurring either through City acquisition and redevelopment or through a private developer via floor area mechanisms in ZR Section 93-32. This section currently facilitates the redevelopment of Blocks 4-6 by restricting future expansions or development of properties in the mapped HB&P, allowing owners of mapped HB&P parcels to transfer floor area to receiving sites in certain subareas in the SHYD (Section 93-32(a)), and promoting the contribution-in-kind (CIK) authorization (Section 93-32(b)).

The CIK allows property owners to build out portions of or entire blocks of the HB&P in exchange for the District Improvement Fund Bonus (DIB) development rights, which are to be used on designated receiving sites in the SHYD. Under ZR Sections 93-21 and 93-32(b), this floor area bonus may be utilized in lieu of or in combination with the DIB on receiving sites within Subareas A2-A5 of the Large-Scale Plan Subdistrict or Subareas D1 or D2 of the Hell's Kitchen Subdistrict in order to increase FAR from 10.0 to up to 18.0. An owner can further increase the maximum permitted FAR on a site within the Subareas A2-A5 through a transfer of floor area from the Eastern Rail Yards (Section 93-34).

In July of 2017, the CPC approved the first CIK authorization for a portion of Lot 1 on Block 4 of the HB&P (N 180021 ZAM). However, DCP has recognized that certain limitations in the current zoning text discourage private applicants from seeking the CIK authorization:

1) Sequencing of the CIK requirements: Before obtaining the CIK authorization, Section 93-32(b) states that applicants must first meet the conditions of ZR 93-32(a) (Transfer of floor area by certification) for the HB&P lot or lots that are the subject of the CIK application. These conditions include the applicant acquiring the HB&P lot or lots, selling off all of the development

rights, and clearing and deeding the site to the City. As the applicant may have difficulty securing financing without confirmation that the authorization will be granted, this process can delay CIK approval and discourage applicants from improving the HB&P.

2) Defining the Applicant: Only owners of the granting and receiving site can apply for the CIK authorization under the current text. But often, as explained above, an applicant is seeking the authorization prior to having site control.

3) Construction Schedule: The CIK requires a construction schedule at the time of the authorization, but the current text is unclear about how detailed such a schedule must be.

4) Bonus Calculation: The current text does not explicitly outline how the CPC, when granting the CIK authorization, should calculate the bonus.

5) Legal Documents: The current text does not clearly outline which legal documents are required for both the floor area transfer certification and the CIK authorization.

DCP proposed the subject text amendment to address these concerns through the following solutions:

1) Sequencing of the CIK Requirements: The proposed text would allow owners to seek the CIK authorization prior to fulfilling the conditions of ZR 93-32(a) as long as those conditions are accomplished as of the date of the authorization (as is currently required) or in accordance with agreements or instruments entered into with the City. The proposed text also requires that the entity responsible for the CIK improvement control the granting site prior to the issuance of the first building permit for the receiving site.

2) Defining the Applicant: The proposed text would allow both owners and contract vendees to apply for the CIK authorization.

3) Construction Schedule: The proposed text clarifies that a full construction schedule is not required at the time that the authorization is granted, but an outline of the schedule including major milestones (such as when the HB&P would be 50 percent complete and then substantially complete) should be submitted.

4) Bonus Calculation: The proposed text would clarify that the CIK bonus should be calculated by the reasonable cost of the CIK improvement of the HB&P divided by the price of the DIB on the date of the authorization. This is the same calculation method that was used for the

CIK authorization that was granted in July 2017; the text amendment would merely codify this.

5) Legal Documents: The proposed text would clearly outline that a transfer agreement and notice of restrictions are required for the floor area transfer, and a restrictive declaration is required for the CIK authorization.

ENVIRONMENTAL REVIEW

The subject application (N 180238 ZRM) was reviewed pursuant 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 (NYCRR), Section 617.00 et seq. and the New York City Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 03DCP031M. The lead agency is the City Planning Commission.

On November 8, 2004, a Final Generic Environmental Impact Statement (FGEIS) was completed by the CPC and the Metropolitan Transportation Authority, as co-lead agencies for the No. 7 Subway Extension-Hudson Yards Rezoning and Development Program. On November 22, 2004, the CPC approved N 040500(A) ZRM and related actions, which together established the SHYD. The approved actions consist of Alternative S, which was analyzed in Chapter 26, "Alternatives," of the FGEIS, together with modifications to Alternative S made by the CPC and City Council and assessed in Technical Memoranda, dated November 17, 2004, January 14, 2005, August 4, 2005, and September 14, 2005. During the ULURP process, text changes were identified that required subsequent actions and these were assessed in a Technical Memorandum dated December 2, 2005. Since that time, additional text changes were also identified and adopted to clarify the text, eliminate inaccurate references in the text and add new provisions, and these were assessed in a Technical Memorandum dated February 8, 2008.

On January 22, 2018, DCP submitted a Technical Memorandum to the FGEIS (TM009) that describes and analyzes the proposed action that would facilitate the acquisition and development of Phase 2 of the HB&P using the CIK authorization.

Many sites could be the subject of an application pursuant to Section 93-32, although they are limited to, for granting sites, those within Phase 2 of the HB&P, and for receiving sites, those within Subareas A2-A5, D1 and D2 of the SHYD. However, the proposed text amendment would only facilitate the application process and not affect the underlying fundamentals of the floor area transfer pursuant to Section 93-32(a) or the CIK authorization pursuant to Section 93-32(b). The potential granting and receiving sites would not change, nor would the amount of floor area able to be generated or transferred, so development under the proposed text amendment would be consistent with the environmental analysis conducted under the 2004 FGEIS. Also, without the text amendment, the same amount of floor area bonus could be obtained through other mechanisms—either through the DIB under Section 93-31 or through a transfer of floor area from Phase 2 under Section 93-32(a), or a combination.

The 2004 FGEIS also projected the proposed improvement of the Phase 2 portion of the HB&P. Alternative S included a number of new open space and park elements, including the construction of the HB&P. As stated in the 2004 FGEIS, the Midblock Park and Boulevard System would add 4.3 acres of mapped parkland when completed. As discussed in Chapter 7 of the FGEIS “Open Space and Recreation Facilities,” for the purpose of identifying adverse impacts related to open space, the 2004 FGEIS assumed that the portion of the HB&P from West 34th Street to West 39th Street (includes Phase 2) would be completed by 2025 (the analysis year of the FGEIS). The 2004 FGEIS concluded that Alternative S would improve open space ratios, relative to a future without the proposed action, and that no significant adverse impact to open space resources would occur.

Based on our review, pursuant to the CEQR process and NYCRR 617, the proposed action would not affect the conclusions of the analyses presented in the 2004 FGEIS. Accordingly, the proposed action would not result in any new or different significant adverse impacts or require any new or different mitigation measures than those identified in the 2004 FGEIS.

PUBLIC REVIEW

On January 29, 2018, this application (N 180238 ZRM) was referred for information and review to Community Board 4 and the Borough President in accordance with the procedures for referring

non-ULURP matters.

Community Board Review

Community Board 4 held a public hearing on this application (N 180238 ZRM) on March 7, 2018, and on that date, by a vote of 35 in favor, none opposed, none abstaining and none present but not eligible, adopted a resolution recommending approval of the proposed action.

Borough President Recommendation

The Manhattan Borough President did not issue a recommendation on the proposed application (N 180238 ZRM).

City Planning Commission Public Hearing

On March 14, 2018, (Calendar No. 2), the CPC scheduled March 28, 2018, for a public hearing on this application (N 180238 ZRM). The hearing was duly held on March 28, 2018 (Calendar No. 12). No speakers testified and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed zoning text amendment (N 180238 ZRM) is appropriate.

The text amendment would only affect properties in Phase 2 of the HB&P that currently cannot develop or expand because of floor area regulations in Section 93-32. The proposed text only modifies and clarifies the existing floor area transfer and CIK authorization provisions of Section 93-32 that have been identified as troublesome for private developers seeking to make contributions to the HB&P. By making the process of applying for the authorization easier, the proposed text will facilitate the build-out of the HB&P.

The Commission recognizes that the proposed text amendment does not substantially change the process through which the HB&P may be developed, but intends to ease and encourage the process of private developers utilizing the CIK mechanism. The Commission is pleased to see interest in

seeking the CIK authorization for Phase 2 of the HB&P for improvements that will benefit the community and City.

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, by the City Planning Commission, pursuant to Section 200 of the New York City Charter that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter 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 IX - SPECIAL PURPOSE DISTRICTS

**Chapter 3
Special Hudson Yards District**

**93-00
GENERAL PURPOSES**

The “Special Hudson Yards District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to facilitate and guide the development of an environmentally beneficial, transit-oriented business and residence district by coordinating high density development with expanded mass transit facilities, extended and improved subway lines, improved pedestrian access to mass transit facilities, improved pedestrian circulation and avoidance of conflicts with vehicular traffic;
- (b) to control the impact of buildings on the access of light and air to the streets and avenues

of the Hudson Yards area and the surrounding neighborhoods;

- (c) to provide an open space network comprised of public parks, public open space and public access areas through the establishment of a large-scale plan and other controls and incentives;
- (d) to preserve the pedestrian orientation of ground floor uses, and thus safeguard a traditional quality of the City;
- (e) to preserve the low- and medium-scale residential character of the Hell's Kitchen area;
- (f) to provide a transition between the Hudson Yards District and the Clinton community to the north;
- (g) to provide a transition between the Hudson Yards District and the Garment Center to the east;
- (h) to provide a transition between the Hudson Yards District and the West Chelsea area to the south;
- (i) to promote the use of the Jacob K. Javits Convention Center to the west by creating an active and attractive business district that facilitates pedestrian access to the Center;
- (j) to provide flexibility of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms;
- (k) to provide a transition between the Hudson Yards District and the Hudson River to the west;
- (l) to facilitate the restoration and reuse of the High Line elevated rail line as an accessible, public open space through special height and setback regulations;
- (m) to promote the most desirable use of land and building development in accordance with the District Plan for the Hudson Yards and thus conserve the value of land and buildings and thereby protect the City's tax revenues; and
- (n) to limit the amount of off-street parking based on regulations that address the anticipated needs of residents, workers and visitors to the Hudson Yards Area, consistent with the objective of creating an area with a transit- and pedestrian-oriented neighborhood character.

* * *

**93-30
SPECIAL FLOOR AREA REGULATIONS**

* * *

**93-32
Floor Area Regulations in the Phase 2 Hudson Boulevard and Park**

In the #Phase 2 Hudson Boulevard and Park#, no #development# shall be permitted and, except as provided in Section 93-051 (Applicability of Article I, Chapter 1), no #building# shall be #enlarged#. However, #floor area# from a granting site within the #Phase 2 Hudson Boulevard and Park# may be transferred to a receiving site in accordance with the provisions of paragraph (a) of this Section.

For the purposes of this Section, a “granting site” shall mean a #zoning lot#, or portion thereof, within the #Phase 2 Hudson Boulevard and Park# and the #lot area# of such granting site shall include any area on such site designated on the City Map as Hudson Boulevard or #public park#, and a “receiving site” shall mean a #zoning lot#, or portion thereof, within Subareas A2 through A5 of the Large-Scale Plan Subdistrict A or Subareas D1 or D2 of Hell’s Kitchen Subdistrict D, to which #floor area# from a granting site has been transferred.

Special regulations for certain #zoning lots# partially within the #Phase 2 Hudson Boulevard and Park# are set forth in Section 93-33.

(a) Transfer of floor area by certification

The Chairperson of the City Planning Commission shall allow, by certification, the applicable basic maximum #floor area ratio# of a receiving site to be increased up to the maximum amount specified in Section 93-21 or 93-22, as applicable, through the transfer of #floor area# from a granting site, provided that:

- (1) the maximum amount of #floor area# transferred from a granting site shall not exceed the #floor area ratio# permitted on the granting site, as listed below, less any existing #floor area# to remain on the granting site:

District	Maximum #floor area ratio#
C2-8	7.5
C6-2	6.02
C6-4	10.0
M1-5	5.0

- (2) each transfer, once completed, irrevocably reduces the amount of #floor area# that may be transferred from the granting site by the amount of #floor area# transferred;

- (3) the maximum amount of #floor area# transferred to a receiving site shall be based on an amount not to exceed the #floor area ratio# permitted on a #zoning lot# through such transfer pursuant to Section 93-21 or 93-22, as applicable. In the event a granting site generates more #floor area# than is permitted on a receiving site, the Chairperson shall certify that such excess #floor area# be credited towards future #floor area# transfers pursuant to this Section; and.
- (4) where all #floor area# shall be transferred from a granting site pursuant to one or more such certifications, all certificates of occupancy have been surrendered for such granting site, all structures on such granting site have been demolished, and such granting site has been conveyed to the City for improvement, where applicable, as a #public park# or #street#, as provided for on the City Map.

Where, as a result of the transfer of #floor area# pursuant to this paragraph (a), the amount of #floor area# on a receiving site is less than the maximum allowable as specified for the applicable subarea in Row B in the table in Section 93-21 and Row C in the table in Section 93-22, any additional #floor area#, up to the maximum #floor area ratio# permitted on the receiving site as specified in such rows, may be achieved only through contributions to the #Hudson Yards District Improvement Fund# pursuant to Section 93-31 (District Improvement Fund Bonus), an increase in #floor area# pursuant to paragraph (b) of this Section or Section 93-33 (Special Regulations for Residual Portions of Zoning Lots Partially Within the Phase 2 Hudson Boulevard and Park), or the Inclusionary Housing Program pursuant to Section 23-154, as modified by Section 93-23.

An application filed with the Chairperson for the transfer of #floor area# pursuant to this paragraph (a) shall be made jointly by the owners of the granting site and receiving site, and shall include a site plan and #floor area# zoning calculations for the granting site and the receiving site, and a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer, together with notice of the restrictions upon further development of the granting site and the receiving site.

Notices of restrictions shall be filed by the owners of the granting site and receiving site in the Borough Office of the Register of the City of New York, indexed against the granting site and the receiving site, a certified copy of which shall be submitted to the Chairperson of the Commission. Receipt of certified copies thereof shall be a pre-condition to issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# on the receiving site which incorporates #floor area# transferred pursuant to this paragraph (a).

- (b) Authorization for contribution-in-kind

The City Planning Commission may authorize a contribution-in-kind to the #Hudson Yards District Improvement Fund# for a receiving site, provided that:

- (1) the conditions for transferring #floor area# set forth in paragraph (a) of this Section have been met as of the date of the authorization or will be met in accordance with agreements or instruments entered into pursuant to paragraph (b)(3) of this Section;
- (2) the granting site will be improved, at the applicant's expense, as a #public park# or #street#, as provided for on the City Map, prior to conveyance to the City; and
- (3) the applicant, or an affiliate of such applicant, has entered into an agreement or provided instruments in a form satisfactory to the City, providing for the improvement of the granting site as a #public park# or #street# pursuant to an agreed-upon construction schedule. The construction schedule may be adjusted from time to time in accordance with the provisions of such agreement or instruments and shall include progress milestones, including the date by which the improvements will be 50 percent complete, and a date by which the improvements will be substantially complete and usable by the public. In the event that the conditions for transferring #floor area# set forth in paragraph (a) of this Section have not been completed as of the date of this authorization, such agreement or instruments shall also provide that such conditions will be met, to the extent applicable, pursuant to an agreed-upon schedule.

In order to grant such authorization, the Commission shall find that the #public park# or #street# has been designed in accordance with the approved plan for the Hudson Boulevard and Park, or as an appropriate interim design, in consultation with the Department of Parks and Recreation or Department of Transportation.

[All of the following text of this section, which was not previously indented, is indented 0.5" and included as part of paragraph (b).]

~~The amount of increased #floor area# generated by the contribution-in-kind shall be as determined by the Commission, which~~ The Commission shall determine the reasonable cost of such improvement, including any acquisition and site preparation costs, and shall ~~permit a #floor area# bonus in relation thereto~~ divide this reasonable cost by the contribution amount per square foot of the District Improvement Bonus, as determined pursuant to Section 93-31, and in effect on the date of authorization of the contribution-in-kind pursuant to this paragraph (b), in order to determine the amount of increased #floor area# generated by the contribution-in-kind. In making such determination, the Commission may consult with an appraiser or engineer at the applicant's expense. In the event the contribution-in-kind results in an amount of #floor area# in excess of what is permitted on the receiving site, the Commission shall authorize that such excess #floor area# be credited towards future #floor area# increases pursuant to Section 93-31.

The owner of the receiving site shall not apply for or accept a temporary certificate of occupancy for that portion of the #development# or #enlargement# identified as utilizing

the increased #floor area# permitted pursuant to this paragraph (b), and the Department of Buildings shall not issue a temporary certificate of occupancy for such portion until the Chairperson has certified that the improvements are substantially complete and usable by the public. The owner shall not apply for or accept a permanent certificate of occupancy for such portion of the #development# or #enlargement# nor shall the Department of Buildings issue a permanent certificate of occupancy for such portion until the improvements have been finally completed in accordance with the approved plans and such final completion has been certified by the Chairperson. A restrictive declaration in a form acceptable to the Chairperson shall be recorded against the receiving site in the Office of the Register of the City of New York in order to implement such restrictions.

~~An application filed with the Chairperson of the Commission for the transfer of #floor area# contribution-in-kind pursuant to this Section paragraph (b) shall be made jointly by the owners or contract vendees of the granting site and receiving site and shall, in all instances, include the party responsible either directly or through its affiliate, for the improvement of the granting site as a #public park# or #street# pursuant to the agreement or instruments entered into pursuant to paragraph (b)(3) of this Section. a site plan and #floor area# zoning calculations for the granting site and the receiving site, and a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer, together with notice of the restrictions upon further development of the granting site and the receiving site.~~

~~Notice of restrictions shall be filed by the owners of the respective sites in the Borough Office of the Register of the City of New York, indexed against the granting site and the receiving site, a certified copy of which shall be submitted to the Chairperson of the Commission. Receipt of certified executed copies thereof shall be a pre-condition of the agreement or instruments required pursuant to paragraph (b)(3) of this Section, and of copies of the recorded restrictive declaration, shall be a precondition to the issuance of any a building permit, including any foundation or alteration permit, for any #development# or #enlargement# on the receiving site that incorporates a #floor area# bonus granted pursuant to this paragraph (b).~~

In no event shall a building permit for a #development# or #enlargement# utilizing a #floor area# increase pursuant to this paragraph (b) be granted for the receiving site until the Chairperson provides notice to the Commissioner of Buildings that the applicant, or affiliate responsible for the improvement of the granting site, has provided acceptable evidence of site control for purposes of construction of the improvement.

93-33

Special Regulations for Residual Portions of Zoning Lots Partially Within the Phase 2 Hudson Boulevard and Park

* * *

The above resolution (N 180238 ZRM), duly adopted by the City Planning Commission on April 23, 2018 (Calendar No. 12), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

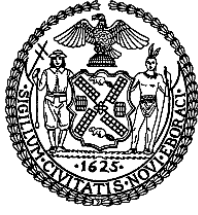
KENNETH J. KNUCKLES, ESQ., *Vice Chairman*

RAYANN BESSER, ALFRED C. CERULLO, III,

MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,

CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,

ORLANDO MARIN, LARISA ORTIZ *Commissioners*



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036

tel: 212-736-4536 fax: 212-947-9512

www.nyc.gov/mcb4

Burt Lazarin
Chair

Jesse Bodine
District Manager

March 14, 2018

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

**Re: Hudson Boulevard and Park Text Amendment
Phase II — Hudson Boulevard Park
Special Hudson Yards District
N 180238 ZRM**

Dear Chair Lago,

On the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4 (MCB4) at its Full Board Meeting on March 7, 2018, recommended approval by a vote of 35 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible to vote, of an application from the Department of City Planning (DCP) for a text amendment to the New York City Zoning Resolution (ZR) Section 93-32.

The proposed text amendment would modify and clarify the transfer of floor area and Contribution-in-Kind (CIK) regulations within the Special Hudson Yards District (SHYD).

The regulations in Zoning Resolution Section 93-32 (Floor Area Regulations in Phase 2 of the Hudson Boulevard and Park) were an attempt to facilitate the build-out of Phase 2 by restricting future development in the mapped Hudson Boulevard and Park ("Park"), allowing owners to sell off floor area to receiving sites in certain Subareas of the SHYD, and compensating landowners for developing portions of the Park through Contribution-in-Kind Authorization.

However, DCP has now concluded that there are certain limitations in Section 93-32 that discourage private applicants from seeking the CIK Authorization. The proposed amendment to the text intends to ease the process of private developers utilizing the CIK mechanisms so that the community and City may see an expedited development of Phase 2 of the Park. The amendment does not substantially change the process through which the Park may be developed.

BACKGROUND

The Park

The Special Hudson Yards District was adopted in 2005 with the intention of fostering a mixed-use, medium to high density business district with an extensive open space network. The primary open space in this network is the Hudson Boulevard and Park, a linear north-south park bordered by a new tree-lined boulevard that, upon completion, will run from West 33rd Street to West 39th Street between Tenth and Eleventh Avenues. The Park was planned in two phases.

Phase 1 of the Park, West 33rd Street to West 36th Street (Blocks 1, 2, and 3) was acquired and built out by the City and opened to the public in 2015.

Phase 2, West 36th Street to West 39th Street (Blocks 4 to 6) remains in private ownership and is not yet under construction. Phase 2 is the subject of the proposed text amendment.

The Acronyms

The CIK allows property owners to build out portions of the entire blocks of the Park in exchange for the District Improvement Bonus (DIB) development rights to be used on designated receiving sites. In July of last year, the City Planning Commission (CPC) approved the first CIK Authorization for Tishman Speyer on Block 4.

DIB development rights, as defined by ZR 93-31, allow property owners in certain Subareas of the SHYD to increase their floor area through a contribution to the District Improvement Fund (DIF).

The DIF is an account managed by the Hudson Yards Infrastructure Corporation (HYIC) and is used to provide financing support or direct funding for physical infrastructure improvement within the Hudson Yards Redevelopment Area. The DIB rate increases annually.

EASIER APPLICATION PROCESS

The approved plan for the SHYD describes the build-out of Phase 2 occurring either through City acquisition and redevelopment or through the efforts of private developers via mechanisms outlined in ZR93-32. The proposed text amendment, according to DCP, will facilitate private development of Park parcels by easing the application process for private developers to utilize the CIK mechanism while not barring the public development of the Park at a later date.

ZR93-32 currently includes the following regulations and floor area mechanisms for Phase 2:

1. There can be no new development or expansions of properties in the mapped Park;
2. Owners of property can transfer the development rights from mapped Park parcels to receiving sites throughout the Special District (ZR 93-32(a); and,
3. Owners may seek a CIK Authorization (ZR93-32(b)).

DCP, HYDC, and the Office of Management and Budget (OMB) have identified limitations in the current zoning which discourage private applicants from seeking the CIK. The issues and the proposed solutions (in italics) are:

1. **CIK pre-approval requirements which discourage acquisition for purposes of Park Construction.**

Before obtaining the Authorization, ZR 93-32 (b) states that applicants must *first* meet the conditions of ZR 93-32 (a) (the section under which floor area may be transferred off the Park sites) for the Park lot or lots that are the subject of the CIK application. These conditions include the transfer of all the development rights and clearing and deeding the site to the City. Requiring that the acquisition, demolition, and clearing of the site be completed as a precondition to applying for a CIK authorization may discourage an applicant who seeks to acquire a Park site in order to improve it from making an application. The applicant will not move forward with acquisition, demolition and clearing simply in order to be able to file an application, without knowing the outcome of the process.

The CPC may authorize the CIK even if the site is not yet cleared or deeded as long as the applicant agrees to do so in accordance with agreement with the City and secures site control prior to receiving a Building permit.

2. **Unclear construction schedule.**

The CIK requires a construction schedule at the time of the Authorization but the text is unclear how detailed such a construction schedule must be.

Clarification that a “construction schedule” means an outline of major milestones.

3. **Only owners of the site could apply for the CIK.**

But often an applicant is seeking the Authorization prior to having site control.

Allow both owners and contract vendees to apply for the CIK.

4. **Unclear how CPC should value the bonus award.**

The current zoning doesn't explicitly outline how the CPC, when granting the CIK Authorization, should calculate the bonus award.

The text amendment would clarify that that the CIK bonus should be the reasonable cost of the CIK improvement divided by the price of the DIB on the date of Authorization.

5. **Unclear which legal documents are required.**

The current text does not clearly outline the required legal documents for both the floor area transfer certification (ZR 93-32(a) and the CIK Authorization.

The text amendment would clearly outline that a transfer agreement and notice of restrictions is required for the floor area transfer, and a restrictive declaration is required for the CIK Authorization.

CONCLUSION

As noted, the proposed text amendment does not substantially change the process through which the Park may be developed. It intends to ease the process of private developers' utilization of the CIK mechanism so that the community and the City may see an expedited development of Phase 2 of the Park. MCB4 supports approval of the text amendment and believes the proposed amendment will add momentum to getting Blocks 5 and 6 acquired and built as park space.

The Board thanks the Department of City Planning and the Hudson Yards Development Corporation for their continuing efforts to support the community's determination to get its promised and much-needed Park.

Sincerely,



Burt Lazarin
Chair
Manhattan Community Board 4



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

cc: Hon. Brad Holyman, New York State Senate
Hon. Richard Gottfried, New York State Assembly
Hon. Bill de Blasio, Mayor
Hon. Gale Brewer, Manhattan Borough President
Hon. Corey Johnson, Council Speaker
Angela Cavaluzzi, Hudson Yards Development Corporation
Robert Benfatto, Hudson Yards/Hell's Kitchen Alliance