MEMORANDUM

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To: Community Board 8M

From: George M. Janes, AICP

RE: City of Yes for Housing Opportunity, N 240290 ZRY

This memo is a review of text changes to the Zoning Resolution (ZR) proposed in City of Yes for Housing Opportunity (COYHO). If you're interested in a particular topic, simply link to the TOPICS below, which are numbered to match the order provided in DCP's recommended Community Board input form. There are some changes, however, that do not fit into the categories for which DCP is soliciting input. These are added in their own categories at the end of this memo.

Introduction

COYHO zoning text changes are significant, accounting for 1,386 pages of zoning text changes that will impact all districts that permit residences. There are major differences between the changes proposed in low density and high density districts. Since there are no low density districts in Manhattan and this memo is targeted to Manhattan Community Boards, the low density proposals are described, but with less detail.

There is more to COYHO than just the topics that are listed in DCP's comment form. In addition to changes in chapters impacting the underlying zoning districts, there are a number of new City Planning Commission (CPC) authorizations, special permits, and extensive changes to special purpose districts. This memo focuses on the changes to the underlying district regulations, with some discussion of these other topics at the end of this memo.

Finally, if you are looking for additional resources, DCP's illustrated guide to the zoning changes is a useful reference. The materials you received in your referral package are not summarized in the same manner and cannot be easily used as a guide to fill out the input form DCP has asked CBs to use. There is no requirement that you use the input form DCP provided.

Technically, CB comments are due on July 8, 2024. DCP has said that the CPC will be accepting comments from CBs up until they vote, which will be in September 2024. It is best to try and get your comments in as soon as possible, but it appears if you

take extra time to fully understand the proposal and prepare your recommendation your comments will be considered.

Questions/Comments/Corrections should be sent to george@georgejanes.com or 917-612-7478.

Housing Opportunity Topic Areas

LOW DENSITY PROPOSALS

1. **Town Center Zoning**
2. **Transit-oriented Development**
3. **Accessory Dwelling Units**
4. **District Fixes**

MEDIUM AND HIGH DENSITY PROPOSALS

5. **Universal Affordability Preference**

CITYWIDE

6. **Eliminate Parking Requirements**
7. **Convert Non-Residential Buildings to Housing**
8. **Small and Shared Housing**
9. **Campus Infill**

MISCELLANEOUS

10. **New Zoning Districts**
11. **Update to Mandatory Inclusionary Housing**
12. **Sliver Law**
13. **Quality Housing Amenity Changes**
14. **Landmark Transferable Development Rights**
15. **Railroad Right-of-Way**

MISSING TOPICS

16. **New Residential Building Standards**
17. **New Tower on Base Building Envelope**
18. **Bulk Modifications for Non-Complying Buildings**

Topic 1: Town Center Zoning

Summary: The proposal would allow housing above businesses on commercial streets in low density zoning districts. Newly constructed buildings can have 2-4 stories of residential above a commercial ground floor. This change requires increases in the underlying FAR in R1 through R5 districts with commercial overlays.

Along with the increased FAR, this proposal includes changes to height, yards, open space, court requirements, lot size and other measures.

Further, the change would permit any low density districts with a commercial overlay on a block that is within ½ mile of a transit station to use the building envelope and FAR for R5 districts. This would include the relatively low density districts in Staten Island that are near the Staten Island Railroad.

DCP produced the following table which shows existing and proposed FARs and heights in the affected districts:

		Residential FAR		Commercial FAR	Total FAR		Base Height		Max Height	
		Current	Proposed	Current	Current	Proposed	Current	Proposed	Current	Proposed
Single-Family Districts	R1-1	0.50	1.00	1.00	1.00	1.50	21	35	35	35
	R1-2	0.50	1.00	1.00	1.00	1.50	21	35	35	35
	R1-2A	0.50	1.00	1.00	1.00	1.50	21	35	35	35
	R2X	1.00	1.00	1.00	1.00	1.50	21	35	35	35
	R2	0.50	1.00	1.00	1.00	1.50	21	35	35	35
	R2A	0.50	1.00	1.00	1.00	1.50	21	35	35	35
Two-Family Districts	R3-1	0.60	1.00	1.00	1.00	1.50	25	35	35	35
	R3A	0.60	1.00	1.00	1.00	1.50	25	35	35	35
	R3X	0.60	1.00	1.00	1.00	1.50	25	35	35	35
	R4-1	0.90	1.50	1.00	1.00	2.00	30	35	33	45
	R4A	0.90	1.50	1.00	1.00	2.00	25	35	35	45
	R4B	0.90	1.50	1.00	1.00	2.00	30	35	33	45
	R5A	1.10	2.00	1.00	1.10	2.50	25	45	35	55
Multi-Family Districts	R3-2	0.60	1.00	1.00	1.00	1.50	25	35	35	35
	R4	0.90	1.50	1.00	1.00	2.00	30	35	33	45
	R5	1.25	2.00	1.00	1.25	2.50	30	45	40	55
	R5B	1.35	2.00	1.00	1.35	2.50	30	45	33	55
	R5D	2.00	2.00	2.00	2.00	2.50	---	45	40	55

Again, the R5 district highlighted contains the FAR, height and setback that can be used by any low density district within ½ mile of a transit stop.

Considerations: Vast areas of New York City outside Manhattan are low density zoning districts and produce modest buildings by Manhattan standards. The changes proposed by COYHO are very large percentage increases in some of these districts, but, by Manhattan standards, the buildings they would produce would remain modest. For example, COYHO is proposing a 100% increase in FAR in R4 districts (which are

found in SE Brooklyn, central Queens and eastern Bronx) and a 36% increase in height, both of which are massive increases, but the resultant building would be a maximum height of 45 feet. There are no residential zoning districts in Manhattan with a maximum height of 45 feet or less.

But if that R4 district is within ½ mile of a transit station, it could get to 2.5 FAR and 55 feet in height, a 150% and a 67% increase. There is a zoning district in Manhattan that roughly matches this. The R6 districts on the narrow streets of Greenwich Village are currently limited to 55 feet under Quality Housing, and so it can be said, at least in limited areas, that COYHO brings Manhattan level densities to low density districts in the outer boroughs.

In many of these neighborhoods, there are currently buildings of this scale. Before 1961, larger buildings could be built in these locations. But also many of these neighborhoods are auto-oriented and may not be able to handle increased densities as easily as Manhattan.

Relevant Boards/Areas: Queens, Brooklyn, Staten Island and the Bronx

Topic 2: Transit-oriented Development

Summary: In all low density districts near transit, COYHO will permit 3-5 story apartment buildings for lots at least 5,000 SF. This change applies even in districts where multiple dwellings are currently not permitted. To accommodate the change, additional FAR is allowed to approximately double and some of the higher density districts see height increases.

The table below summarizes the increases in FAR and height proposed by COYHO:

		FAR		Max Base Height		Max Height	
		Current	Proposed	Current	Proposed	Current	Proposed
Single-Family Districts	R1-1	0.50	1.00	---	35	---	35
	R1-2	0.50	1.00	---	35	---	35
	R1-2A	0.50	1.00	25	35	35	35
	R2X	1.00	1.00	21	35	35	35
	R2	0.50	1.00	---	35	---	35
	R2A	0.50	1.00	21	35	35	35
Two-Family Districts	R3-1	0.60	1.00	21	35	35	35
	R3A	0.60	1.00	21	35	35	35
	R3X	0.60	1.00	21	35	35	35
	R4-1	0.90	1.50	25	35	35	45
	R4A	0.90	1.50	21	35	35	45
	R4B	0.90	1.50	---	35	24	45
	R5A	1.10	2.00	25	45	35	55
Multi-Family Districts	R3-2	0.60	1.00	21	25	35	35
	R4	0.90	1.50	25	35	35	45
	R5	1.25	2.00	30	45	40	55
	R5B	1.35	2.00	30	45	33	55
	R5D	2.00	2.00	---	45	40	55

Considerations:

While these increases are only available on blocks within ½ mile of a transit station, the increases are large on a percentage basis, just as they were in the Town Center Zoning proposal. The low density districts see a 100% increase in FAR, while the higher density districts see smaller, though still large, percentage increases. This change makes the highest density low-density districts that qualify for Transit Oriented Development comparable to R6 narrow street densities that we see in Greenwich Village.

All this said, recent neighborhood rezonings have focused on areas close to transit, and when we've seen recent neighborhood rezonings, we've seen similar or larger increases than what COYHO would make. However, a neighborhood rezoning often comes with substantial amounts of local planning and commitments from the City to support the action, neither of which are a part of this proposal.

Relevant Boards/Areas: Queens, Brooklyn, Staten Island and the Bronx

Topic 3: Accessory Dwelling Units

Summary: COYHO defines a new type of residence called an "accessory dwelling unit" or "ADU" with a maximum size of 800 square feet. ADUs would be placed in rear yards behind one and two family homes as a new permitted obstruction in the rear yard. They would need to be located no closer than five feet to a yard line and can be up to 25 feet tall. They can also be placed in attics and possibly in some basements, if the basements can be legally habitable.

This is a low density proposal that does impact Manhattan. In Manhattan, one and two family townhouses that have a side yard or alley access could add an ADU in the rear yard. Further, this change reduces the standard residential rear yard from 30 feet to 20 feet. It also adds to the permitted obstructions in the rear yard so this change is significant to all Manhattan districts.

Considerations: There are likely only a handful of sites in Manhattan that can add ADUs under COYHO. More impactful are the changes to the rear yards that are required by the ADU proposal. We have had 30-foot residential rear yards for generations and they have shaped the City and our expectations for light, air and green space. COYHO reduces the rear yard requirement from 30 feet to 20 feet (below 75 feet), which will allow horizontal building expansions, even when ADUs are not involved. This is discussed more in Topic 16.

Relevant Boards/Areas: All

Topic 4: District Fixes

Summary: "District Fixes" is shorthand for a series of changes to lot size, lot width, FAR, height and setback for all low density districts. The idea is that some lots can be smaller and some buildings can be bigger. These changes are not as large as those seen in the Town Center Zoning and Transit Oriented Development proposals, but together with these other changes, "District Fixes" increase the allowable densities in nearly all the low density districts. The only variable is how much the increase is.

The following table summarizes these increases:

			Min. Lot Size		Min. Lot Width		FAR		Max Base Height		Max Height	
		Allowed Housing Typology	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Single-Family Districts	R1-1	1-family detached	9,500	4,750	100	50	0.50	0.75	25	25	25	35
	R1-2		5,700	4,750	60	50	0.50	0.75	25	25	25	35
	R1-2A		5,700	4,750	60	50	0.50	0.75	25	25	35	35
	R2X		2,850	2,850	30	30	1.00	1.00	21	25	35	35
	R2		3,800	2,850	40	30	0.50	0.75	25	25	25	35
	R2A		3,800	2,850	40	30	0.50	0.75	21	25	35	35
Two-Family Districts	R3-1*	1 & 2-family detached or zero lot-line	3,800	2,375	40	25	0.60	0.75	21	25	35	35
	R3A		2,375	2,375	25	25	0.60	0.75	21	25	35	35
	R3X	1 & 2-family detached	3,325	2,850	35	30	0.60	0.75	21	25	35	35
	R4-1*	1 & 2-family detached or zero lot-line	2,375	2,375	25	25	0.90	1.00	25	25	35	35
	R4A	1 & 2-family detached	2,850	2,375	30	25	0.90	1.00	21	25	35	35
	R4B*	1 & 2-family detached or zero lot-line	2,375	2,375	25	25	0.90	1.00	--	--	24	25
	R5A	1 & 2-family detached	2,850	2,375	30	25	1.10	1.50	25	25	35	35
Multi-Family Districts	R3-2*	1 & 2-family detached or zero lot-line	3,800	2,375	40	25	0.60	0.75	21	25	35	35
	R4*		3,800	2,375	40	25	0.90	1.00	25	25	35	35
	R5*		3,800	2,375	40	25	1.25	1.50	30	35	40	45
	R5B*		2,375	2,375	25	25	1.35	1.50	30	30	33	35
	R5D*	1 & 2-family detached	2,375	2,375	25	25	2.00	2.00	--	--	40	45

Considerations: Again, by Manhattan standards, these densities are fairly small and the increases are small compared to the increases proposed in the Town Center Zoning and Transit Oriented Development proposals.

Relevant Boards/Areas: Queens, Brooklyn, Staten Island and the Bronx

Topic 5: Universal Affordability Preference

Summary: UAP replaces the Bloomberg-era Inclusionary Housing (IH) program and the older optional R10 inclusionary housing bonus. UAP provides typically 20% additional floor area in R6-R12 districts. The extra floor area must be used for affordable housing with units that average to 60% of the AMI. UAP would apply everywhere EXCEPT Mandatory Inclusionary Housing (MIH) areas. MIH areas would still require affordable housing at the AMIs required when they were mapped. COYHO makes small adjustments to permitted FAR under MIH so that MIH and UAP FARs match, which are described under Topic 11.

UAP is optional but the affordability it provides is permanent and must be recorded on the deed. UAP requires that all the additional floor area must go toward affordable housing. Existing Inclusionary Housing areas can provide affordable housing off-site, but the off-site option will sunset in 10 years. While the program is optional, if

developers use the new 485x tax incentive, they are also likely to use UAP, as the affordable floor area provided can be used to qualify for both UAP and 485x. The additional FAR and the height increase is similar to the existing Affordable Independent Residences for Seniors (AIRS) program, after which UAP is modeled.

UAP is the only affordability component of COYHO.

Considerations: The AIRS program after which the UAP was modeled was not used often and there is some concern that as an optional program UAP might not be used. Indeed, if the State Legislature did not pass 485x, this concern would have probably been valid. But if developments use 485x, then they are likely to use UAP, as it can be used to generate the floor area necessary for the affordable housing required by both 485x and UAP. But 485x cannot be used for home ownership units in Manhattan. Consequently, in condominium projects, where 485x cannot be used, it is likely UAP will not be used.[1] As a result, in markets like CD8 where condominiums dominate, it is unlikely we'll see much use of UAP, which is arguably the place where additional rent regulated units are needed most.

Further, while the floor area increase is most often 20%, in some districts (R6, R7), it can be much higher. The following table shows the percentage difference between the basic FAR and the UAP FAR by district, which can be up to 77% higher in the lower density districts, with height increases commensurate with FAR increases:

	Basic FAR	UAP	Change from Basic	Pct Increase in FAR	Max height basic	Max Height UAP
R6 Nrrw	2.20	3.9	1.70	**77%**	na HF	95
R6 Wide	2.43	3.9	1.47	**60%**	na hf	95
R6A	3.00	3.9	0.90	**30%**	75	95
R7-2	3.44	5.0	1.56	**45%**	na HF	115
R7A	4.00	5.0	1.00	**25%**	85	115
R8	6.02	7.2	1.18	**20%**	na HF	145
R8A	6.02	7.2	1.18	**20%**	125	145
R8B	4.00	4.8	0.8	**20%**	75	105
R9	7.52	9.0	1.48	**20%**	NA towers	185
R9A	7.52	9.0	1.48	**20%**	145	185
R10	10.0	12.0	2.00	**20%**	NA towers	235
R10A	10.0	12.0	2.00	**20%**	215	235

[1] Some condos that qualify may use the UAP's off-site option, which will sunset in 10 years.

Currently, there are no affordable housing zoning options or requirements in most of Manhattan.[2] While UAP can be criticized as being unattractive to condo projects that dominate the Manhattan Core, it is unlikely that UAP will produce less affordable housing than zoning produces now, and may very well produce more. In areas that demand rentals over condos, it may produce many more affordable units over what our current zoning produces.

One could argue that if UAP is adopted, it would move NYC away from affordable housing requirements in every development. Other jurisdictions require some small amount (~10%) of affordable housing in every development without bonuses or incentives and one could argue that such a policy should also be adopted in NYC. UAP is a policy that would codify the concept that affordable housing is optional and would be contrary to the concept that affordable housing should be required. But, again, our current zoning does not have any affordable housing requirements outside of Mandatory Inclusionary Housing areas, of which CD8 has almost none.

Relevant Boards/Areas: Manhattan.

Topic 6: Eliminate Parking Requirements

Summary: Outside the Manhattan Core (Districts 1-8), zoning requires on-site accessory parking spaces to be provided in most residential developments. The number of spaces required varies considerably by zoning district and the presence or absence of affordable housing, but some kind of parking requirement applies nearly everywhere outside the Manhattan Core. COYHO removes this requirement and makes the provision of on-site parking optional: if a developer wants to provide parking, they can. The current floor area exemptions still apply to parking that's provided, but if they don't want to provide parking, or provide as much parking as required by current zoning, they don't have to. COYHO makes the provision of on-site parking a decision that is entirely left to the developer.

This proposal does not directly impact CDs 1 through 8, which do not have any parking requirements. It does impact CDs 9 through 12, which all still have parking requirements that were reduced eight years ago as a part of the Zoning for Quality and Affordability text amendment.

Should this change be adopted, NYC would not be alone in removing parking requirements. In recent years, a number of other jurisdictions, ranging from large to small, have removed parking requirements and COYHO is following in this trend.

[2] Inclusionary Housing Areas, Mandatory Inclusionary Housing areas and R10 areas (outside of some special purpose districts) are the only areas that can produce affordable housing through zoning and these areas are relatively small.

Considerations: This proposal does not impact CD8, since there are currently no parking requirements. Instead, CD8 has parking maximums, which COYHO does not change. In CD8, accessory parking may be provided, at the developer's option, up to the parking maximums identified in the Zoning Resolution.

In any district, providing accessory parking is expensive. In other districts, current zoning provides waivers for many projects that require small amounts of on-site parking. This can lead to projects that limit the number of units provided so that the project can waive out of providing parking. The stated purpose of COYHO change is to ensure developers do not prioritize parking over housing, which sometimes happens. For instance, there are times when adding one or two additional parking spaces require the parking garage to go down another level, vastly increasing the costs of excavation and construction, and there are times when it makes sense not to build the units requiring additional parking if such large costs would be attached to them, or to build a building with fewer units so that parking requirements are so few that they can be waived.

Even though parking would no longer be required, existing parking that was required when it was built cannot simply be removed. A City Planning Commission (CPC) authorization would be necessary to remove existing parking spaces. A CPC authorization is a discretionary CPC action that does not involve a hearing or City Council approval, though Community Boards are asked to comment on CPC authorizations.

One might argue that developers should propose parking that is right for their development and have the flexibility to add more or fewer spaces because of the particulars of their site and program, especially since many already game the zoning requirements to waive out of the requirements.

The counterargument is that developers will not produce enough parking for their tenants and that cars owned by people occupying that building will overflow into the larger neighborhood and impact neighboring residents.

Relevant Boards/Areas: Everywhere except the Manhattan Core.

Topic 7: Convert Non-Residential Buildings to Housing

Summary: The proposal will change the adaptive use regulations by expanding where and how they apply. It does this in three ways. First, it expands geographic eligibility to the entire City. Second, it expands the buildings that can be converted to those built as recently as 1990 (eligibility is currently limited to 1961 in most places). Third, it expands the types of units that can occupy these buildings, such as dormitories, shared and

supportive housing, as well as apartments. Currently, only “class A” apartments are allowed in these conversions.

Considerations: It has been over 40 years since zoning was amended to permit the occupation of non-residential buildings that may have substandard light and air for residential use. When first adopted, it covered only CDs 1 through 6 in Manhattan, but it has now been expanded to include districts in Brooklyn and Queens and it has proven to be popular. Between 2010 and 2020, approximately seven million square feet of office space was converted into around 4,300 residential units. CB8 has never been one of the community districts where the conversion regulations applied. COYHO would expand these regulations into the district for the first time.

Repurposing underutilized obsolete buildings, or adaptive reuse, has many good planning objectives, from less disruption in the neighborhood to environmental efficiencies from reusing a building that already exists for another purpose. Conversions can be very expensive, and when the state passed 485x in April 2024, it also passed a separate tax incentive for conversions, which should make more of them more feasible. Conversions can also help to revitalize neighborhoods by activating underutilized non-residential buildings with more active uses.

Arguments against expanding conversions include that increased conversions will create more units with substandard light and air, as many of these conversions cannot provide the light and air requirements of zoning and instead use the lesser requirements of the Multiple Dwelling Law. Further, conversions may change the character of some commercial districts and incentivize the closure of important community facilities, like religious institutions and health care facilities, so that they can better monetize their assets.

Relevant Boards/Areas: All

Topic 8: Small and Shared Housing

Summary: This proposal will remove the “dwelling unit factor” in Manhattan and other high density areas and reduce it elsewhere in the city. The dwelling unit factor is a zoning measure that ensures buildings cannot be built solely with tiny units. The factor that is currently used is 680 SF. It was higher in most districts, but then lowered to 680 SF in 2016 as a part of Zoning for Quality and Affordability. This 2016 reduction built upon a pilot the City started in 2012, where it granted a Mayoral zoning override to waive the dwelling unit factor requirement for a new 55-unit development in CD6 with 40% of affordable housing units.

If this change is adopted, minimum unit sizes would be determined by the Housing Maintenance Code and the Building Code. When the minimum requirements in those

codes are combined, DCP has reported in the past that the smallest practical average unit size would be about 325 SF.

This change is likely to impact community districts differently. CD8, for instance, tends to see new development with average unit sizes nowhere near the 680 SF dwelling unit factor. Eliminating it will likely not impact development decisions in any way. CD11, however, sees many new developments that bump up against the dwelling unit factor and if the dwelling unit factor were removed, developers would likely build more and smaller units in that market.

Considerations: The proposal seeks to reverse the effects of prior bans on shared housing and SROs in earlier years. The hope is that many single adults who share large units would give them up if they had other reasonable options, thereby freeing larger units for families. This is just a hope, of course, and it is unclear if developing more studio apartments would result in the availability of larger units.

The 2012 pilot program included a substantial number of affordable apartments, 40% of the units. With optional UAP and COYHO changes, an as-of-right micro-unit building would produce ½ the number of affordable units as the pilot. And without UAP, there will be none. The initial pilot program was clearly intended as a way of producing both market rate affordable units and rent regulated units. The change proposed by COYHO would require no affordability unless the developer chose to use UAP.

Those arguing for this proposal might say that the City needs more units, and if you allow developers to build smaller units, there will be more of them. You can argue that if we allow developers to fill this need and construct buildings with all small units, that there will be ripples that flow through the City's housing stock, freeing up large units that are currently occupied by groups of roommates for families with children.

Those arguing against the proposal could say that a City needs units for households of all sizes. The dwelling unit factor doesn't prevent a developer from constructing many studio apartments, rather it simply requires that if they do construct studios, they are balanced out by larger units that are more appropriate for families. The City needs to be for everyone, singles, couples, families, and those in alternative living arrangements and the dwelling unit factor ensures size diversity of new apartments.

Relevant Boards/Areas: All

Topic 9: Campus Infill

Summary: This proposal directly impacts how campuses can be developed. Campuses are usually housing estates that cover a large area, typically in the tower-in-the-park-style. Or in zoning terms, campuses are generally low coverage, tall buildings with ample open space that is required to be accessible to, and usable by, the residents

of the development. In Manhattan, campuses are typically housing developments and most are owned by NYCHA, but there are other significant campus developments like Stuyvesant Town, Southbridge Towers, Washington Square Village, and Franklin Plaza among others. There are not many of these developments in CD8, but there are a couple like Holmes Towers and Isaacs Houses.

Currently, most of these housing estates are zoned with "height factor zoning," or R6, R7-2 or R8 zoning districts, using an option that requires large amounts of residential open space, half of which can be used for parking. This zoning, which was popular in the mid-20th century,[3] has fallen out of favor.

For years, planners and developers have discussed placing new buildings on these estates, infilling the open spaces between buildings. The existing zoning makes infilling these estates difficult or even impossible because the open space found on them is a zoning requirement. When infill can be done, the result is often a very tall building that is much larger than the other buildings on the campus (like 200 Amsterdam), but which preserves much of the existing open space.

COYHO changes are very significant and will make infilling the open spaces on these estates much easier. It simply makes the height factor regulations optional, and allows new infill development on the campuses to use a different set of much simpler zoning regulations. COYHO removes the requirement for "residential open space" entirely. These regulations are replaced with simple rules:

- Height limits on infill, about 193 feet for large R7-2 zoning districts
- Reduction of space required for legal windows, building spacing and required parking, so buildings can be closer and fit on the available spaces
- Flat 50% coverage limit
- 40% coverage limit for tall buildings

Infill can be entirely market-rate: affordability is not required to receive zoning relief, but if it meets minimum affordability requirements, the entire campus benefits from beneficial FARs. Consequently, R7-2 zoning districts that max out at 3.44 FAR, and are often much less, can go to 5.01 FAR regardless of the amount of open space or the height factor, since those measurements are eliminated.

Considerations: Under COYHO, most large housing estates become development sites, easy to infill with new buildings. Any zoning lot zoned with a district without a letter suffix qualifies for the so-called "campus" height limits, if the zoning lot is over 20,000 SF. In districts with such housing estates, it is likely that this proposal will be the most consequential component of COYHO. What follows is a massing exercise for the

[3] Stuyvesant Town was developed before the 1961 zoning but the R7-2 zoning district was based on Stuyvesant Town, meaning that the ideal development in an R7-2 district would produce a development with the same open space and building heights as Stuyvesant Town.

NYCHA development at Washington Houses in East Harlem that extends from 97th Street to 104th Street. While not in CD8, Washington Houses is located in the same zoning district that Isaacs Houses is in. This is an aerial image from Google Earth of the existing campus. East 97th Street is to the left.



Existing conditions Washington Houses

Infilling the campus at 5 FAR produces a massing as follows:



Possible conditions under COYHO changes at Washington Houses

The number of units at Washington Houses can triple, at least in theory, under the rules proposed under City of Yes. When this scale of potential development is applied on all the housing estates throughout the City, the growth potential is massive. Places like East Harlem and the Lower East Side would add unit capacity in the low 10s of thousands range. In CD8, although there wouldn't be much impact, the changes proposed would make infilling the open space at Holmes Towers and Isaacs Houses easier.

People arguing for this change could say that these campuses are suburban in their character and should become more urban considering their location in Manhattan. They could say that there is no place for lawns and surface parking lots on the island of Manhattan, the densest county in the densest city in America, and infill at this density is appropriate. They could say that the affordable housing it would bring would be a benefit to those in the neighborhood and all New Yorkers looking for an apartment.

Those who argue against it could say that the neighborhood impact of such infill would be disruptive, and change the nature of their neighborhood, potentially stressing

schools and community services. They might also say that these campuses are designed to function as a whole, that the open spaces being infilled are not just development sites but a part of a larger campus enjoyed by both residents and neighbors alike.

Again, this one bit of COYHO is likely the most consequential to the high density areas of the City, should it be passed.

Relevant Boards/Areas: Districts with NYCHA campuses or other large estates.

Topic 10: New Zoning Districts

Summary: COYHO includes new zoning districts, which will be added to the Zoning Resolution, but will not yet be placed on the zoning map. Any attempt to add them to the zoning map will be a ULURP action, which will require the application to follow the land use process.

The purpose of these new zoning districts is to both fill in gaps and also replace existing districts, which have different bulk regulations depending on the width of the street which bounds the zoning lot. The new districts are as follows:

- R6D, a 3 FAR district with a 75-foot height limit
- R11, a 12.5 FAR district with a 325-foot height limit that also permits towers
- R11A, a 12.5 FAR district with a 325-foot height limit
- R12, a 15 FAR district with a 395-foot height limit that also permits towers

When R11 and R12 districts (or their commercial equivalents) are mapped, they will require Mandatory Inclusionary Housing.

Considerations: New zoning districts have no impact until they are placed on the zoning map. COYHO just makes the districts without placing them on the zoning map. With the recent change in the Multiple Dwelling Law to allow residential development of more than 12 FAR, the R11 and R12 districts are a necessary part of mapping higher density districts that would allow for FARs that exceed 12.0. If and when these districts get mapped, they will have to be Mandatory Inclusionary Housing areas.

It can be argued that having these districts ready to be placed on the map, should they be desired, is good planning and will make future mapping decisions easier. Those who are concerned about bulk and density may be concerned about creating the larger size R11 and R12 districts, which will make it easier to add this density.

Relevant Boards/Areas: All

Topic 11: Update to Mandatory Inclusionary Housing

Summary: The proposal creates new ZR sections for Mandatory Inclusionary Housing with many of the changes designed to integrate UAP and MIH into definitions and other applicable regulations. To keep MIH consistent with UAP FARs, the proposal grants zoning districts in MIH areas higher UAP FARs, while allowing the MIH AMI requirements and set-asides to be applied for the options that were mapped in the MIH area. The proposal also allows the current Deep Affordability Option, Option 3, to be selected on its own for MIH developments. Currently, Option 3 must be used in combination with Options 1 or 2.

The result is that there will be small increases in the maximum FAR of MIH areas that have the following zoning districts:

R6A goes from 3.6 FAR to 3.9 FAR
R7-2 goes from 4.6 FAR to 5.01 FAR
R7X goes from 5.0 FAR to 6.0 FAR

The FARs of other MIH districts remain unchanged.

Considerations:
This is largely a technical change to align UAP with MIH. Since UAP is based on the AIRS program, which was based on an older senior housing zoning program, the permitted FARs, while similar, are not always the same. The change to permit Option 3 to be selected without other options is reportedly a request that was made by City Council to ensure the level of affordability desired was what was delivered.

Those who are concerned about density could argue that AIRS (and UAP) FARs could have been lowered to meet MIH FARs. Those who are concerned about affordability may support this change because it provides marginally more floor area for affordable housing.

Relevant Boards/Areas: All

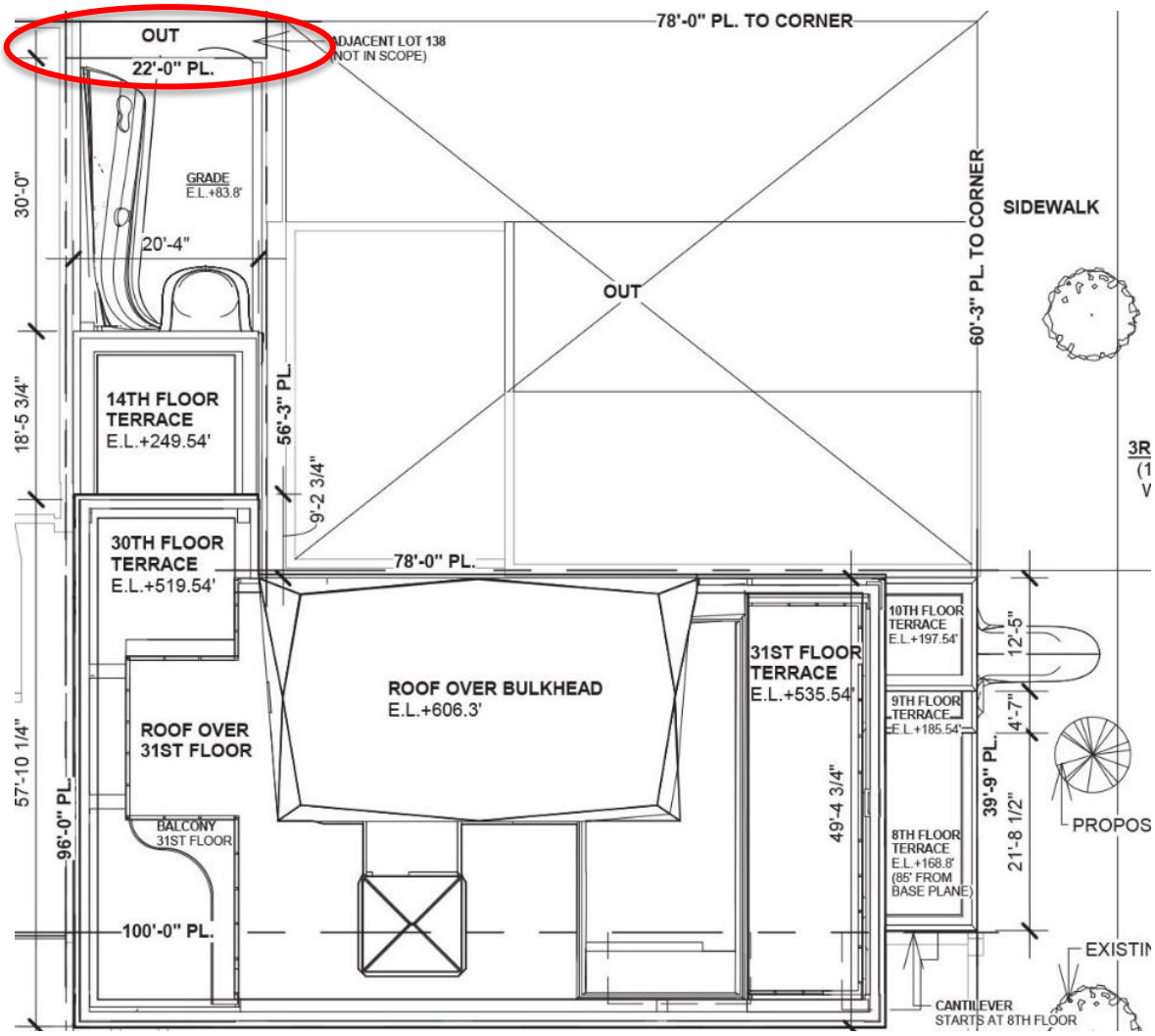
Topic 12: Sliver Law

Summary: Currently, the sliver law limits buildings less than 45 feet wide to the width of the street, if the building is not adjacent to taller buildings. COYHO would allow the underlying zoning to rule for nearly all buildings. The sliver law was put into effect in the early 1980s to prevent tall, slender buildings that were taller than the buildings they abut. The rationalization at the time was that these buildings are out of character when they stick up above the neighboring buildings.

To be clear, the sliver law limit is on top of existing height limits. For example, if a building is in a district with a 75-foot height limit and is on a 60-foot street, and it is less

than 45 feet wide, then it has a 60-foot height limit if it is not adjacent to a taller building; it cannot achieve the 75 height limit granted by its underlying zoning.

Considerations: The silver law often trips up small developers who are unaware of it. They think they must follow the regulations in the underlying zoning, but then discover that their height is further limited simply because they are not adjacent to a taller building. Further, to avoid having to follow the sliver law, developers of lots that face two streets sometimes cut off tiny portions of their lot so that the narrow portion of their lot no longer fronts a street, leaving tiny scraps of land that are typically left open and undeveloped. This has happened in CD8, when 180 East 88th Street cut off a tiny portion of their lot so that they did not have to comply with sliver:



Initial plan for 180 East 88th Street. The "out" lot circled in red was cut off of the development lot so that this project did not have to comply with sliver.

We see sliver apply most often to small scale buildings located on mid-blocks with height limits slightly higher than the width of the street. But it can also apply on higher density wide streets where narrow buildings are height limited by sliver, preventing their use of affordable housing bonuses.

Arguments for the proposal include the fact that this will make zoning and development simpler and more predictable, since the buildings would have to follow the underlying zoning. The change would also mean that zoning would stop discriminating against buildings based upon the buildings to which they are adjacent. Arguments against the proposal likely involve issues of character: should tall skinny buildings rise up over their neighbors? Or is it better that they all align? Affordable housing advocates might argue condition zoning relief on the provision of affordable housing. In 2015, the City considered giving affordable buildings relief from sliver. Now this proposal wants to provide it to all buildings regardless of the presence or absence of affordable housing. Some may think that this relief could be granted as an incentive to provide affordable housing units.

Relevant Boards/Areas: All

Topic 13: Quality Housing Amenity Changes

Summary: COYHO effectively ends the Quality Housing Program as we've known it. The Quality Housing Program (QH) was adopted in the mid-1980s and it required a high coverage, height limited building and various program elements like recreation spaces, trash rooms and laundry rooms to be included in the building. QH exempted all or portions of these required spaces from the definition of floor area, so that developers could build a larger, though still height limited, building than they could if QH was not used. Also called "contextual zoning," the Quality Housing Program was a great success, accounting for nearly all the rezonings that occurred after it was first developed. The QH program gave something to everyone: Developers got to build a larger building, tenants got a building with more amenity spaces, and neighbors got a predictable, height limited building form.

COYHO expands Quality Housing benefits to all multi-family buildings, including unlimited height towers. It still requires recreation spaces up to 3% of a building's gross floor area but allows other amenities to increase the space being exempted to 5%. COYHO also provides an exemption for common corridors of either 50% or 100%, depending on conditions similar to the current program. Instead of a flat 12 SF per trash room, COYHO would allow a 3 SF deduction per unit for the trash room.

Considerations: Quality Housing had a "quid pro quo" element to it, at least in districts where it was optional: developers would exchange a height limited building and required program elements for floor area exemptions for building amenities. Under COYHO, these exceptions would apply to all buildings, even towers. I estimate

buildings could easily exempt 10% of their gross floor area just with these exemptions. That floor area could then be repurposed to make more units and make the building larger. And while most buildings will still have height limits, this extra floor area could be used to add floors to unlimited height towers.

The elements of the Quality Housing program make better buildings for tenants, which is a compelling reason to expand these elements to all buildings and is an argument for this proposal. An argument against the proposal is that this is simply a floor area bonus for program elements that would be provided anyway; the extra floor area could be used to make larger towers and bring more unpredictability to the built form.

Relevant Boards/Areas: All

Topic 14: Landmark Transferable Development Rights

Summary: COYHO will allow as-of-right landmark development rights transfers and would allow receiving sites to obtain authorizations to modify bulk regulations to accommodate additional floor area. Through a CPC Chair certification,[4] the proposal would allow development rights transfers to a surrounding area, defined as zoning lots where the landmark is located and zoning lots across a street or street intersection. The amount of floor area that can be transferred can increase the size of the receiving site by no more than 20%, except in 15 FAR districts (which are only in the very south of the district) where there is no limit in the amount of floor area that can be transferred this way.

Currently, landmarks can transfer up to 20% of their floor area through a CPC special permit. CPC special permits are ULURP actions. COYHO would make this transfer not a ULURP action, which cuts the City Council out of the process. Further, landmarks can currently only transfer their floor area to adjacent sites, or directly across a street or intersection. COYHO's proposal expands the potential receiving site to all the adjacent blocks.

Considerations: The current program hasn't seen much use since it was first developed in the late 1960s. Only about 15 landmark transfers have ever been done and when they have been, they have been in the highest density portions of Manhattan. While landmarks have requirements to maintain their building, the Landmarks Preservation Commission also places limits on how these buildings can change. As a result, many landmarks are land rich and cash poor. While zoning currently allows them to sell unused floor area off-site, the number of receiving sites permitted by zoning is very small and so opportunities to sell those development rights are few.

[4] Certifications are CPC actions that ensure that as-of-right actions meet certain requirements outlined in the Zoning Resolution.

Floor area transfers are unlimited in high density districts, which could create extremely large developments in areas with many underbuilt landmarks. Further, the CPC authorization that grants relief from bulk regulations for developments using transferred floor area ensures that the bulk envelope will not prevent the floor area from being used. CPC authorizations require no public hearing and do not have input from City Council, and as with all of these mechanisms, there is no requirement for any affordable housing. There is also no requirement that the floor area must come from the landmark's tax lot, just from the zoning lot where the landmark is located. Consequently, it would be possible to make a zoning lot that includes a fully built out landmark with the purpose of moving floor area generated on another portion of the lot.

Arguments for this proposal would include that it provides some landmarks options to transfer their unused floor area so that they can receive cash or other benefits to support their landmark. The costs to maintain some of these buildings can be quite high and the proposal vastly increases the number of sites that can realize the benefit. Because they can transfer the floor area to more sites, there may be a larger market for the floor area resulting in a better price for the floor area.

Arguments against this proposal include removing the requirement for a CPC special permit. Special permit actions are ULURP actions that involve the City Council and require a public hearing, both of which are removed by certifications. Further, while the current special permit allows unlimited transfers of floor area from certain 15 FAR districts, this would allow that floor area to move much more widely, creating more unpredictability in the built environment.

Relevant Boards/Areas: CDs with substantial numbers of landmarks

Topic 15: Railroad Right-of-Way

Summary: The proposal defines the term "railroad right-of-way" and "former railroad right-of-way" and removes the definition of "railroad or transit air space." The proposal reduces or eliminates the required approvals for developments that are building over or in a current or former railroad right-of-way or using floor area generated by the right-of-way. The Special Permit for Development Within or Over a Railroad or Transit Right-of-Way or Yard (ZR 74-61) would be eliminated and would be replaced with two authorizations: one for railroad rights-of-way under four acres and one over four acres.

Considerations: The Railroad Right-of-Way is one of several examples in the COYHO proposal where CPC certifications are replacing CPC or BSA special permits. The City has facilitated development over railroad rights-of-way and stated its intention to continue doing so. By changing the special permit to a certification, COYHO makes it easier to facilitate this development but it cuts the City Council out of the process and requires no public hearing.

There is a limited number of such sites and they are all likely known today. Yet, the City did not present a map of these sites during this review process so it is unclear which districts are actually impacted. CBs may wish to ask for a map of these sites so that they know if they are impacted by these changes. I don't believe that there is a railroad right-of-way in CD 8 that would be covered by the authorization, but I don't know that for sure.

Additionally, the new definition of "former railroad right of way" is strangely broad, as it literally includes any land that was at any time a railroad right-of-way. Why would it matter if the land was a railroad right-of-way in the 19th century and was redeveloped with another use? It shouldn't. Likely this definition should change to reflect a narrower definition.

Arguments in favor of this proposal might include the recognition that such development is usually very complicated and the City Council and public can provide limited benefits to the planning and implementation of such development. The certification streamlines the process and leaves decisions to those in the best position to make those decisions.

Arguments against the proposal include the idea that the voice of the public and City Council are important in all large scale land use projects, especially those that have the potential to disrupt important public services that occur in these rights-of-way and yards. Since certifications have no hearing or no input from the Council, their voice would be silenced, which would be a mistake.

Relevant Boards/Areas: Unclear

Topic 16: Residential Building Standards

Summary: The most surprising thing about COYHO are the extensive changes to long-standing zoning standards that have not been featured by DCP in any of their materials. These include:

- Rear yards would go from 30 feet to 20 feet (under 75 feet)
- Side yards from 8 feet to 5 feet
- Space for legal windows from 30 feet to 20 feet
- Inner courts from 1,200 SF to 800 SF
- Maximum tower coverage goes from 40% to either 50% (over 300 feet) or 65% (under 300 feet)
- Required residential open space is completely eliminated for infill buildings
- New obstructions in yards, so that 20 feet can be filled with things like another dwelling

If these changes are mentioned at all, they are mentioned in the context of one of the proposals. For example, materials discussing the changes to permit accessory dwelling

units (ADU) do mention changes to rear yards, which suggests that the changes would only apply to single and two family dwellings with an ADU, but COYHO actually changes the regulations for every lot with residences, not just those with ADUs. Similarly, none of these others are discussed or they are discussed in a limited way through one of the proposals, but they, in fact, impact everything.

For example, this is a block in CD8 with the traditional “donut hole” created by required 30-foot rear yards. Together, these spaces create a 60-foot hole in the center of most residential blocks:



Block between First Avenue, 87th Street, York Avenue and 88th Street



Block between First Avenue, 87th Street, York Avenue and 88th Street, COYHO required yard in dotted red. Existing required rear yard in solid red.

COYHO would allow buildings with minimum required rear yard to expand 10 feet into the donut hole, shrinking it from 60 feet to 40 feet. Many of these townhouses and small tenements have the floor area to expand, but because of the existing rear yard requirements, they must expand upwards. This change would allow many of them to expand horizontally, often on the floors that are most used. Required rear yards, however, are designed to give more light and air not only to the subject building, but to its neighbors. The shrinking of the yards will mean the rear facing windows will have less access to light and air.

Considerations: You have not been asked to comment on any of these changes, but you may wish to. These changes will impact the amount of light and air all buildings receive and the amount of green space that is left on private land. These changes impact not only new buildings, but existing buildings, as they would permit existing buildings to expand into the rear yard, impacting the amount of light and air neighbors receive.

The residential standards COYHO has proposed changing have been in place for generations and they have shaped the City. Changing them will change the form of the City and together they constitute a major change in our zoning regulations. In my opinion, the fact that the applicant didn't feature these changes and are not asking you for any input on these changes is alarming.

If you believe that the applicant has a responsibility to explain their application fully, these changes should have been featured in their presentations and on their input form. DCP should have explained why the changes were appropriate and delineated the benefits of changing them, which include some of the proposals found in COYHO, like ADUs, infill, better buildings, etc. Community Boards are made up of volunteers. You have been given 2 months to review 1,386 pages of zoning text, and even more pages of an environmental review. The way our process is designed it only works if the applicant faithfully and completely explains their proposal, and DCP has not done so.

In terms of content, however, one could argue that it is time to update these standards. They were developed before we had air conditioning, before very inexpensive electric lighting. Modern living simply doesn't have the same requirements for light and air as was needed in the mid-20th century. Further, rooftop expansions often mean adding another floor to the top of a walk-up tenement or townhome, which means more stairs. Horizontal expansions, on the other hand, would allow expansions on the lower floors that are typically more heavily used, especially in townhomes, providing their owners more flexibility.

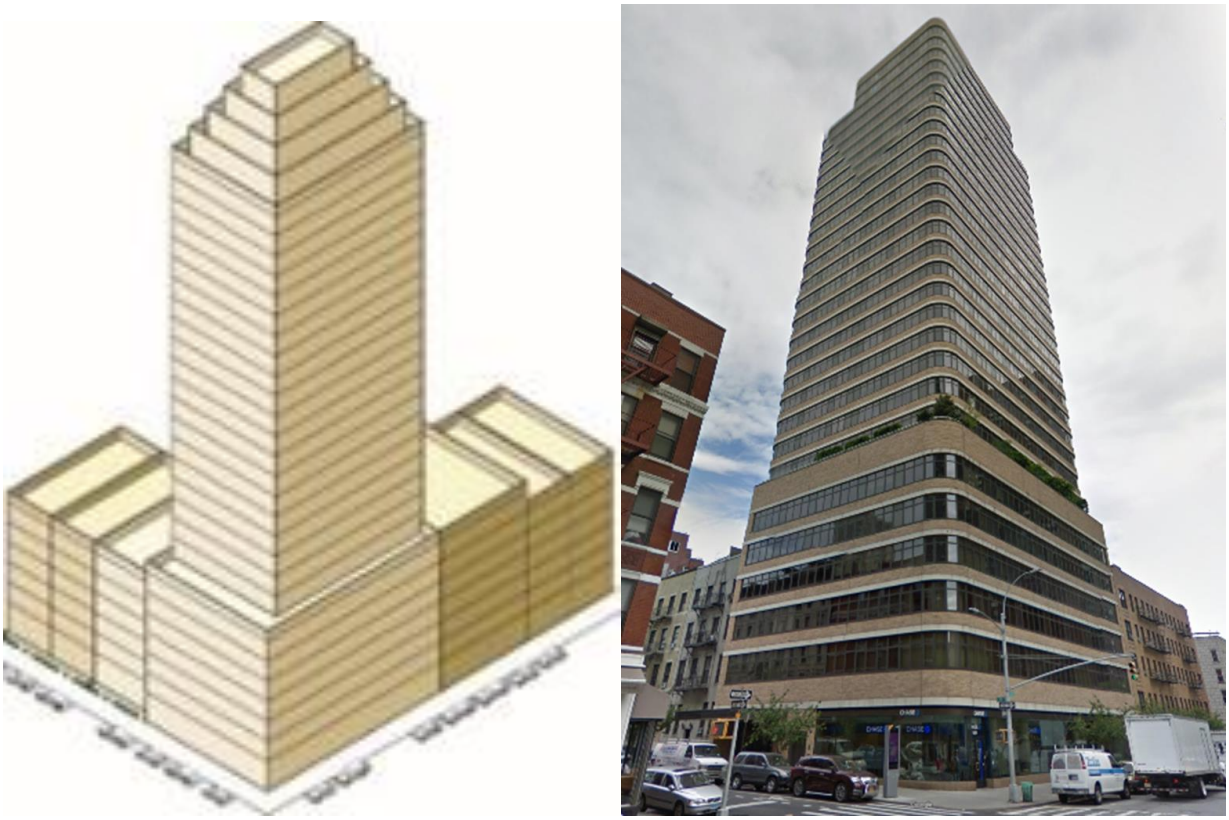
The counterargument, of course, is that building in the rear yard and allowing less light and air for legal windows diminishes the quality of living spaces for those who have rear

facing windows. Rear yards are not only designed for the benefit of the subject owner, but also for the neighbors, as all benefit from the light and air they provide. Shrinking them with additions mean that not only is the subject building impacted, but those who make no changes will have less access to light and air.

Relevant Boards/Areas: All

Topic 17: New Tower-on-Base Building Envelope

Summary: Another item not mentioned in the materials presented by DCP is the change to the tower-on-base building envelope. Currently, high density zoning districts (R9, R10 and their non-contextual low intensity commercial equivalents, C1-9, C2-8, etc.) require that towers on wide streets use the tower-on-base building form rather than the standard tower building form. This form requires towers to cover between 30% and 40% of their zoning lot and that at least 60% of their floor area be located under 150 feet in height. It requires a tenement-sized base between 60 and 85 feet, above which is a tower that is setback from the street. Currently, tower-on-base looks like this:

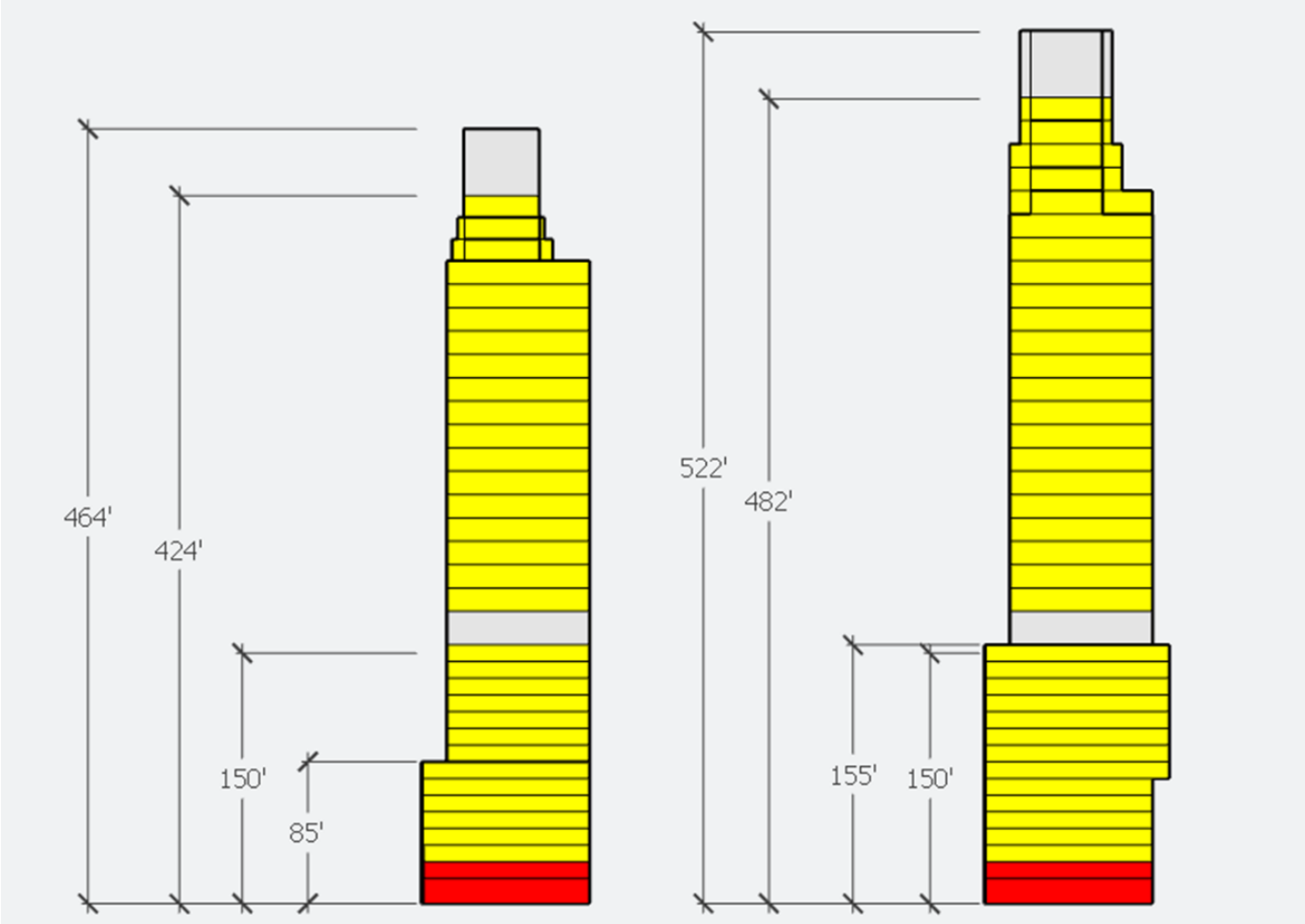


The tower-on-base building using today's zoning

The current tower-on-base regulations were put into effect in 1993 and shaped development on avenues with R10 districts and their lower intensity commercial equivalents (C1-9, C2-8). While COYHO keeps tower-on-base with the same tower coverage and bulk packing requirements that currently exists, it makes significant

changes to the base regulations and the tapering that can occur at the top of the building. The major change is the increase in the maximum base height from 85 feet to 155 feet.

This change would allow buildings to get over 12 FAR through the use of UAP and another way of obtaining floor area. The following massings were created by my office using the same site, but assuming a 12 FAR building on the left developed under current regulations and a 14.4 FAR building on the right, developed under existing regulations:



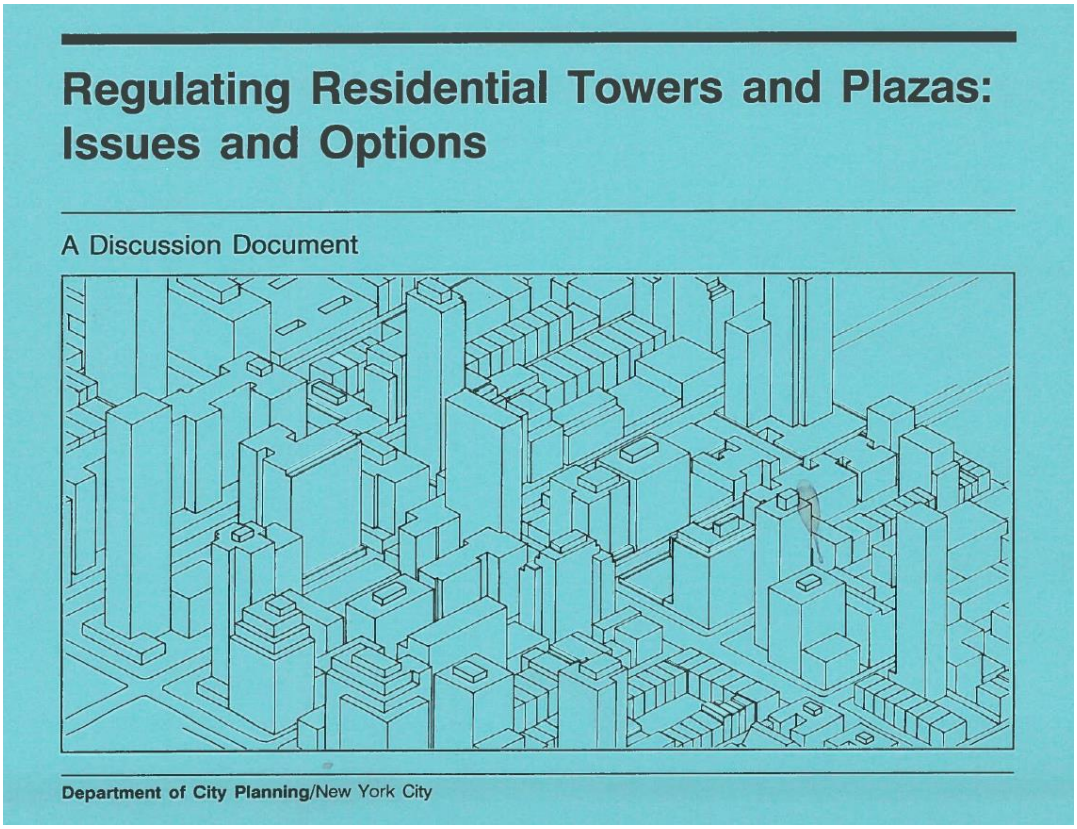
Comparing today's tower-on-base (left) with COYHO tower on base (right)

The major difference is the height of the base. COYHO increases the base height from 85 feet to 155 feet, which allows more floor area to be placed under 150 feet. Since 60% of the floor area must be under 150 feet, this larger base would also mean there can be more floor area above 150 feet, thereby allowing a larger and taller tower. In the example, we're showing a COYHO building about 60 feet taller than would be possible

under current zoning. To be clear, if towers can get to 14.4 FAR, the existing tower-on-base regulations *have to* change and with COHYO, DCP decided that increasing the base height was the way it should be changed.

Considerations: Again, you have not been asked to comment on this change to the form of towers.[5] Indeed, you haven't even been told that the tower form is changing, unless you have read that section of the amended zoning.

The zoning that implemented the tower-on-base as we currently know it was developed over a multi-year process supported by planning studies and community engagement. The following 1989 study was part of the exploration of the development of a new tower form to address the issue of very thin, tall towers, as well as problems with residential plazas.



Cover of DCP's 1989 study on the issues with towers

[5] In addition to the changes to tower-on-base, COYHO also changes tower from 40% to either 50% (over 300 feet) or 65% (under 300 feet). This standard exists in the Special Lower Manhattan District and COYHO proposes to expand it City-wide. However, there are very few standard tower districts in CD 8, and so this other tower change would have little impact on the district.

Informed by this “Discussion Document,” DCP sponsored a rezoning to implement the tower-on-base form. After a long planning and engagement process, this zoning change was adopted in 1993 and has shaped the Manhattan skyline, especially CD 8.

The reason the base height was set between 60 and 85 feet was due to urban design considerations. It was understood that the floor area for most of these towers would be assembled using zoning lot mergers with neighboring tenements. The minimum and maximum base heights selected approximated the size of neighboring tenements that would become part of the zoning lot. Consequently, the entire block front would still have the scale of the tenements but there would be a tower setback above them, exactly as seen below.



Block front with tenements and a tenement sized base for the tower

The tower-on-base has been a successful urban form that was created by a purposeful decision, developed over years with input from members of the community. COYHO has decided that the base now needs to change and brings the max base height up to 155 feet, or basically the same size as the base height we see in the R10A envelope, designed to mimic the early and mid-20th century apartment house.

The change COYHO proposes is rational: if towers can get to 14.4 FAR, then the tower-on-base form must change to allow more floor area into the base, and that's exactly what increasing the base height does. But at the same time, the higher base height removes the current urban design rationale for the base height. This may or may not be acceptable to community boards and the public, but best planning practices would have required the disclosure and discussion of this change, perhaps as a part of a larger planning and engagement process, which was never done. Instead, this change is buried in the 1,386 pages of zoning text.

In terms of content, it could be argued that the form needed to change to accommodate the 14.4 FAR building and this change builds upon the success of the of the current zoning, making relatively small changes to the current tower form and keeping important parts like 60% of the floor area being under 150 feet. Arguments against the change include the fact that COYHO eliminates the urban design rationale for the base and the new base height makes no sense considering the context of most of these developments. Others might argue that the current 12 FAR buildings are quite large, and this change is only being done to allow for even larger buildings.

Relevant Boards/Areas: Most of the Manhattan Core. Limited areas outside the Core.

Topic 18: Bulk Modification for Non-Complying Buildings

Summary: COYHO includes a number of new authorizations and conversions of existing CPC and BSA special permits to CPC authorizations. While some have been mentioned, like Topic 15, others are simply omitted in all of DCP's materials and you would not know they existed unless you read the zoning text. One of these new authorizations is the Bulk Modifications for Non-Complying Buildings (ZR 75-25), which is on page 898 of the annotated zoning text.

This authorization would allow fully built-out buildings constructed before 1991 to grow. With this authorization, the CPC can permit these buildings to exceed the maximum height by 25% and the maximum floor area by 20%.

CPC authorizations are non-ULURP actions and the CPC will not hold a public hearing. While the Community Board is asked for their opinion on CPC authorizations, the final decision is with the CPC. City Council has no role. If a neighbor of such a building had concerns, or if the Council Member of that neighbor had concerns about the expansion of a building beyond its zoning limits, they would have no way to be heard by the CPC before they made their decisions.

This authorization replaces a BSA special permit that performs a similar function for buildings built before 1961. Under that special permit, FAR and lot coverage increases are limited to 10% and there is no provision for a height increase.

Considerations: While zoning has some bulk relief special permits, and also limited provisions for non-complying buildings in Article 5, Chapter 4, the BSA is typically the body that grants bulk zoning relief through variances and special permits. This change would shift authority from the BSA to the CPC, without clear reasoning for the change. Again, DCP has not mentioned this change in their materials and so there is no detailed reasoning for the proposed change, it simply appears in the amended zoning.

CPC authorizations do not involve hearings. It is easy to think that the City Planning Commission of a city of more than eight million people is not the right place for site-by-site decisions on permitting a specific development beyond its building envelope, especially if they do not hear from the neighbors most impacted by that development. One might ask, is this appropriate? Shouldn't the City Planning Commission be focusing on larger planning and zoning issues, and leave these more instrumental site-by-site decisions to the BSA, a body that is designed to make these types of decisions?

One could argue that the CPC authorization could be done faster and easier because it doesn't involve a public hearing, and that this authorization provides owners with a path for expanding built-out building where there is currently none.

But best planning practices suggest that land use decisions that impact neighbors and the larger community should always involve a public hearing so that those impacted can be heard by those making the decisions. Zoning is a law that has been adopted by the City Council. Is it appropriate to not include them in the process? Finally, zoning is supposed to provide predictability to the built environment. This authorization introduces unpredictability.

Relevant Boards/Areas: All.

If you have any questions or comments, please let me know. I'll be attending your meeting on June 18.