



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Burt Lazarin
Chair

Jesse Bodine
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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