

COMMUNITY BOARD 1 – MANHATTAN  
RESOLUTION

DATE: July 23, 2024

COMMITTEE OF ORIGIN: LAND USE, ZONING, & ECONOMIC DEVELOPMENT

COMMITTEE VOTE:	8 In Favor	0 Opposed	0 Abstained	0 Recused
PUBLIC VOTE:	1 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	35 In Favor	2 Opposed	4 Abstained	0 Recused

RE: City of Yes for Housing Opportunity (COYHO) Zoning Text Amendment

WHEREAS: As part of New York City Mayor Eric Adams’s “City of Yes” initiative, the New York City Department of City Planning (DCP) has proposed a series of changes to the Zoning Resolution (ZR) three broad zoning categories: (1) carbon neutrality, (2) economic opportunity, and (3) housing opportunity; and

WHEREAS: DCP previously proposed a citywide zoning text amendment aimed at zoning for carbon neutrality by implementing numerous changes to the ZR “to remove impediments to, and expand opportunities for, decarbonization projects” throughout New York City. As part of the review by all 59 of the City’s Community Districts under the Uniform Land Use Review Procedure (ULURP), on June 27, 2023, Manhattan Community Board 1 (CB1) passed a resolution approving, with certain specified conditions, the Carbon Neutrality Zoning Text Amendment; and

WHEREAS: DCP also previously proposed a citywide zoning text amendment, described as a “comprehensive overhaul of zoning regulations” to “primarily update use definitions and use allowances within existing Commercial and Manufacturing zoning districts,” with 18 specific proposals to meet four broad goals of spurring economic opportunities. As part of the review by all 59 of the City’s Community Districts under ULURP, on January 23, 2024, CB1 adopted a resolution with varying recommendations as to each of the 18 proposals contained in the Zoning for Economic Opportunity Text Amendment; and

WHEREAS: As the lead City agency and applicant, DCP now proposes a citywide zoning text amendment “[t]o create more housing and more types of housing” through a series of specific changes to the Zoning Resolution (ZR) which fall into four broad areas: (1) Low-Density Districts, (2) Medium- and High-Density Districts, (3) Parking, and (4) Other Initiatives; and

WHEREAS: As of the application’s certification to community boards, the annotated text of the COYHO amendments consists of 1,386 pages. The entire application and zoning text language are available on the DCP’s Zoning Application Portal at <https://zap.planning.nyc.gov/projects/2023Y0427>; and

WHEREAS: The application contains at least 15 specific proposals, organized among the four broad zoning categories noted above. The applicant has solicited Community Boards' feedback through a "Proposed Feedback Worksheet," which organizes the 15 specific proposals among four categories ("Low-Density," "Medium and High Density," "Citywide," and "Miscellaneous"), described more specifically in the Zoning Text Amendment Project Description. Following the "Proposed Feedback Worksheet," the June 20, 2024 memorandum from CB1 land use consultant George Janes describes each of these proposals as follows:<sup>1</sup>

A. Low-Density Proposals

1. ***Town Center Zoning:*** This portion of the text amendment, according to the Janes memo, "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."
2. ***Transit-Oriented Development (TOD):*** This proposal, according to the application's Project Description, makes a number of changes within the so-called Inner and Greater Transit-Oriented Development Areas, specifically "enable[ing] transit-oriented missing middle housing on large sites within the Greater Transit-Oriented Development Area—that is, the Manhattan Core and Long Island City, the Inner Transit-Oriented Development Area, and a newly created Outer Transit-Oriented Development Area that will generally encompass all areas within a half-mile of a transit stop. These initiatives add housing in parts of the city that have produced very little in recent decades, but also encourage housing options for older, smaller, or lower-income households that face particular challenges finding appropriate housing in low-density areas."

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<sup>1</sup> Throughout CB1's review of this and the other City of Yes citywide zoning text amendment applications, George Janes of George M. Janes & Associates, a land use consultant retained by CB1, provided invaluable research and technical expertise to CB1's Land Use, Zoning and Economic Development (LZE) Committee. Mr. Janes spent many hours working the Committee, attending the Committee's meetings on the application, where he explained critical impacts of the application throughout CD1, and otherwise helping CB1 leadership and Committee members through their varied questions. Mr. Janes ultimately authored memoranda that synthesized for Committee members the specifics of each category and the specific proposals within each, which guided the Committee's discussion and debate that culminated in this resolution. CB1 publicly thanks Mr. Janes for his help to CB1 in reviewing this application.

According to the Janes memo, “In all low density districts near transit, COYHO will permit 3-5 story apartment buildings on lots that are 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.”

3. ***Accessory Dwelling Units:*** According to the Janes memo, “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, 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.”
4. ***District Fixes:*** According to the Janes memo, “‘District Fixes’ is short-hand 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.”

#### B. Medium- and High-Density Proposals

5. ***Universal Affordability Preference (UAP):*** According to the Janes memo, “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 FARs under MIH so that MIH and UAP FARs match . . . . 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.”

C. Citywide

6. ***Eliminate Parking Requirements:*** According to the Janes memo, “Outside the Manhattan Core (Districts 1-8), zoning requires on-site accessory parking spaces to be provided for 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 to most places 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 the developer doesn’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.**” (emphasis added).
7. ***Convert Non-Residential Buildings to Housing:*** This proposal, according to the Janes memo, would “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.”
8. ***Small and Shared Housing:*** This proposal, according to the Janes memo, would “remove the ‘dwelling unit factor’ [referred to as the ‘DUF’ in the application’s documents] in Manhattan and other high density areas and reduce it elsewhere in the city. The [DUF] 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 Manhattan districts, but then lowered to 680 SF in 2016 as a part of Zoning for Quality and Affordability. ... 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.”
9. ***Campus Infill:*** According to the application’s Project Description, this proposal “seeks to eliminate zoning obstacles that make infill housing development difficult or impossible on campuses and other zoning lots with existing buildings but significant amounts of unused floor area and un- or underutilized open space. To provide more opportunities for infill development, the Proposed Action would

(1) replace complex infill ‘mixing rules’ ... and restrictive open space and height regulations with a simpler regime based on FAR, infill height limits, and lot coverage maximums and (2) reduce distance-between-buildings requirements to harmonize zoning regulations with the state standards in the Multiple Dwelling Law. The Proposed Action seeks to facilitate appropriate infill development to provide additional opportunities for housing and where possible enhance the connectivity of campuses and other height factor zoning lots into surrounding context.”

And according to the Janes memo, “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. ... 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. ... 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.”

#### D. Miscellaneous

10. ***New Zoning Districts:*** This proposal, according to the Janes memo, “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.”
11. ***Updates to Mandatory Inclusionary Housing (MIH):*** This proposal, according to the Janes memo, “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[; and] R7X goes from 5.0 FAR to 6.0 FAR[.] The FARs of other MIH districts remain unchanged.”

12. ***Sliver Law***: This proposal, according to the Janes memo, “would allow the underlying zoning to regulate the height of 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 the existing height limits of the underlying district. 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-foot height limit granted by its underlying zoning.”
13. ***Quality Housing Amenity Changes***: This proposal, according to the Janes memo, “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 has been considered 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.”
14. ***Landmark Transferable Development Rights (LTDR)***: According to the application’s Project Description, this action would “loosen restrictions on the ability of designated landmarks to transfer unused development rights to zoning lots in the immediate vicinity. ... [It] would expand the program to historic districts and lower density areas and extend existing transfer opportunities to other zoning lots on the same zoning block as the landmark zoning lot or across the street or an intersection from that block. Furthermore, transfers would be permitted by authorization for transfers that require limited bulk modifications on receiving sites, or certifications for transfers that do not require bulk modifications.”

As described in the Janes memo, the proposed expansion of the existing Landmarks TDR program “allows 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 where there is no limit on the amount of floor area that can be transferred this way.”

15. ***Railroad Right-of-Way:*** This proposal, according to the Janes memo, “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.”

WHEREAS: Mr. Janes’s and the LZE Committee’s review identified several additional topics where changes are proposed to the ZR, including new residential building standards, new “tower on base” building envelope provisions, bulk modifications for non-complying buildings, and amendments relating to floor area ratio (FAR) from low-FAR to high-FAR districts, most of which does not impact Community District 1 (CD1). While questions and concerns in these areas were raised with the applicant—specifically including discussion of rear and side yards and amendments to the required space for legal windows—the Committee has expressed its concerns but offers no formal feedback on those issues at this time; and

WHEREAS: The application was certified by the NYC City Planning Commission (CPC) on April 29, 2024 and referred to all 59 community boards for a 60-day review period. While the deadline for Community Boards’ review originally set to expire on July 8, 2024 by ULURP rules under the original certification, in order to afford Community Boards additional review time, the applicant and CPC subsequently agreed to accept all Community Board recommendations up to the time of CPC’s hearing on the application, expected to be scheduled in September 2024; and

WHEREAS: The LZE Committee of Manhattan Community Board 1 (CB1) began formal review of the COYHO application at the LZE Committee’s May 13, 2024 meeting. Officials with DCP attended the May 2024 meeting and provided an extensive presentation of the application’s 15 proposals, including maps of proposals’ applicability throughout CD1. The LZE Committee tracked many of its questions and responses to the COYHO application in a written document following the May meeting; and

WHEREAS: CB1 held a public hearing on the COYHO application on May 28, 2024; and

WHEREAS: The LZE Committee continued review of the application at its June 10, 2024 meeting, where members posed additional questions around the UAP and residential conversions proposals, advocated for additional affordable housing opportunities in the proposal (including for deeply and permanent affordable housing for a range of incomes), and more. Officials with DCP attended the June

2024 meeting and provided feedback on the Committee’s written and in-person questions, specifically tailored to the application’s potential impacts throughout CD1; and

WHEREAS: Officials with DCP appeared again for the Committee’s final review at its July 8, 2024 meeting, and DCP officials engaged in discussion with LZE Committee members during their questions and debate on all 15 proposals; and

WHEREAS: Upon further discussion and debate at the July 2024 meeting, the LZE Committee considered and voted separately on each of the COYHO application’s 15 proposals, including discussions and votes on requesting various modifications. Though LZE Committee members voted to “approve,” “disapprove,” or “approve / disapprove with conditions or modifications” as to each proposal—and thus the Committee’s vote count varied on each proposal—the LZE Committee came to a consensus on a single resolution expressing the recommendations as to each separate proposal as set forth below; now

THEREFORE  
BE IT  
RESOLVED

THAT: CB1 makes the following recommendations as to the COYHO Zoning Text Amendment application:

**General Comments and Conditions Applicable to All Parts COYHO:** CB1 expressly conditions its recommendations on the COYHO text amendment application on the following comments and requested modifications. While CB1 sees merit in a number of the various proposals, albeit most with conditions, CB1 **must vote no** on the overall COYHO Zoning Text Amendment **unless** the following critical issues are satisfactorily addressed in the final proposal:

- CB1 does not accept the premise that any material amount of affordable housing will be developed in our district without the incorporation of a meaningful mandated affordable housing component. The voluntary Universal Affordability Preference program, we believe, is wholly inadequate in our high density, high demand, high home-ownership district, to generate sufficient affordable housing. COYHO must incorporate into all zoning changes as part of this proposal **mandates** for the inclusion of affordable housing units;
- Our district has an extraordinary commercial infrastructure that is ripe for conversion to residential. We have already seen substantial conversions take place with no affordable housing component. We cannot afford to lose more commercial conversion opportunities in our district. Commercial to residential conversions must have a mandatory affordable housing component;



- As noted below, any public housing campus infill must be 100% affordable;
- The overarching objective of COYHO is to produce “a little more housing in every neighborhood,” yet the proposal is separated into density levels – low and medium-high – with no assurance that proposals across all neighborhood densities will be approved. CB1 believes COYHO as approved must incorporate sufficient zoning provisions across all density districts such that the objective of producing housing across all neighborhoods be achieved;
- CB1 further asks that, with this application and any future changes to the ZR or other changes to increase housing supply, there be requirements for analyses (beyond current environmental impact statement components) on how the proposed changes will impact infrastructure and the delivery of public services, such as public transportation availability, public school seats, open and park space availability, *etc.*;
- Also with this application and any future changes to the ZR or other changes to increase housing supply, CB1 further requests that the City and other relevant governmental bodies commit specific corresponding capital investment monies to provide needed investments in resources and infrastructure to support the additional residential housing envisioned in each of the City’s Community Districts; and
- As to each of the 15 specific proposals of the COYHO Zoning Text Amendment, CB1 makes the following recommendations:

<i>No.</i>	<i>Proposal</i>	<i>Approve / Disapprove</i>	<i>Requested Modifications</i>
1	Town Center Zoning	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>● Subject to “General Comments and Conditions” applicable to all parts of the COYHO application.</li> </ul>
2	Transit-Oriented Development (TOD)	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>● Subject to “General Comments and Conditions” applicable to all parts of the COYHO application.</li> </ul>
3	Accessory Dwelling Units	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>● This should be modified to add that it would apply only in R-1 to R-5 low-density districts.</li> <li>● This should be modified to consider allowance for attics and basements, but not to allow for the reduction of backyards and side yards for ADU.</li> </ul>

<i>No.</i>	<i>Proposal</i>	<i>Approve / Disapprove</i>	<i>Requested Modifications</i>
4	District Fixes	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>● Subject to “General Comments and Conditions” applicable to all parts of the COYHO application.</li> </ul>
5	Universal Affordability Preference (UAP)	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>● Create a fourth-tier option, increasing the affordability band to 130% of AMI.</li> <li>● Raise the average AMI to 70%.</li> <li>● The UAP Offsite Option’s sunsetting provisions should be amended to 5 years instead of 10 years with an appropriate City permit.</li> </ul>
6	Eliminate Parking Requirements	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>● Subject to “General Comments and Conditions” applicable to all parts of the COYHO application.</li> </ul>

<i>No.</i>	<i>Proposal</i>	<i>Approve / Disapprove</i>	<i>Requested Modifications</i>
7	Convert Non-Residential Buildings to Housing	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>● All conversions under this proposal should <b><i>mandate</i></b> the inclusion of affordable housing units.</li> <li>● For all buildings newly allowed to convert under this proposal, rather than allow an entire building to convert to residential use, require that any residential floor area above the residential FAR maximum of the site be affordable subject to requirements under UAP.</li> <li>● Require that any buildings converted under this proposal must maintain all existing (1) means of trash compaction and indoor, fully off-sidewalk storage and collection; and (2) methods for off-street deliveries and off-street move-ins/outs.</li> <li>● Require a special permit process for the conversion of hospitals, medical centers, nursing homes, and education and religious spaces, to the extent not already required by ULURP.</li> <li>● Amend the provision, as described in the application's Project Description, which would "[c]hange the cutoff date for conversion from 1961 or 1977 to 1990," such that the cutoff date is set on a rolling basis for buildings built more than 35 years earlier, instead of the fixed date of 1990.</li> </ul>
8	Small and Shared Housing	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>● Subject to "General Comments and Conditions" applicable to all parts of the COYHO application.</li> </ul>

<b>No.</b>	<b><i>Proposal</i></b>	<b><i>Approve / Disapprove</i></b>	<b><i>Requested Modifications</i></b>
9	Campus Infill	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>Any application for a campus in-fill should require a special permit process.</li> <li>Any campus in-fill should be required to be 100% affordable housing.</li> </ul>
10	New Zoning Districts	Disapprove (With Conditions)	<ul style="list-style-type: none"> <li>Subject to “General Comments and Conditions” applicable to all parts of the COYHO application.</li> </ul>
11	Updates to Mandatory Inclusionary Housing (MIH)	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>For each MIH option, deepen AMI averages, increase the percentage of affordable units per development, require a greater percentage of deeply affordable units per development, and increase the number of allowed income bands to ensure a range of lower incomes are evenly targeted.</li> </ul>
12	Sliver Law	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>Relief from the “Sliver Law” should be granted as an incentive to provide affordable housing units instead of being provided to all developments.</li> </ul>
13	Quality Housing Amenity Changes	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>Mandate the inclusion of building infrastructure like package/mail rooms, trash compactor space, and trash storage rooms, as opposed to offering a non-exclusive list of amenities as an incentive for up to 5% deduction.</li> </ul>
14	Landmark Transfer Development Rights (LTDR)	Disapprove (With Modifications)	<ul style="list-style-type: none"> <li>Include a 60-day comment period for Community Board recommendations on any transfer.</li> <li>Apply the 20% limitation of LTDR transfers in all zoning districts, as opposed to unlimited transfers in 15 FAR districts.</li> </ul>
15	Railroad Right-of-Way	CB1 takes no position on this proposal	