

## HUDSON YARDS ADDITIONAL TEXT AMENDMENTS II

In January 2005, the Hudson Yards ULURP applications were approved to revitalize Manhattan's Far West Side. During the ULURP process text changes were identified which would require subsequent action and these were implemented in December 2005. In the last two years additional text changes were identified to clarify the text, eliminate inaccurate references in the text, and add new provisions.

The areas affected by the proposed text changes include the Special Hudson Yards District, the 42<sup>nd</sup> Street Perimeter Area of the Special Clinton District, the P2 Area of the Special Garment Center District and the Theater Subdistrict Eighth Avenue Corridor of the Special Midtown District. These areas are generally bounded by West 30<sup>th</sup> Street on the south, Eighth Avenue on the east, West 42<sup>nd</sup> Street on the north, and Eleventh Avenue on the west.

### TEXT CHANGES

The application for the text changes is composed of 13 items which are described in the following.

#### **Special Hudson Yards District**

1. Lots that abut the Mid-Block Park are also considered to abut Hudson Boulevard for purposes of all bulk controls (93-055, 93-512, 93-513)

There are certain lots between West 33<sup>rd</sup> and West 35<sup>th</sup> Streets on the west side of the Mid-Block Park (between 10<sup>th</sup> & 11<sup>th</sup> Avenues) and also on both sides of the Park between West 38<sup>th</sup> and West 39<sup>th</sup> Streets where the Park is mapped without the corresponding Hudson Boulevard (so without an intervening street). The current Special Hudson Yards District (SHYD) text states that Hudson Boulevard should be considered a “wide street” and provides that for purposes of streetwall location and setback provisions the street lines and sidewalk widening lines of Hudson Boulevard and Park are considered to be prolonged into these portions of the Park that have no corresponding Boulevard. However, these street lines and sidewalk widening lines are not considered to be prolonged for every bulk control. For the purposes of required rear yards or legal window location, for example, the lot line of the site that borders the Park would be considered an interior side lot line. This would create the situation where this site would be an effective corner lot due to its bordering the Park but be required to include a rear yard. The amendment would consider the lot lines of the lots that border the Park without the Boulevard to be the street line of the Boulevard. Then for all SHYD regulations the lots will be considered to front a wide street along the lots’ frontage with the Park.

2. The 100% retail requirement for the lots that abut the Mid-Block Park between West 38<sup>th</sup> and West 39<sup>th</sup> Streets is removed (Appendix A, Map 2)

Retail will be difficult to activate where lots meet the Park where there is no street frontage.

Also, the block immediately to the north of this block is composed primarily of approaches to the Lincoln Tunnel. This text change will remove the requirement that the ground floor of buildings on these lots that face the Park must have 100% of their frontage devoted to retail. (See Existing Map 2 vs. Proposed Map 2)

3. Developments on lots with frontage on Hudson Boulevard & Park are permitted to temporarily waive the glazing requirements for this frontage 1) if there is a building on an adjoining lot within the Park that makes complying with the glazing rule impracticable and 2) if the new building is designed in a manner enabling the development to comply with the glazing requirement at a later time. (93-14)

Although the SHYD text prohibits development and enlargement of buildings that are wholly or partially located within the future footprint of the Hudson Boulevard and Park, many buildings exist in this footprint and their existence makes compliance with the 100% glazing requirement for new developments bordering the mapped Park but facing these existing buildings within the Park impracticable. The solution would temporarily waive the glazing requirement, until a time when the building within the Park is demolished, and require a design that makes conversion to a compliant building possible after demolition.

4. The 90-foot streetwall requirement is waived for small existing buildings on 10<sup>th</sup> Avenue (93-541).

The minimum streetwall permitted on zoning lots along 10<sup>th</sup> Avenue between West 35<sup>th</sup> and West 41<sup>st</sup> Streets is 90 feet. However, there are several tax lots where smaller-than-90-foot residential buildings exist. If such tax lots are included in larger zoning lots, the entire zoning lot would be out of compliance due to the non-compliant smaller building. The suggested text would not enforce this “90-foot” rule for existing residential buildings on the zoning lots that fail to meet the minimum streetwall requirement. (See Existing Map 3)

5. Recesses are permitted along 9<sup>th</sup> & 10<sup>th</sup> Avenues and West 34<sup>th</sup> Street and the language of bulk regulations for developments along 10<sup>th</sup> Avenue is clarified. (93-50, 93-541, 93-542)

There are certain areas in the SHYD where the percentage of the zoning lot street frontage above the first floor of a building must be 100%. These areas encompass: both sides of 9<sup>th</sup> Avenue between West 41<sup>st</sup> Street and West 35<sup>th</sup> Streets (Subarea D5), the east side of 10<sup>th</sup> Avenue between West 41<sup>st</sup> and West 33<sup>rd</sup> Streets (Subarea D2), the west side of 10<sup>th</sup> Avenue between West 41<sup>st</sup> and West 36<sup>th</sup> Streets (Subarea D1) and West 34<sup>th</sup> Street between 8<sup>th</sup> Avenue and 10<sup>th</sup> Avenue (Subdistrict C). To permit greater flexibility of design, the suggested text would permit up to 30% of the length of a building’s frontage (wherever in the SHYD) to be recessed as long as the recess is 1) above the second floor, 2) no more than five feet deep, 3) not within 20 feet of an

adjacent building, and 4) not within 30 feet of the intersection of two street lines. Additionally, the text is modified to clarify but not change the regulations relating to a development that sets back from 10<sup>th</sup> Avenue and rises sheer without a setback. (See Existing Map 3)

6. Streetwall/sidewalk widening controls for the portion of Subdistrict E that fronts 8<sup>th</sup> Avenue is implemented. (93-55, Appendix A, Maps 3 & 4)

Currently there are neither streetwall requirements nor sidewalk widening requirements for the portion of Subarea E that fronts 8<sup>th</sup> Avenue (See Existing Map 3 vs. Proposed Map 3). This situation has resulted in several hotels on the mid-block that have set back 10-20 feet and risen sheer and this design does not conform to the general design of the neighborhood. The proposed text would remedy this on the 8<sup>th</sup> Avenue frontage by imposing a mandatory streetwall requirement of between 90 and 120 feet before set back in accordance with Sec. 93-42 (for a residential building 10 feet from a wide street, 15 feet from a narrow street and for a commercial building 15 feet from a wide street and 20 feet from a narrow street) (See Proposed Map 3). For portions of a building above 90 feet a sky exposure plane beginning at 120 feet with a slope of 4.0 (vertical to horizontal) controls. The “90-120” range is consistent with that of buildings fronting both sides of the Hudson Boulevard & Park between West 35<sup>th</sup> and West 39<sup>th</sup> Streets. Additionally, there will be imposed a five-foot sidewalk widening along this portion of 8<sup>th</sup> Avenue that should, in the near term, see a great increase in pedestrian traffic. (See Existing Map 4 vs. Proposed Map 4)

7. Correcting the text to permit perfect substitution in the D1 & D2 Subareas of transferable development rights transfers from the Phase II Hudson Boulevard & Park for the District Improvement Bonus.(93-223)

Currently, residential developments that are employing the District Improvement Bonus (DIB) in the D1 & D2 Subareas must provide an amount of inclusionary housing and must contribute into the District Improvement Fund to obtain the DIB. However, the intent of the drafters was that transferable development rights from properties located wholly or partially within the Phase II Hudson Boulevard & Park (See Existing Map 1) could also be used in the same way as the DIB to increase a new development’s available FAR. The proposed revised text would reflect the original intent that these transferable development rights could be used to substitute for the contribution.

8. Eliminating the required transit easements and subway entrances for the sites along the east side of 11<sup>th</sup> Avenue between West 34<sup>th</sup> and 36<sup>th</sup> Streets. (93-65, Appendix A, Map 5)

The SHYD text indicates locations where transit easements and subway entrances shall be provided for subway-related use and public access (for the No. 7 Subway Extension). One easement, corresponding to the West 34<sup>th</sup> Street Subway Station, is located under the lots that front the eastern streetline of 11th Avenue between West 36<sup>th</sup> and West 34<sup>th</sup> Streets. The current

zoning states that the subway entrances corresponding to that Station are located at the southeast corner of West 36<sup>th</sup> Street and 11th Avenue and the point where West 34<sup>th</sup> Street meets the western side of Hudson Park. Given changes to the MTA design of the West 34<sup>th</sup> Street Subway Station these easements and entrances would be located in areas that do not correspond to the locations in the SHYD text. Therefore, the proposal will eliminate from both the SHYD text and maps references to these easements and stations. (See Existing Map 5 vs. Proposed Map 5)

9. The text that describes the aspects of procedure for obtaining the Transferable Development Rights (TDRs) generated by the MTA's Eastern Rail Yards is amended (93-34)

Section 93-34 describes how applicants must obtain a certification from the Chair of the City Planning Commission (CPC) to use TDRs that can be purchased from the MTA, the procedure for doing so and what must be included in the application. This amendment would remove the requirement of recording a restrictive declaration describing the TDR transaction before any building permit could be issued for construction.

### **Special Hudson Yards District and Special Garment Center District**

10. The text that describes the aspects of procedure for obtaining the District Improvement Bonus (DIB) is amended and clarified (93-31)

Section 93-31 describes how applicants can apply for the DIB, how the price is determined and what instruments are required by the Chair of the City Planning Commission (CPC) to provide evidence that the applicant has fulfilled the requirements necessary for the Chair's certification of the application. This amendment would:

1. Require that a deposit into the Hudson Yards District Improvement Fund (DIF) (a requirement to obtain the bonus) is made after a restrictive declaration (another requirement) is executed. This will ensure that amounts to be deposited (and floor area to be obtained) would be calculated with greater attention and accuracy and expressed in a legal document before any deposit is made.
2. Give the CPC rulemaking authority to implement provisions of 93-31. This will provide the CPC with the ability to adjust the complexities of DIB procedure in the future without a text amendment.
3. Remove the requirement that a building permit cannot be issued for construction of the development for which the DIB is obtained until the deposit into the DIF is made.
4. Change the effective date of the DIB price increase. Currently 93-31 states that the price per square foot of the requisite contribution into the DIF is adjusted every July 1<sup>st</sup> based on the Consumer Price Index for urban consumers as calculated by the U.S. Department of Labor (DOL). This needs to be revised because the inflation numbers for the year ending June 30<sup>th</sup> (upon which the July 1<sup>st</sup> adjustment is based) are not published by the DOL until mid-July at the earliest. This creates a time in early July

where the old rate is no longer effective but the new rate is not yet known. The suggested correction would keep June 30<sup>th</sup> as the date upon which the yearly inflation is calculated but change the effective date of the adjustment to August 1<sup>st</sup> (or the next business day after August 1<sup>st</sup> if that is a non-business day). This would allow the rate to change without an interim period and also inform as to what the new rate will be in the last several days of the previous rate's effective period, thus allowing applicants to more accurately calculate the difference in contributing at the new rate or at the old.

5. Remove secured payment as an option for contributing into the DIF due to the difficulty in administration and determining what security is acceptable.

### **Special Clinton District**

11. Remove from the calculation of zoning floor area future transit floor area in the assembled site between West 41<sup>st</sup> and 42<sup>nd</sup> Streets and Dyer to 10<sup>th</sup> Avenues (96-21)

The site between West 41<sup>st</sup> and 42<sup>nd</sup> Streets and Dyer to 10<sup>th</sup> Avenues is being assembled for a mixed-use development. A portion of that site at-grade (5223 sq. ft.) shall be constructed so as to be converted to subway station space when the proposed 10th Avenue Station is constructed. However, until that Station is completed it is advantageous that the developer would activate the streetwall with a retail presence within this space. To encourage this provision of retail the proposal would consider space within this transit easement to not be zoning floor area.

12. Revising the language of the Bonus for New Theater in the 42<sup>nd</sup> Street Perimeter Area of the Special Clinton District (96-25)

This floor area bonus can be obtained by providing new floor area for legitimate theatre in the 42<sup>nd</sup> Street Perimeter Area of the Special Clinton District (SCD). Three square feet of additional floor area (which includes the theater space) can be obtained for each one square foot of new legitimate theater space. Currently, Sec. 96-25 directs the Chair of the Department of City Planning to certify that:

- The total floor area ratio on the lot does not exceed 15.0
- The venue's performance space has at least 99 fixed seats
- The operator/owner of the space must agree to operate the theater for five years
- There is a written commitment from the owner:
  - i. of its financial resources available to timely complete the space,
  - ii. that it will allow inspection and ongoing maintenance to ensure the space's availability for theatre use, and
  - iii. that it will use the space's floor area as legitimate theater for the life of the bonused floor area

In addition to this, the proposed text would also:

1. Clarify that for every three square feet of bonused floor area, one square foot of such bonused floor area shall be used for the new performance space.
2. Permit a bonus to be received for the provision of “non-profit performing arts use” as well as legitimate theater.
3. Include performance space, certain “accessory” floor space uses and other accessory floor space uses not listed in the text as long as these other accessory uses do not exceed 25% of the total floor area generating the bonus.
4. Instead of stating that the performance space has at least 99 fixed seats, state that the performance space shall have at least 100 seats and no more than 299.
5. Prohibit the use of the performance space for “adult uses”
6. Create a role for the NYC Dept. of Cultural Affairs to consult with the Chair of City Planning and to supply a letter certifying that:
  - i. A lease is provided from the operator or owner that the space will be used as legitimate theater or non-profit performing arts use for at least five years pursuant to a plan and program.
  - ii. The proposed operator of the performance space has the fiscal and managerial capacity to operate the space successfully.
  - iii. Preliminary design plans have been provided detailing aspects of the performance space construction that are necessary for its operation.
  - iv. A written commitment has been provided ensuring sufficient financial resources available for the timely completion of the work.
  - v. The operator will have a program of regularly scheduled presentations

### **Special Midtown District**

13. Correct a reference to the Special Clinton District that refers to the incorrect section (81-741)

The Theater Subdistrict Eighth Avenue Corridor of the Special Midtown District (whose regulations are described in 81-741) and the Eighth Avenue Perimeter Area of the Special Clinton District (whose regulations are described in 96-22) physically overlap and it was the intent that 81-741 make specific reference to 96-22. However, the text references 96-21. This text amendment would correct that error.