

TECHNICAL MEMORANDUM 002
M1 HOTEL TEXT AMENDMENT
CEQR No. 18DCP042Y
ULURP Nos.: N 180349 ZRY and N 180349(A) ZRY
December 19, 2018

A. INTRODUCTION

The New York City Department of City Planning (DCP) proposes a zoning text amendment (N 180349 ZRY) to establish a City Planning Commission special permit (the CPC special permit) for new hotel development in M1 districts citywide. The CPC special permit would be required for transient accommodations including hotels, motels, tourist cabins, and boatels. This would allow for more balanced neighborhood growth, prevent land use conflicts with industrial businesses in core industrial areas, while ensuring that sufficient opportunities for industrial, commercial, and institutional growth remain (the proposed action).

The Draft Environmental Impact Statement (DEIS) for the proposed action was accepted as complete on April 23, 2018 by DCP, acting on behalf of the CPC as lead agency. An amended zoning text amendment (N 180349(A) ZRY) was filed by DCP on June 29, 2018, after the issuance of the DEIS. The amended zoning text amended was evaluated in the DEIS as Airport Areas Inclusion Alternative in Chapter 22, “Alternatives.” The City Planning Commission held a public hearing on the DEIS in the CPC Public Hearing Room at 120 Broadway, New York, NY, on July 25, 2018, and written comments were accepted until August 6, 2018. The Notice of Completion for the Final Environmental Impact Statement (FEIS) was issued on October 5, 2018 (CEQR No. 18DCP042Y, ULURP Nos. N180349 ZRY and N 180349(A) ZRY).

Following the publication of the FEIS, modifications to the Proposed Action were made by the CPC, which were evaluated in Technical Memorandum 001 (TM 001), issued by DCP on October 12, 2018. The assessment contained in TM 001 concluded that the CPC modifications would not result in any new or different significant adverse impacts not already identified in the FEIS. The CPC adopted the Proposed Action (with modifications) on October 17, 2018 (the “Approved Action”) and referred the application to the City Council.

Since the CPC’s adoption of the Approved Action, potential modifications have been identified as under consideration by the City Council. The potential City Council modifications (the “Potential Modifications”) are summarized below. This technical memorandum examines whether the Potential Modifications would result in any new or different significant adverse environmental impacts not already identified in the FEIS as it pertains to the Approved Action. As set forth below, this technical memorandum concludes that the Potential Modifications by the City Council would not result in any new or different significant adverse impacts not already identified in the FEIS.

DESCRIPTION OF THE POTENTIAL MODIFICATIONS

The zoning text, as proposed to be modified by the City Council, is provided in **Appendix 1**. These modifications would consist of the following:

Excluded Areas

The Approved Action would have created an Appendix K to address excluded areas in M1 districts. The Potential Modifications would make the CPC special permit applicable in certain areas around airports that were excluded by the CPC in the Approved Action but that were evaluated in the EIS as the Airport Areas Inclusion Alternative in Chapter 22, "Alternatives" and proposed as part of the amended zoning text amendment (N 180349(A) ZRY) referenced above. As a clean-up measure, the Potential Modifications would also remove Appendix K and references in the zoning text to it. Instead, with respect to excluded areas, the Potential Modifications would simply refer to the names of the two relevant major airports (JFK and La Guardia), which are under the jurisdiction of the Port Authority of New York & New Jersey. M1 districts around JFK and LaGuardia Airports would thus be subject to the CPC special permit.

The Potential Modifications would incorporate as an exclusion a change of use to a transient hotel accounting for no more than 30 percent of the floor area on a zoning lot in an M1-2 district that contains a minimum lot area of 100,000 square feet, comprises an entire block, and contains a minimum of 500,000 square feet of floor area on the effective date of the text amendment.

Vesting

The Potential Modifications would clarify that the special vesting rules of the text amendment apply as an alternative to the standard vesting zoning regulations set forth in ZR Section 11-30 et. seq.

Findings

The Potential Modifications would add clarifying text to the findings of the CPC special permit, as explained below.

The Potential modifications would expound upon the finding related to potential conflict between the proposed use and adjacent uses to address the proposed use's service areas for trash and laundry.

The Potential Modifications would also incorporate consideration of loading operations in the surrounding area into the finding related to the effect of the proposed use on vehicular or pedestrian movement.

In addition, the Potential Modifications would clarify the finding related to the essential character of the area to include, but not be limited to, the character as it relates to existing industrial businesses.

B. ENVIRONMENTAL EFFECTS OF THE POTENTIAL MODIFICATIONS

As described above, the potential City Council modifications would be consistent with the amended zoning text amendment and alternatives analysis in the DEIS and FEIS, and would also clarify the zoning text. The modifications would not alter the development assumptions in the reasonable worst-case development scenario (RWCDs) analyzed in the FEIS. Accordingly, the modifications would not result in any new or different development than was assessed prototypically in the FEIS, and likewise, no changes to the analyses and conclusions set forth in the FEIS.

Conclusion

The potential City Council modifications would not result in any new or different potential environmental impacts than those analyzed in the FEIS.

APPENDIX 1
POTENTIAL CITY COUNCIL MODIFICATIONS



THE COUNCIL
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December 18, 2018

Honorable Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Re: Application No.: N 180349 ZRY (L.U. No. 259)

M1 Hotel Text Amendment

Dear Chair Lago:

On December 18, 2018 the Land Use Committee of the City Council, by a vote 17-0-0 for Application N 180349 ZRY, recommended modifications of the City Planning Commission's decision in the above-referenced matter.

Pursuant to Section 197-d(d) of the City Charter and Section 11.70 of the Rules of the Council, I hereby file the proposed modifications with the Commission:

Matter underlined is new, to be added;
Matter ~~struck out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution.

Matter ~~double struck~~ out is to be deleted by the City Council
Matter double underlined is added by the City Council

**ARTICLE IV
MANUFACTURING DISTRICT REGULATIONS**

**Chapter 2
Use Regulations**

* * *

42-10

USES PERMITTED AS-OF-RIGHT

42-11

Use Groups 4A, 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B

M1

Use Groups 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B as set forth in Sections 32-13, 32-14, 32-15, 32-16, 32-18 and 32-21.

Use Group 4A shall be limited to all health facilities requiring approval under Article 28 of the Public Health Law of the State of New York that, prior to July 10, 1974, have received approval of Part I of the required application from the Commissioner of Health, ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), and houses of worship. Such #uses# are not subject to the special permit provisions of Sections 42-32 and 74-921.

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be subject to the special provisions of Section 42-111 (Special provisions for hotels in M1 Districts). For the purposes of this Section, inclusive, #transient hotels# shall include #motels#, #tourist cabins# and #boatels#.

42-111

Special provisions for hotels in M1 Districts

In M1 Districts, #transient hotels# shall be permitted only as set forth in this Section. The City Planning Commission may permit #transient hotels# in an M1 District pursuant to a special permit set forth in another Section of this Resolution, or pursuant to Section 74-803 (Transient hotels within M1 Districts), as applicable.

(a) Such special permit for #transient hotels# pursuant to Section 74-803 shall be applicable to:

- (1) #development# of a #transient hotel#;
- (2) a change of #use# or #conversion# to a #transient hotel#, or an #enlargement# containing a #transient hotel# of a #building# that, as of [date of adoption], did not contain such #use#; or
- (3) #enlargement# or #extension# of a #transient hotel# that existed prior to [date of adoption] that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

A special permit shall not be required for a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose.

(1) In addition, a special permit pursuant to the provisions of Section 74-803 shall not be required for #developments#, #enlargements#, #extensions# or changes of #use# of #transient hotels# in:

~~(1)(i)~~ ~~areas designated on the maps in APPENDIX K (Excluded Areas in M1 Districts) of this Resolution;~~ John F. Kennedy International Airport and LaGuardia Airport, which shall include property under the jurisdiction of the Port Authority of New York and New Jersey for airport use;

~~(2)(ii)~~ a #Special Mixed Use District# or where any M1 District is paired with a #Residence District#; or

~~(3)(iii)~~ an M1 District where another special permit in this Resolution permitting such #use# is applicable, subject to approval by the City Planning Commission, including, but not limited to, a special permit for a #transient hotel# applicable within a Special Purpose District or in a Historic District designated by the Landmarks Preservation Commission.

(2) A special permit pursuant to the provisions of Section 74-803 shall also not be required in an M1-2 District for a change of #use# to a #transient hotel# that occupies no more than 30 percent of the #floor area# on the #zoning lot# and where such #zoning lot# contains a minimum #lot area# of 100,000 square feet, comprises an entire #block#, and contains #buildings# with a minimum total of 500,000 square feet of #floor area# on [date of adoption].

(c) Within M1-5A and M1-5B Districts

Within an M1-5A or M1-5B District, a special permit pursuant to Section 74-803 shall be required in conjunction with a special permit pursuant to Section 74-781 (Modifications by special permit of the City Planning Commission of uses in M1-5A and M1-5B Districts) except that a permit pursuant to Section 74-781 shall not be required for a #transient hotel# located above the ground floor level, where the #floor area# used for such #use# on the ground floor does not exceed an amount minimally necessary to access and service such #transient hotel#.

Any #transient hotel# existing prior to [date of adoption] within an M1 District shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the limitations set forth in this Section and subject to the applicable #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, or the active operation of substantially all the #uses# in the #building# or other structure# is discontinued, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use#, or may be #used# for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of Section 74-803 or other applicable section of this Resolution. In addition, in the event a casualty damages or destroys a #transient hotel# within an M1 District that was in such #use# as of [date of adoption], such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).

~~In addition to~~ The provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) regarding the right to continue construction shall apply. As an alternative, if on or before April 23, 2018, a building permit for a #development#, #enlargement# or #conversion# to a #transient hotel#, or a partial permit for a #development# of a #transient hotel# was lawfully issued by the Department of Buildings, such construction may be started or continued. In the event that construction has not been completed and a certificate of occupancy including a temporary certificate of occupancy, has not been issued by [three years after the effective date], the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction).

Any special permit approved by the City Council for a #transient hotel# prior to [date of adoption] shall be permitted and this Section shall not apply to such #transient hotel#, subject to the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution).

* * *

**42-30
USES PERMITTED BY SPECIAL PERMIT**

* * *

**42-32
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

* * *

M1 M2 M3

Trade expositions, with rated capacity of more than 2,500 persons [PRC-D]

M1

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), pursuant to the provisions of Section 42-111 (Special provisions for hotels in M1 Districts).

M1 M2 M3

#Uses# listed in a permitted Use Group for which #railroad or transit air space# is #developed#

* * *

ARTICLE VII

ADMINISTRATION

Chapter 4

Special Permits by the City Planning Commission

* * *

74-80

TRANSIENT HOTELS

74-801

In R10H Districts

In R10H Districts, the City Planning Commission may permit #transient hotels#. Where a #building# in existence on December 15, 1961, is located on a #zoning lot#, a substantial portion

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of which is located in an R10H District and the remainder in a #Commercial District#, the Commission may also permit the #conversion# of specified #floor area# within such #building# from #residential use# to #transient hotel use# without regard to the #floor area#, supplementary #use# or density regulations otherwise applicable in the #Commercial District#. The Commission may also allow any subsequent #conversion# of such specified #floor area# to and from #residential# or #transient hotel use# to occur without further Commission approval, subject to the conditions of the special permit.

As a condition precedent to the granting of such #use# or #bulk# modifications, the Commission shall find that such modifications will not impair the essential character of the #Residence District#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

74-802
In M1-6D Districts

In M1-6D Districts, in areas that have not met the residential development goal set forth in paragraph (a) of Section 42-483 (Commercial uses), the City Planning Commission may permit #developments# or #enlargements# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as-of-right, in accordance with Section 42-481 (Residential use), provided the Commission finds that:

- (a) a sufficient development sites ~~are~~ is available in the area to meet the residential development goal; or
- (b) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# resulting from a #development# or #enlargement# is consistent with such character of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

74-803
Transient hotels within M1 Districts

In M1 Districts, pursuant to Section 42-111 (Special provisions for hotels in M1 Districts), #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or

#boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building# and to service areas for refuse and laundry, and the #building's# orientation and landscaping;
- (b) the site plan demonstrates that the proposed #street wall# location and the design and landscaping of any area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations will result in a site design that does not impair the character of the existing streetscape;
- (c) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement or loading operations; and
- (d) such #use# will not impair the essential character, including but not limited to existing industrial businesses, or future use or development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

**ARTICLE X
SPECIAL PURPOSE DISTRICTS**

**Chapter 8
Special Southern Hunts Point District**

* * *

**108-11
Use Modifications in the Special Hunts Point District**

In the #Special Hunts Point District#, hotels or motels shall not be permitted within the areas designated on the #Special Hunts Point District# Map in Appendix A. Within such areas, Section 74-803 (Transient hotels within M1 Districts) shall not be applicable.

* * *

~~APPENDIX K – Excluded Areas in M1 Districts~~

~~The boundaries of the excluded areas in M1 Districts are shown on the maps in this APPENDIX.~~

<u>Borough</u>	<u>Community District</u>	<u>Name of Excluded Area in M1 District</u>	<u>Map No.</u>
<u>Queens</u>	<u>2</u>	<u>East Elmhurst/LGA</u>	<u>1</u>
	<u>10</u>	<u>Ozone Park/JFK</u>	<u>1</u>
	<u>13</u>	<u>Springfield Gardens/JFK</u>	<u>2-5</u>

~~INDEX MAP OF EXCLUDED AREAS~~

~~The numbers on this Index Map correspond with the map numbers for this borough.~~

~~PROPOSED MAP~~

Queens



Excluded Area

PROPOSED MAP

Map 1 East Elmhurst/LGA

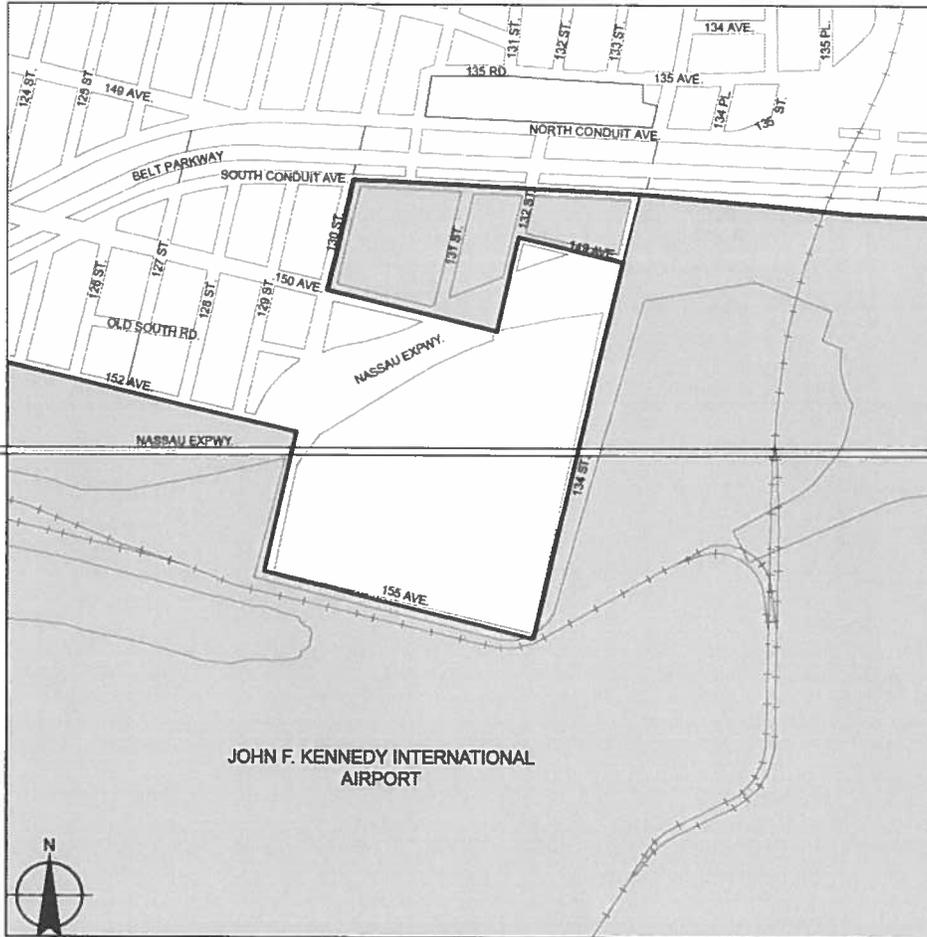


Excluded Area

Portion of Community District 3, Borough of Queens

[PROPOSED MAP]

Map 1 Ozone Park/JFK

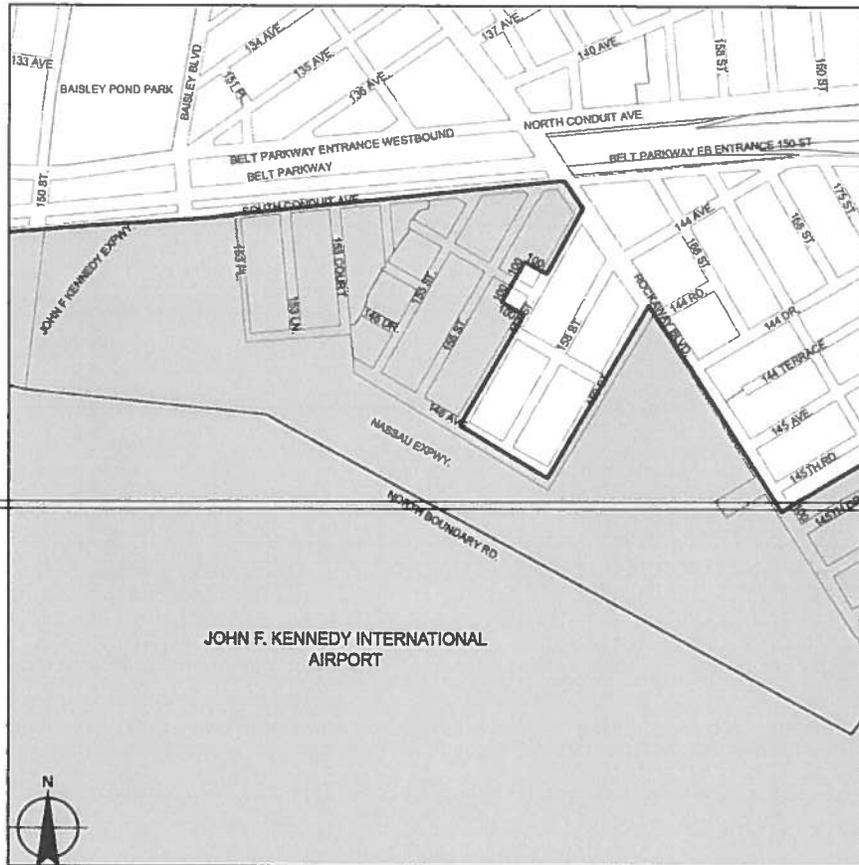


 Excluded Area

Portion of Community District 10, Borough of Queens

[PROPOSED MAP]

Map 2 Springfield Gardens/JFK

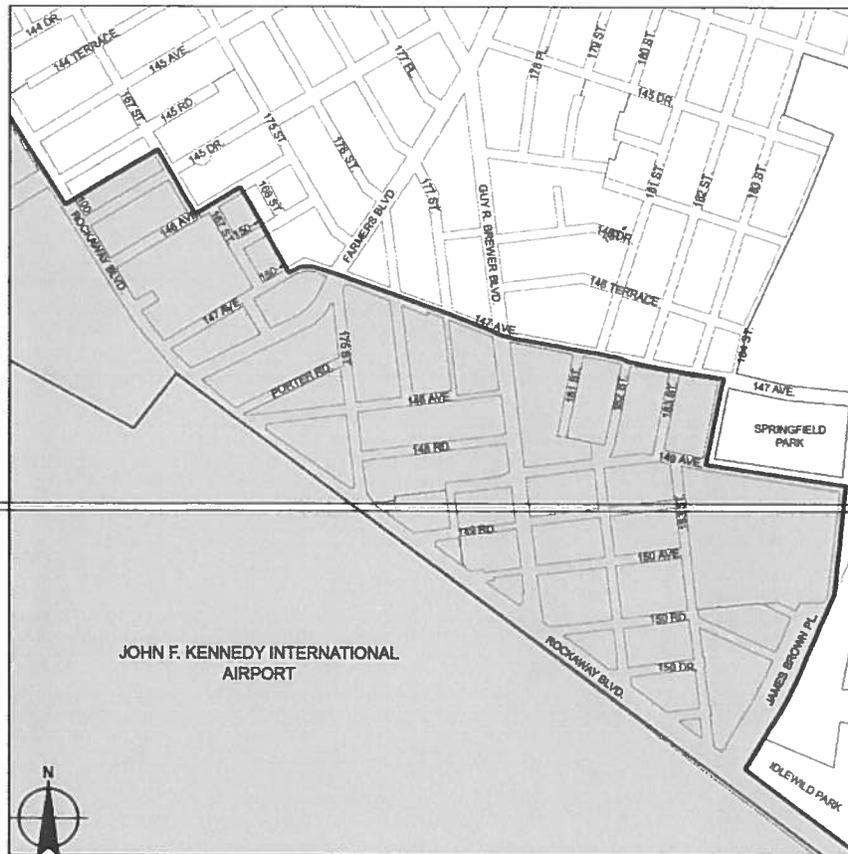


■ Excluded Area

Portion of Community District 13, Borough of Queens

PROPOSED MAP

Map 3 Springfield Gardens/JFK

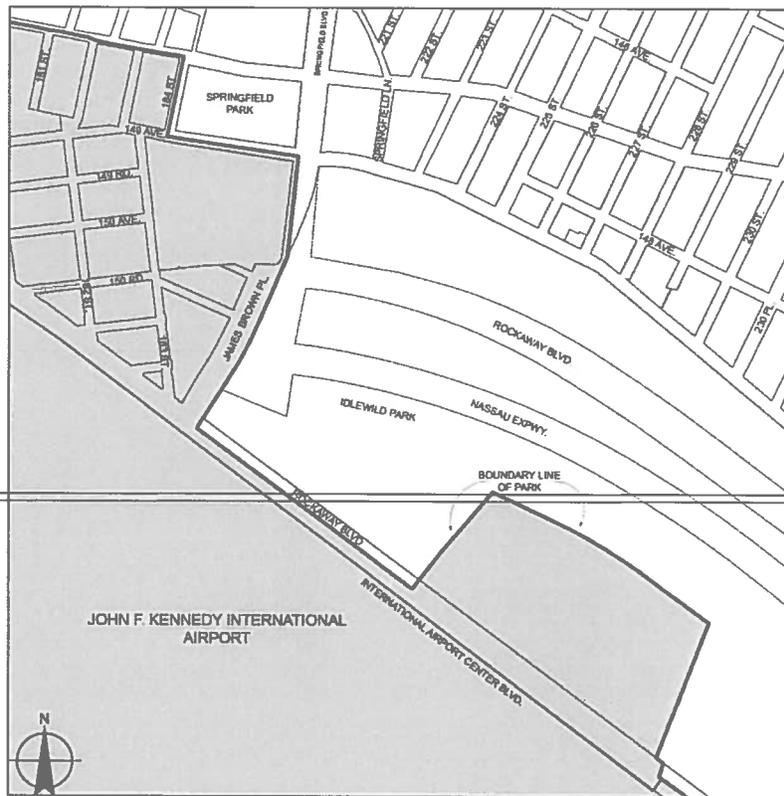


■ Excluded Area

Portion of Community District 13, Borough of Queens

PROPOSED MAP

Map 4 Springfield Gardens/JFK

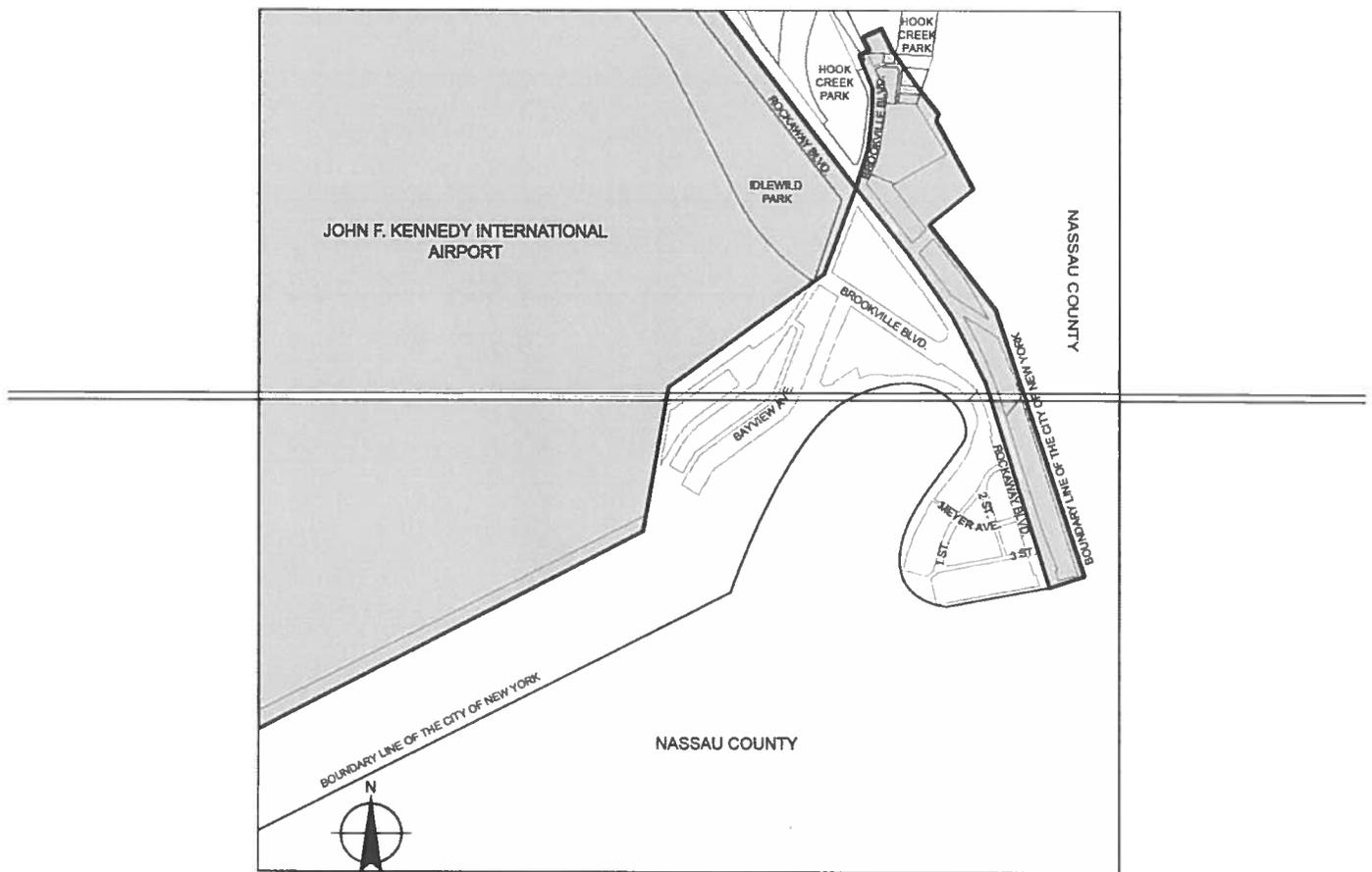


Excluded Area

Portion of Community District 13, Borough of Queens

PROPOSED MAP

Map 5 Meadowmere/JFK



Excluded Area

Portion of Community District 13, Borough of Queens

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Please feel free to contact me at (212) 482-5185 if you or your staff have any questions in this regard.

Sincerely,



Julie Lubin
General Counsel

JL:mcs

RECEIVED BY: _____

DATE: _____

TIME: _____

C: Members, City Planning Commission
Raju Mann, Director, Land Use Division
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