



Legislation Text

File #: Res 1798-2017, Version: *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1798

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170443 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District) to establish regulations for a proposed C4-7 District, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Manhattan, Community District 11. (L.U. No. 806).

By Council Members Greenfield and Richards

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by NBT Victory Development LLC, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District) to establish regulations for a proposed C4-7 District, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area. The amendment to the text of the Zoning Resolution, in conjunction with the related action would facilitate the development of a 20-story mixed-use building including new performance space for the National Black Theater, mixed-income housing and retail space. (Application No. N 170443 ZRM), Community District 11, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to applications C 170442 ZMM (L.U. No. 805), a zoning map amendment to change a C4-4A District to a C4-7 District and C 170444 ZSM (L.U. No. 807), a special permit to waive required accessory parking spaces within an income-restricted residential development.;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 5, 2017 (CEQR No. 17DCP134M.), which included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-435) (the "Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 170443 ZRM, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the modifications.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended as follows:

Matter underlined is new, to be added;

Matter ~~struck-out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

Matter in double strike-out is old, deleted by the City Council;

Matter in double underline is new, added by the City Council;

* * * indicates where unchanged text appears in the Zoning Resolution

* * *

NOTE: Section titles and provisions in the following Chapter may reflect the proposed text amendment, East Harlem Rezoning (ULURP No. N 170359 ZRM).]

ARTICLE IX: SPECIAL PURPOSE DISTRICTS

Chapter 7 - Special 125th Street District

97-00

GENERAL PURPOSES

* * *

97-03

District Plan and Maps

The regulations of this Chapter are designed to implement the #Special 125th Street District# Plan. The District Plan, including Map 1 (Special 125th Street District and ~~Core~~ Subdistricts) and Map 2 (Permitted Small Sidewalk Cafe Locations), is set forth in Appendix A of this Chapter and is hereby incorporated as part of this

Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

97-04

Establishment of Core Subdistricts

In order to carry out the purposes and provisions of this Chapter, ~~the Core two Ssubdistricts is are~~ established within the ~~#Special 125th Street District# and: the Core Subdistrict and Subdistrict A.~~ Each subdistrict includes specific regulations designed to support an arts and entertainment environment and other relevant planning objectives along 125th Street. The boundaries of the ~~Core Ssubdistricts~~ are shown on Map 1 in Appendix A of this Chapter.

* * *

97-06

Applicability of Special Transit Land Use District Regulations

[Note: existing provisions moved to Section 97-061]

97-061

Applicability of Special Transit Land Use District Regulations

[Note: existing provisions moved from Section 97-06, and modified]

Wherever the ~~#Special 125th Street District#~~ includes an area which also lies within the ~~#Special Transit Land Use District#~~, the requirements of the ~~#Special Transit Land Use District#~~, as set forth in Article IX, Chapter 5, shall apply, subject to the modifications described in paragraphs ~~(e) (a)(5) and (f) (a)(6)~~ of Section 97-433 ~~(Street wall location)~~ 97-432 (Height and setback regulations in the Core Subdistrict and areas outside of a subdistrict).

The ~~#Special Transit Land Use District#~~ includes the area within the ~~#Special 125th Street District#~~ bounded by a line 50 feet west of Second Avenue from 124th Street midway to 125th Street where such area widens to a line 100 feet west of Second Avenue.

97-062

Applicability of the Quality Housing Program

[Note: Existing Quality Housing provisions moved from Section 97-40 (SPECIAL BULK REGULATIONS), and modified]

In the ~~#Special 125th Street District#~~, all ~~#developments# or #enlargements#~~ #buildings# containing ~~#residences#~~ shall ~~comply with the requirements be #developed# or #enlarged#~~ in accordance with the Quality Housing Program, and the regulations of Article II, Chapter 8 ~~(The Quality Housing Program)~~ shall apply. The ~~and the applicable #bulk# regulations of the underlying districts, except as modified in this Section, inclusive~~

this Chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

97-063

Applicability of Inclusionary Housing Program

[Note: Existing provisions moved from Section 97-421 (Inclusionary Housing) and changed to include Mandatory Inclusionary Housing applicability]

For the purposes of applying the Inclusionary Housing Program provisions set forth in Sections 23-154 and 23-90, inclusive, #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas# within the #Special 125th Street District# are shown on the maps in APPENDIX F of this Resolution.

* * *

97-30

SPECIAL SIGN REGULATIONS

* * *

97-31

Definitions

Marquee

A “marquee” is a permanent structure or canopy located above the primary entrance to an arts #use# fronting on 125th Street or Fifth Avenue, that projects over the sidewalk and is attached to, and entirely supported from, the #street wall# of the #building#. The location and dimensions of the #marquee# shall be determined by the requirements of Section 97-32.

* * *

97-32

Location, Height and Width of Marquees and Marquee Signs

For the purposes of this Chapter, #marquees# shall be permitted only above the primary entrance to one of the following #uses# fronting upon 125th Street or Fifth Avenue:

Museums

Performance spaces

Theaters.

* * *

97-34

Accessory Signs for Visual or Performing Arts Uses

Notwithstanding the regulations of paragraph (b) of Section 32-653 (Additional regulations for projecting signs) and the relevant provisions of the Administrative Code, only the following visual or performing arts #uses# fronting on 125th Street or Fifth Avenue within the #Special 125th Street District# shall be permitted to erect a #marquee sign# on or above a #marquee#:

- Museums
- Performance spaces
- Theaters.

#Flashing signs# shall not be permitted as #accessory signs# for arts #uses#

* * *

97-40

SPECIAL BULK REGULATIONS

Within the #Special 125th Street District#, ~~all~~ for #developments# or #enlargements#, ~~containing #residences#~~ shall ~~comply with the requirements of Article II, Chapter 8 (Quality Housing), and the applicable #bulk#~~ regulations of the underlying districts shall apply, except as modified ~~in~~ by the provisions of this Section, inclusive.

97-41

Special Floor Area Regulations

The maximum #floor area ratio#, #open space ratio# and #lot coverage# requirements of the applicable underlying district shall apply within the #Special 125th Street District#, unless modified by the following regulations.

97-411

Maximum floor area ratio in C4-4D, C4-7 and C6-3 Districts within the Core Subdistrict and areas outside of a subdistrict

In C4-4D, C4-7 or C6-3 Districts in the Core Subdistrict, as shown on Map 1 in Appendix A of this Chapter and

in such Districts in areas outside of any subdistrict, the maximum permitted #floor area ratios# shall be as listed in the following table for #residential#, #commercial# and #community facility uses#, and may only be increased pursuant to Section 97-42 (Additional Floor Area Bonuses and Lot Coverage Regulations), inclusive.

* * *

97-412

Maximum floor area ratio in Subdistrict A

In Subdistrict A, the maximum #residential floor area ratio# shall be 9.0 and the maximum #floor area ratio# for non-#residential uses# shall be 10.0. Such maximum non-#residential floor area# may only be increased pursuant to paragraph (b) of Section 97-422 (Floor area bonus for visual or performing arts uses).

97-42

Additional Floor Area and Lot Coverage Bonuses Regulations

~~The~~ Within #Inclusionary Housing designated areas#, as specified in APPENDIX F of this Resolution, the maximum #floor area ratio# may be increased ~~by a pursuant to the #floor area# bonus, pursuant to provisions of Sections 23-154 (Inclusionary Housing) 97-421 (Inclusionary Housing) or paragraph (a) of Section 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.~~

Within #Mandatory Inclusionary Housing areas#, as specified in APPENDIX F, the maximum #floor area ratio# may be increased pursuant to the provisions of paragraph (b) of Section 97-422.

97-421

Inclusionary Housing

[NOTE: existing Inclusionary Housing applicability provision moved to Section 97-063]

~~Within the #Special 125th Street District#, In #Inclusionary Housing designated areas# within C4-4D, C4-7 and C6-3 Districts in the Core Subdistrict or areas outside of a subdistrict, shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#, the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Section 23-154 (Inclusionary Housing).~~

97-422

Floor area bonus for visual or performing arts uses

(a) In C4-4D, C4-7 or C6-3 Districts within the ~~#Special 125th Street District#~~ Core Subdistrict or areas outside of a subdistrict, for a #development# or #enlargement# with frontage on 125th Street, the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in

Section 97-411 may be increased up to the maximum #floor area ratio# specified in the table in this Section, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

**MAXIMUM PERMITTED FLOOR AREA RATIO (FAR)
FOR RESIDENTIAL AND COMMERCIAL USES WITH
FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES**

	Outside the Core District With areas outside of a subdistrict		Within the Core Subdistrict	
	#Residential Floor Area Ra	#Commercial Floor Area Ratio#	#Residential Floor Area Ra	#Commercial Floor Area Ra
	Base Maxim	Base Maxim	Base Maximum	Base Maxi
C4-4D	5.4	4.0	5.4	4.0
C4-7	9.0	10.0	5.4	7.2
C6-3	6.0	6.0	5.4	6.0

- (b) In C4-7 Districts within Subdistrict A, for a #development# or #enlargement#, the maximum #floor area ratio# permitted in Section 97-412 (Maximum floor area ratio in Subdistrict A) may be increased up to a maximum #floor area ratio# of 12.0, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

97-423

Certification for floor area bonus for visual or performing arts uses

The #floor area# bonus provisions of Section 97-422 shall apply only upon certification by the Chairperson of

the City Planning Commission to the Commissioner of Buildings that the following conditions have been met:

- (a) Drawings have been provided that clearly designate all #floor area# that will result from the permitted increase in #floor area ratio# pursuant to Section 97-422, including the location of such #floor area#.
- (b) Drawings also have been provided that clearly designate all #floor area# and/or below grade floor space for any new visual or performing arts #uses# for which a bonus is to be received pursuant to Section 97-422.

Such drawings shall be of sufficient detail to show that such designated space shall be designed, arranged and used for the new visual arts or performing arts #uses#, and shall also show that:

- (1) all such visual or performing arts #uses# are located at or above the ground floor level of the #building#, except that performance space meeting the requirements of paragraph (b)(4) of this Section may be located below grade, and #accessory uses# may be located below grade, subject to the requirements of paragraph (b)(5) of this Section;
- (2) all bonused #floor area# or below grade space occupied by visual or performing arts #uses# is primarily accessed from 125th Street; except that all bonused #floor area# or below grade space occupied by visual or performing arts #uses# within a #development# may be primarily accessed from Fifth Avenue, provided the following conditions are met:
 - (i) the #zoning lot# must have at least 150 feet of Fifth Avenue frontage where such primary entrance is provided; and
 - (ii) signage that identifies the visual or performing arts #uses# shall be provided at both the primary entrance on Fifth Avenue and on 125th Street;
- (3) in the case of primary rehearsal space, where such space does not consist of #accessory uses# subject to the requirements of paragraph (b)(4), such space:
 - (i) can be adapted for rehearsals or performances open to the public;
 - (ii) is located on the first #story# of the #building# or on any higher #story# with a ceiling height not greater than 60 feet above grade;
 - (iii) has a #street wall# with at least 50 feet of frontage along 125th Street, except for visual or performing arts #uses# with primary entrances provided pursuant to (b)(2)(i) of this Section, and has a minimum area of 2,000 square feet, with a floor-to-ceiling height of not less than 9 feet 6 inches; and
 - (iv) complies with the following glazing requirements, except for visual or performing arts #uses# with primary entrances provided pursuant to (b)(2)(i) of this Section: at least 70

percent of the total surface area of the #street wall# abutting the primary rehearsal space, measured from finished floor to ceiling shall be glazed. Furthermore, at least 90 percent of such area shall be transparent from within one foot of the finished floor level to at least eight feet above such level. For primary rehearsal spaces located at the corner of 125th Street and an intersecting #street#, the glazing requirements of this Section shall be applied separately for each #street wall#, and up to 100 feet along such intersecting #street#;

- (4) for performance space which is exclusively designed and arranged for the presentation of live drama, music, dance and interactive or multidisciplinary performances open to the public, such space may be below grade provided it has a minimum area of 2,000 square feet of column-free space with a floor-to-ceiling height of not less than 16 feet;

(5) #Accessory# space

- (i) For primary rehearsal spaces, no more than 25 percent of ~~the~~ such minimum required #floor area# or equivalent below grade floor space, or such bonused #floor area# or below grade floor space shall be occupied by #uses accessory# to such primary rehearsal spaces. #Accessory uses# shall include but are not limited to educational and classroom space, administrative offices, circulation space, restrooms and equipment space;

- (ii) For visual or performing arts #uses# other than a primary rehearsal space, no more than 40 percent of such minimum required #floor area# or equivalent below grade floor space, or such bonused #floor area# or below grade floor space, shall be occupied by #uses accessory# to such visual or performing arts #uses#, provided no single #accessory use# occupies more than 25 percent of ~~the~~ such total minimum required #floor area# or equivalent below grade floor space, or bonused #floor area# or below grade floor space. #Accessory uses# shall include but are not limited to educational and classroom space, non-primary rehearsal space, administrative offices, lobbies, circulation space, ticket offices, restrooms, dressing rooms, other backstage areas and equipment space; and

(6) Signage

- (i) Signage that identifies the visual or performing arts facility shall be provided at the 125th Street entrance of the visual or performing arts facility, subject to the requirements of Section 97-30, inclusive, except where such visual or performing arts #uses# comply with paragraph (b)(2)(i) of this Section 97-423; and

* * *

97-43 424
Special Lot Coverage Regulations

The maximum #lot coverage# for #residential use# in C6-3 Districts within the #Special 125th Street District# shall be 70 percent for #interior# or #through# lots and 100 percent for #corner# lots.

97-44 43

Special Height and Setback Regulations

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

97-441 431

Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply, except that dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) Section 23-621 (Permitted obstructions in certain districts).

97-442 432

Height and setback regulations for C4-7 and C6-3 Districts in the Core Subdistrict and areas outside of a subdistrict

(a) Street wall location

[NOTE: the existing street wall provisions, moved from Section 97-443]

In all #Commercial Districts# within the Core Subdistrict and areas outside of a subdistrict, the #street wall# shall be located on the #street line# of 125th Street and extend along the entire #street# frontage of the #zoning lot# up to at least the applicable minimum base height of the underlying district, or the height of the #building#, whichever is less.

The #street wall# location provisions of such #Commercial Districts# shall be modified, as follows:

(a)(1) On Park Avenue, within 10 feet of its intersection with any #street#, the #street wall# may be located anywhere within 10 feet of the Park Avenue #street line#. However, to allow articulation of the #street walls# pursuant to the provisions of paragraph (b) of this Section, the #street walls# may be located anywhere within an area bounded by a #street line#, the #street wall# on Park Avenue and a line connecting these two lines 15 feet from their intersection.

(b)(2) To allow articulation of #street walls# at the intersection of any two #streets# within the Special District, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

(c)(3) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the

ground floor where required to provide access to the #building#. Above a height of the second #story# and up to the applicable maximum base height, recesses are permitted for #outer courts# or balconies, provided that the aggregate width of such recesses does not exceed 30 percent of the width of the #street wall# at any level, and the depth of such recesses does not exceed five feet. No recesses shall be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except in compliance with corner articulation rules.

~~(d)~~(4) The #street wall# location and minimum #street wall# height provisions of this Section shall not apply to any existing #buildings# that are to remain on the #zoning lot#.

~~(e)~~(5) For any #development# or #enlargement# ~~within the #Special 125th Street District#~~ that is partially within the #Special Transit Land Use District# and located directly over the planned Second Avenue subway line tunnel, the #residential# portion of such #development# or #enlargement# may be constructed pursuant to the R8A #street wall# requirements and the #commercial# portion of such #development# or #enlargement# may be constructed pursuant to the C4-4D #street wall# requirements in lieu of the requirements of this Section.

~~(f)~~(6) The requirements of this Section shall apply within the #Special Transit Land Use District# except that, for the area of the #Special Transit Land Use District# that is also within the #Special 125th Street District#, a #street wall# of a #development# or #enlargement# located on the #street line# of a #zoning lot# need not exceed 15 feet if that portion of the #development# or #enlargement# is located directly over the planned Second Avenue subway line tunnel.

(b) Maximum height of building and setback

[NOTE: existing height and setback provisions, moved from Section 97-442]

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within the ~~Special District~~ Core Subdistrict and areas outside of a subdistrict:

~~(a)~~(1) The minimum and maximum base height of the #street wall# and the maximum height of a #building or other structure# shall be as set forth in the following table:

* * *

~~(b)~~(2) Special regulations for certain C4-7 Districts

~~(1)~~(i) For the area located within 50 feet of the 126th Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #building or other structure# shall be limited to 80 feet.

(2)(ii) For #zoning lots# bounded by 125th Street, Park Avenue and 124th Street, the maximum height of a #building or other structure# shall be 330 feet.

(3)(iii) For Lots 1 and 7501 on Block 1910, the requirements of City Environmental Quality Review (CEQR) Environmental Designation Number (E-102) have been modified, as set forth in the Technical Memorandum to the Final Environmental Impact Statement for CEQR Number 07DCP030M, dated July 18, 2008.

(e)(3) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

97-443 433

Street wall location

Height and setback regulations in Subdistrict A

Within Subdistrict A, as shown on Map 1 in Appendix A of this Chapter, the underlying height and setback regulations for #Quality Housing buildings# shall apply, except that in C4-7 Districts, the minimum and maximum base heights and the overall maximum #building# height provisions of Section 35-65, inclusive, shall be modified in accordance with the following table: Maximum height of #buildings.

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING

District	#Street Wall# Height (in feet)		Maximum Height of #Building or Other Structure# (in feet)
	Minimum Base Height	Maximum Base Height	
C4-7	60	85	245

Above the maximum base height, a setback shall be provided in accordance with the provisions of paragraph (c) of Section 23-662.

* * *

97-45 44

Special Provisions for Zoning Lots Divided by District Boundaries

* * *

97-50

SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

* * *

97-55

Certification for Access to Required Uses

If access to a required #accessory residential# parking facility or loading berth is not possible because of the requirements of Section 97-53 or, for #developments# in Subarea A, the requirements of Section 36-683 (Restrictions on location of berths near Residence Districts), a curb cut may be allowed if the City Planning Commission certifies to the Commissioner of Buildings that such location is:

- (a) the only possible location for the facility or loading berth;
- (b) not hazardous to traffic safety;
- (c) located not less than 50 feet from the intersection of any two #street lines#; and
- (d) constructed and maintained so as to have a minimal effect on the streetscape.

Such curb cut, if granted, shall be no greater than 20 feet in width.

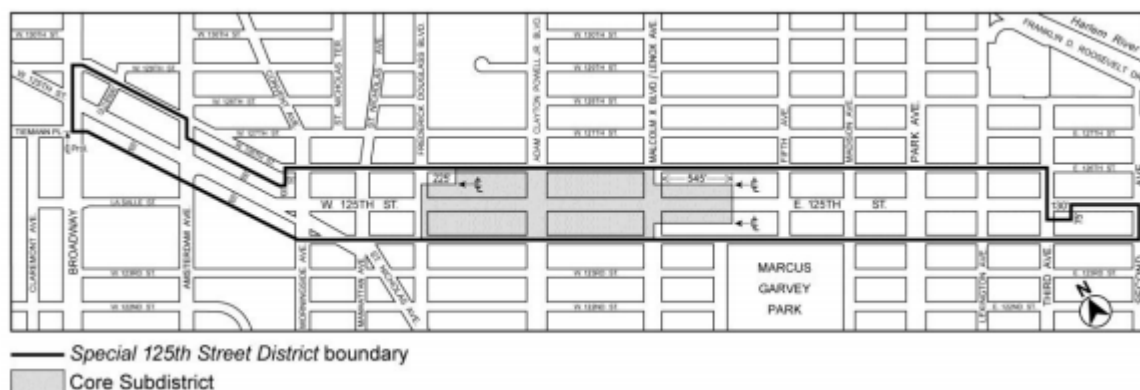
The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

* * *

Appendix A Special 125th Street District Plan

Map 1: #Special 125th Street District# and Core Subdistricts

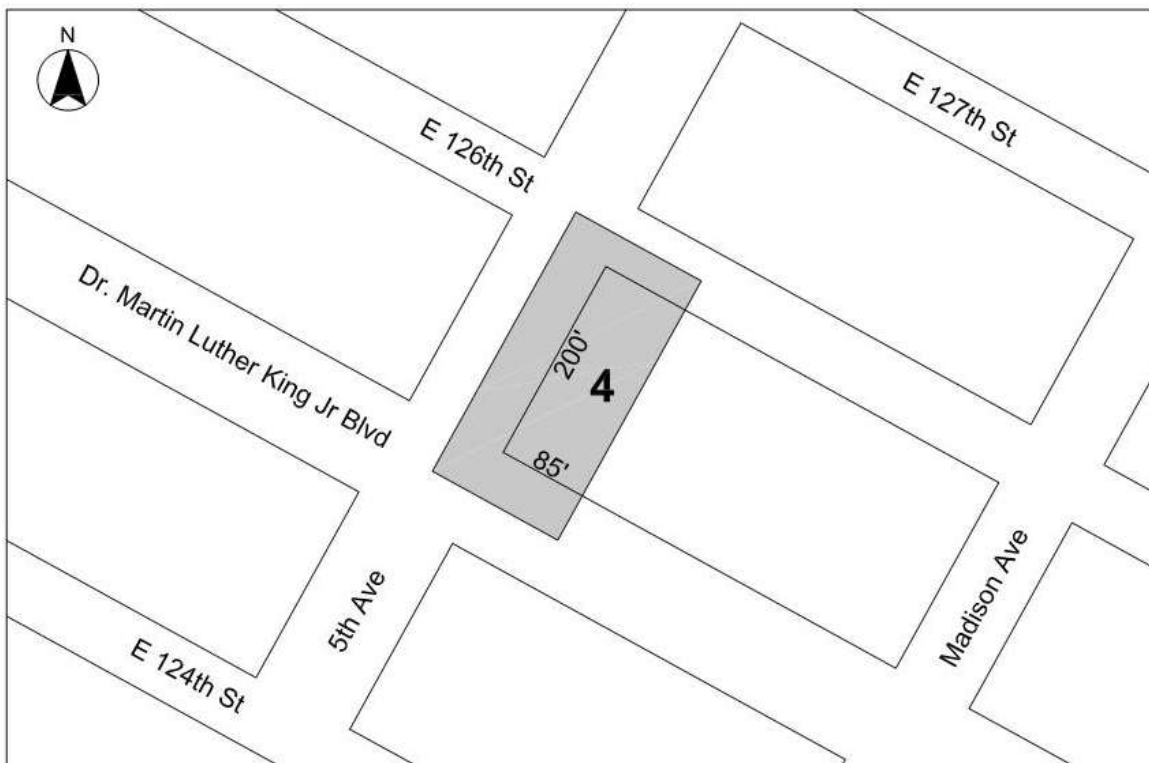
[EXISTING MAP]



[PROPOSED MAP]

Printed on 7/2/2022
powered by Legistar™

[PROPOSED MAP]



 Mandatory Inclusionary Housing area *see Section 23-154(d)(3)*

Area 4 [date of adoption] - MIH Program Option 1 and Deep Affordability Option 2

Portion of Community District 11, Manhattan

* * *

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on December 19, 2017, on file in this office.

City Clerk, Clerk of The Council