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Mark Levine, Borough President

October 5, 2023

Testimony on Non- ULURP Application No. N 230112 ZRY – City of Yes for Carbon Neutrality Text Amendment By NYC Department of City Planning

The climate crisis is not a problem for future generations – it is one of the defining issues of this generation, and we must take bold action to address it immediately with every tool at our disposal. I applaud the Department of City Planning for taking this important step to reduce zoning barriers for New Yorkers who want to take action to address climate change and improve the health of our neighborhoods.

Over the past decade, New York City has made significant commitments to reduce its greenhouse gas emissions, which are a main contributor to global warming. In 2012, the City approved the Zone Green text amendment, which was focused on facilitating the construction and retrofitting of greener buildings. In 2016, the United States signed onto the Paris Climate Agreement, which requires participating countries to reduce their greenhouse gas emissions. That same year, the City of New York released a roadmap to reduce its carbon emissions by 80% by the year 2050 and stated a goal of installing 1,000 megawatts of photovoltaic capacity by 2030. In 2019, Local Law 97 was passed by the City Council. This legislation places greenhouse gas emissions limits on most buildings that are over 25,000 square feet and requires them to pay penalties beginning in 2024 if they do not comply.

While New York has committed to an aggressive plan to reach carbon neutrality by the year 2050, our current zoning regulations severely impede our ability to meet these goals. The Zoning Resolution, which was originally enacted in 1916, was overhauled in 1961 and is regularly amended for a wide range of purposes, including to reflect policy priorities and changes in technology and the built environment. However, many of the provisions in the Zoning Resolution remain outdated and could be amended to facilitate greener buildings, to accommodate alternative modes of transportation, bolster alternative energy sources, and create more efficient stormwater and waste streams. This text amendment will allow property owners, developers, and industry specialists to take the necessary steps to reduce greenhouse gas emissions from buildings, which account for a staggering 68% of our total emissions. By updating our Zoning Resolution to reflect new technologies and creating greater flexibility, this amendment will make this complex and expensive task feasible.

I appreciate the modifications made to the amended text after receiving input from the public and City agencies, which provide clarification surrounding the evaluation of facility size, height minimums for screening structures and vegetation, accessory use evaluation on campuses, and the definition of floor area. Additionally, specific language has been provided regarding permitting for buildings designed to the standards of the current Zoning Resolution's current



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wall thickness deduction. I encourage the Council to approve this zoning text amendment, with these modifications, and to continue working to ensure that our City continues to move toward a more sustainable future.

Mark Levine

Manhattan Borough President



DONOVAN RICHARDS
President

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October 4, 2023

Subcommittee on Zoning and Franchises
ATTN: Council Member Kevin C. Riley
City Hall, Committee Room
New York, NY 10007

RE: Written Testimony for “City of Yes: Zoning for Carbon Neutrality” (#N230113 ZRY)

Dear Chair Riley,

My name is Borough President Donovan Richards Jr., and I am wholeheartedly in support of the “City of Yes: Zoning for Carbon Neutrality” text amendment. For far too long, Queens families from Astoria to Arverne have borne the devastating brunt of climate change in the form of severe storms, air pollution and more. There is no time to waste in addressing this generational, intersectional crisis and investing in the future of our families.

On June 28, 2023, I issued conditional approval for this text amendment in my Borough President Recommendation. My conditions called for the following:

- To expedite Local Law 97’s mandate, the City (in partnership with MOCEJ, DOB, NYC Accelerator and other relevant agencies) should establish grants and/or gap funding for existing co-op shareholders who would still have extensive financial burdens using PACE loans or financing;
- The Department of City Planning should consider creating a popular education campaign to promote alternative energy improvements, building retrofits and electric vehicle charging stations throughout Queens and New York City, should this application be approved by the City Council;
- The Department of City Planning, in partnership with the New York State Department of Environmental Conservation, MOECJ and DOB, should work together to create a clearinghouse of other grant opportunities outside the funding offered by NYC Accelerator; and
- The City must fully fund and officially establish the Office of Alternative Energy (required by Local Law 233-2017) to streamline interagency communication, permanently support constituents with alternative energy questions and concerns, and act as a watchdog for all sustainability-related Local Laws, zoning text amendments, or policy in New York City to ensure we are making our long-term goals.

Zoning combined with legislation is an excellent place to remove hurdles for smarter, sustainable development. Local Law 97 will help transform the city and wipe away our carbon debt; this text amendment will make it much easier for building owners to achieve this through increased solar power allowance, opportunities for more electric vehicle charging stations, as well as on-site battery storage.

As the land use process continues, I look forward to working jointly with our city partners and Queens residents to ensure this proposal is as community-focused, community-centric and community-informed as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Donovan Richards, Jr.", written in a cursive style.

Donovan Richards, Jr.
President, Borough of Queens



New York Battery and Energy Storage Technology Consortium, Inc.

TESTIMONY OF THE NEW YORK BATTERY AND ENERGY STORAGE TECHNOLOGY CONSORTIUM (NY-BEST)

Subcommittee on Zoning and Franchises

Hearing on City of Yes for Carbon Neutrality

October 4, 2023

(Submitted electronically landusetestimony@council.nyc.gov)

To the Honorable Chair Kevin C. Riley, and esteemed members of the Zoning and Franchises Subcommittee:

The New York Battery and Energy Storage Technology Consortium (“NY-BEST”) appreciates the opportunity to submit this testimony in support of the “City of Yes: Carbon Neutrality” zoning text amendment that was approved by the City Planning Commission on September 11, 2023 after receiving significant broad support.

City of Yes: Carbon Neutrality is essential for supporting the State’s and City’s goals for reducing greenhouse gas emissions and addressing climate change impacts that negatively impact our communities, public health and quality of life.

NY-BEST is a not-for-profit industry trade association with a mission to grow the energy storage industry in New York. We act as a voice of the energy storage industry for more than 180 member organizations on matters related to advanced batteries and energy storage technologies. Our membership includes global corporations, start-ups, project developers, leading research institutions and universities, and numerous companies involved in the electricity and transportation sectors.¹

¹ NY-BEST comments represent the interests of the organization as a whole and not the views of any single member. Our members have diverse interests and the organization’s views are intended to be reflective of the energy storage industry collectively.

Energy storage is a key enabling technology for achieving a carbon free grid. Energy storage maximizes the benefits of renewable energy resources, can time shift energy from when it is generated to when it is needed, improves grid reliability and resiliency, provides grid flexibility, reduces grid congestion and the need for costly electric grid system upgrades, and supports a clean, efficient and modern electric grid system. Importantly, as noted in the City's recently released [PowerUp Plan](#), energy storage is critical to replacing fossil-fueled power plants currently operating in the City. These fossil-fueled power plants are primarily located in disadvantaged communities and produce emissions that are harmful to public health and the environment.

The proposed amendments to the New York City Zoning Resolution will support the safe and timely deployment of energy storage in New York City and, in so doing, enable the City to achieve its carbon reduction goals, protect public health, and strengthen NYC communities. It is worth noting that the proposed amendments importantly will keep intact the extremely rigorous safety oversight which the Department of Buildings and the Fire Department exercise over all in-city energy storage projects, including multiple layers of review during construction and prior to commercial operation. NY-BEST also welcomes the opportunity to work with the City on future amendments to ensure that the City is able to realize all of the benefits of energy storage and meets its climate goals.

We appreciate the opportunity to share our support. We can be reached at info@ny-best.org or by phone at 518-694-8474 if you have any questions. Thank you.

Respectfully Submitted,

Dr. William Acker
Executive Director
NY-BEST



***Testimony of Urban Green Council before
the NYC Council Subcommittee on Zoning and Franchises
RE: Support for City of Yes for Carbon Neutrality***

October 4, 2023

Good Afternoon Chairs Salamanca, Riley, and Louis,

My name is Danielle Manley. I am the Manager of Policy at Urban Green Council, a non-profit based here in NYC dedicated to decarbonizing buildings. Thank you for the opportunity to provide testimony today, and I am excited to share our overwhelming support for the City of Yes for Carbon Neutrality.

Urban Green has worked for over a decade to recommend improvements to the zoning regulation, including our Green Codes Task Force in 2008, Zone Green in 2012, and our Zone Greener report in 2018, which set the stage for the proposal you are voting on today.

This past spring and summer, Urban Green was invited by DCP to convene building practitioners to provide guidance on the proposed COY changes. We brought together more than 60 experts from the buildings community to offer valuable insights to shape the proposal being considered today.

Urban Green fully supports City of Yes for Carbon Neutrality for the following reasons:

- 1. Climate change is an existential threat to the future of New York City. We need City of Yes to remove outdated barriers in our zoning code so we can meet our city and state climate and renewable energy goals.**
- 2. City of Yes for Carbon Neutrality will make it easier for buildings to comply with Local Law 97.**

The proposal will enable and reward changes in buildings that lower carbon emissions, including actions to

- Perform energy efficient design and retrofits;
- Electrify buildings;

- Install rooftop and other elevated solar;
- Install battery storage on site;

All of which are critical measures for meeting Local Law 97 carbon limits.

3. The zoning changes will expand our capacity to electrify buildings, one of the most significant steps a building can take to lower carbon.

They will increase allowable heat pump size and capacity on roofs and in yards. There are new options that meet the variety of electrification needs in very large buildings – like those covered by Local Law 97 – and also in smaller buildings or those with roofs that cannot support very large equipment.

Heat pumps also provide efficient heating *and* cooling, which is increasingly important as New Yorkers experience more extreme heat events from climate change.

4. COYCN will dramatically increase the capacity and cost-effectiveness for solar energy across New York City, by:

- Expanding solar coverage on flat rooftops, sloped rooftops, and in yards;
- Streamlining the process for installing solar canopies over parking lots; and
- Supporting community solar.

5. COCYN will catalyze energy storage across the city, which is necessary to manage grid demand alongside building electrification.

The proposed changes will reduce red tape and significantly multiply the capacity for deploying energy storage across New York's residential, commercial, and manufacturing districts. These building energy storage systems are safe and all installations must still meet the rigorous approval of the Fire Department and the Department of Buildings.

6. COYCN modernizes the Zone Green bonus for energy efficient designs that lower carbon.

The current Zone Green bonus worked at the time it was created, but it is complex and based on now outdated criteria.

We support the modernized and simplified bonus for new buildings to meet ultra-low-energy criteria in light of more efficient energy codes that are coming our way. We also very much support how this restructured bonus encourages new

priorities by granting the 5% floor area exemption to existing buildings that fully electrify.

7. COCYN will incentivize a variety of building envelope retrofits to meet the latest energy code.

The changes exempt any qualifying exterior wall-thickness from being counted as floor area. This would apply to overcladding projects that are adding both exterior and interior insulation, and to recladding projects if the new envelope meets the latest energy code. These revisions prevent designers from having to make the difficult choice between sacrificing envelope efficiency or usable space.

8. Finally, we are very supportive of the many other actions that COYCN will facilitate, including electric vehicle charging, micromobility, and waste reduction.

–

We congratulate DCP, CPC, and the many other agencies and practitioners across the city for their dedicated hard work to deliver this City of Yes proposal. We thank City Council for considering our comments today, and encourage you to vote yes to approve these amendments so that we can keep up our collective momentum for meeting this climate moment.

Contact

Danielle Manley

Manager, Policy

Urban Green Council

dm@urbangreencouncil.org

October 4, 2023

AIA New York Testimony to the City Council Subcommittee on Zoning and Franchises on City of Yes for Carbon Neutrality Zoning Text Proposal

Thank you, Chair Riley and members of the Subcommittee on Zoning and Franchises, for holding this hearing today. I am Bria Donohue, Government Affairs Manager at AIA New York. We represent architects and design professionals committed to positively impacting the physical and social qualities of our city.

AIA New York strongly supports Mayor Adams' proposed citywide zoning text amendment, *City of Yes for Carbon Neutrality*. The proposal makes critical updates to NYC's zoning regulations to help us meet our emission reduction goals and remove existing barriers and expand opportunities for decarbonization projects. We are particularly supportive of the elements of the proposal that enable and reward: energy efficient design and retrofits; building electrification and associated equipment; rooftop and other elevated solar; battery storage; electric vehicle charging; and infrastructure to support bicycles and other micromobility options.

While AIANY strongly supports the zoning text amendment, we urge the council to make adjustments to proposal 8 to "Fix Zone Green". We support the goals laid out to create more ultra-low energy buildings in the city; however, the proposal's language has raised concerns regarding the feasibility of the targets outlined.

AIANY makes the following recommendations with the purpose of adding more nuance so that the goals are ambitious, achievable, and specific to various building typologies.

Recommendation #1: Reconsider a 50 percent reduction from the ASHRAE 90.1. Instead, consider setting a very progressive yet potentially achievable reduction factor or adopting a tiered approach for energy reduction, such as 30 percent reduction for 3 percent area exclusion and 50 percent reduction for 5 percent area exclusion.

Recommendation #2: Amend EUI language from 38kbtu source EUI to 38kbtu site EUI. Consider EUI targets specific to building use, as energy use will differ significantly amongst different building uses. These targets could be similar to goals and thresholds set by other local laws.

Recommendation #3: Establish an expert group to review and refine the Ultra-Low Energy Building criteria.

Without these changes, today's most progressive design will not be able to achieve the current performance standard in proposal 8 for most building typologies. This will result in a net worsening of energy performance since Zone Green incentives will effectively disappear, leaving practitioners with little motivation to strive towards the out of reach current definitions of ultra-low-energy buildings.

City of Yes for Carbon Neutrality will be essential to meeting our climate targets, decarbonizing building stock, deploying renewables, and enabling New Yorkers to access a wide variety of low-carbon transportation options. We urge the City Council to pass the proposed zoning text amendment with the recommended changes to proposal 8.

From: erabin@netzero.net on behalf of erabin@netzero.com
To: [Land Use Testimony](#)
Subject: [EXTERNAL] Letter of Support City of Yes for Carbon Neutrality
Date: Tuesday, October 3, 2023 9:45:20 AM

Council Member Kevin Riley
Chair, Subcommittee on Zoning and Franchises

Council Member Rafael Salamanca Jr.
Chair, Committee on Land Use

Dear Council Members Riley and Salamanca,

On behalf of Bronx Jews for Climate Action, I am writing to express support for the NYC Department of Planning's proposed City of Yes for Carbon Neutrality (COYCN) zoning text amendment. The passage of this amendment is not only critical for New York City to reach its carbon emission goals, it will also improve our city's air quality, sustainability, and resiliency.

As our planet continues to experience record breaking heat this summer and New York is confronted with poor air quality due to Canadian fires and unprecedented torrential rainfall, we must lead the way in shifting off fossil fuels and fighting against climate change.

NYC's current zoning regulations can serve as an obstacle to achieving these goals. COYCN will remove restrictions that limit the placement of EV charging infrastructure, installing solar photovoltaic (PV) and energy storage systems, energy efficient building facade retrofits, green infrastructure, and more.

Bronx Jews for Climate Action urges passage of COYCN. The NYC Department of City Planning has engaged with industry experts, advocates, neighborhood groups, and more to ensure that this proposal reflects the needs of New Yorkers.

We urge the City Council Subcommittee on Zoning to vote in favor of COYCN.

Sincerely,

Elliott Rabin
Bronx Jews for Climate Action



Chairman
Richard Roberts
President
Mark Ginsberg
Vice President
Samantha Magistro
Treasurer
Matthew Petruła
Executive Director
Howard Slatkin
Secretary

TESTIMONY IN SUPPORT OF CITY OF YES: CARBON NEUTRALITY TO NYC CITY COUNCIL SUBCOMMITTEE ON ZONING AND FRANCHISES OCTOBER 4, 2023

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Kirk Goodrich
Aileen Gribbin
Joseph Lynch
Marvin Markus
Richard C. Singer
William Stein
Board Members
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Hercules Argyriou
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David E. Gross
Baaba Halm
Timothy Henkel
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Kenneth Lowenstein
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Ron Moelis
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Michael Nyamekye
Anthony Richardson
Amelia Rideau
James Riso
Matthew Rooney
Joseph B. Rose
Carol Rosenthal
David Rowe
Matthew Schatz
David Schwartz
Avery Seavey
Paul Selver
Wendi Shafran
Ethel Sheffer
Jessica Sherman
Jane Silverman
Brian Smalley
Mark E. Strauss
David Walsh
Adam Weinstein
Alan H. Wiener
Mark A. Willis
Emily Youssouf
Emeritus
Peter Salins

Thank you for the opportunity to testify today. My name is Howard Slatkin and I am the Executive Director of Citizens Housing & Planning Council (CHPC).

Eleven years ago, as the first Director of Sustainability for the Department of City Planning, I testified to the Council about Zone Green, the first citywide green zoning text amendment. Today, at CHPC, I am pleased to testify in favor of the City of Yes for Carbon Neutrality, which updates and builds on the experience of that earlier project.

This proposal aligns the essential public goals of environmental sustainability and sustaining investment in our buildings, transportation, and energy systems.

CHPC has long advocated for zoning and regulatory reform to promote necessary investment in all segments of our housing stock, and for eliminating bureaucratic barriers to meeting the needs of New Yorkers. Zoning needs to *make it easier to do the right thing* for a carbon neutral future, and this proposal does just that.

There are four items that CHPC believes are especially critical for residential buildings:

First, the amendments would allow solar trellises to cover the entirety of a building’s roof, a change CHPC has advocated for. This would nearly quadruple the solar wattage a typical rooftop can generate.

Second, the text amendment provides a simplified floor area deduction for buildings that achieve the energy efficiency “gold standard” of Passive House, and enables these standards to be updated by rule as codes and technology continue to evolve.

Third, the changes will make it easier for buildings to place low-carbon HVAC and other energy equipment on roofs and in yards, allowing existing and new buildings to use clean energy, deploy distributed infrastructure, and accelerate the electrification of our buildings.

Fourth, the proposal would remove administrative barriers to the use of permeable paving, an important surfacing option that helps reduce stormwater runoff.

CHPC advocates for policies that address issues of critical importance to the city and sweat the details to get them right. We applaud the work of the City team on this proposal, which accomplishes both.

I’ll be happy to answer any questions.

October 6, 2023

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Kevin C. Riley
Chair
Subcommittee on Zoning and Franchises
New York City Council
280 Broadway
New York, NY 10007

RE: Testimony and comments on Zoning for
Carbon Neutrality N 230113 ZRY,
23DCP135Y

Dear Chair Riley:

As an urban planner, I often represent clients and helped different Manhattan Community Boards in their review of this application. However, these comments are my own and were not prepared for a client.

Summary

Zoning for Carbon Neutrality contains zoning text that is responsive to a changing world and the increased demands Local Laws 97 and 154 will make on buildings. While most of the draft text includes necessary and reasonable changes, there needs to be some changes before this text becomes law. Even though DCP has already made some good changes to the text that was referred out, I hope Council will be able to consider a few more.

1. Do not change or delete items (k) and (l) from the definition of Floor Area

The original text that was referred to community boards deleted items (k) and (l) from the definition of floor area. They are:

(k) floor space that is or becomes unused or inaccessible within a #building#;

(l) floor space that has been eliminated from the volume of an existing #building# in conjunction with the #development# of a new #building# or in the case of a major #enlargement#, as set forth in Section 11-31 (General Provisions), of another #building# on the same #zoning lot#;

The annotated zoning text distributed by DCP states that the reasons for this deletion are to allow for the “reapportionment of mechanical rooms” and to remove text that is “obsolete.”

After hearing comments regarding this change, DCP modified this text, deleting only (l), and modifying (k). This change is an improvement over the original text change, but considering a recent BSA appeal, this change could still result in serious unintended consequences.

Background: floor space used for mechanical purposes and the DOB

Laypeople might think that there needs to be a relationship between the size of spaces deducted for mechanical equipment and their mechanical purpose, but there is not.

Since at least 2013, the Department of Buildings (DOB) *had been* trying to define how much floor area could be deducted for different mechanical purposes. DOB had developed a draft building bulletin that tried to define reasonable amounts of floor space that could be deducted, but it was not able to finalize the bulletin. After a period of several years, the Department abandoned the effort. Instead, its policy regarding the amount of floor space necessary for mechanical equipment is currently whatever the designer says they need.

This policy only became clear in 2019 when a building permit issued at 36 West 66th Street was appealed to the BSA (2019-94-a). In statements made to the BSA during the appeal, the DOB explained that it does not review floor space taken for mechanical deductions for reasonableness. Again, the amount of mechanical space granted a floor area deduction is entirely determined by the designer and is not reviewed by the DOB for reasonableness. The petitioner demonstrated that 36 West 66th Street--which was designed with a 150-foot void in the middle--had vastly too much floor space necessary for the mechanical equipment it housed. The BSA decided in a 2 to 2 decision that the DOB was not required to ensure that the floor space deducted from floor area for mechanical purposes was necessary, though it did find: "It is clear from this appeal that, going forward, DOB should improve its analytical methods in reviewing these floor-area deductions . . ." In my experience, the DOB has taken no such action.

The proposal:

The current proposed change is to delete (k) and change (l) to:

floor space that is ~~or becomes unused or not otherwise exempt~~ pursuant to this Section and is, or is made, inaccessible within a #building#;

This will allow exempt mechanical spaces that are no longer being used for mechanical equipment to remain exempt from the definition of floor area. If you combine this text change with the policy that DOB does not review exempt mechanical spaces for reasonableness, this change will mean that developers can have all the floor area they desire, as long as it fits into the building envelope.

Developers would be able to do this by building as much floor space for mechanical purposes as they desire, and then later, convert that unused mechanical space into productive floor area. The only saving grace of the DOB's

unlimited mechanical space policy is that this space cannot be used for any other purpose, but with this zoning change, it could be used for other productive purposes and be exempt from zoning floor area. This text change opens up a huge zoning loophole. The City Council should not permit this change to item (l). The impact of deleting item (k) is less clear, but clearly does not have the same impact as item (l)

2. The change in accessory use is too broad.

The proposed zoning text changes the definition of Accessory Use by adding the following to the definition:

An #accessory use# may serve principal #uses# located on #zoning lots# other than the one on which the #accessory use# is located, where both such #zoning lots# constitute, or are part of, a group of #zoning lots# containing such principal #uses#, which are contiguous or would be contiguous but for the separation of #streets#, and are under same single fee ownership or alternate ownership arrangement. In such cases, the evaluation of whether the #accessory use# is clearly incidental to the principal #uses# shall consider all #zoning lots# containing such principal #uses#

Like with the definition of floor area, this is a change from the referred text, though this change is not an improvement.

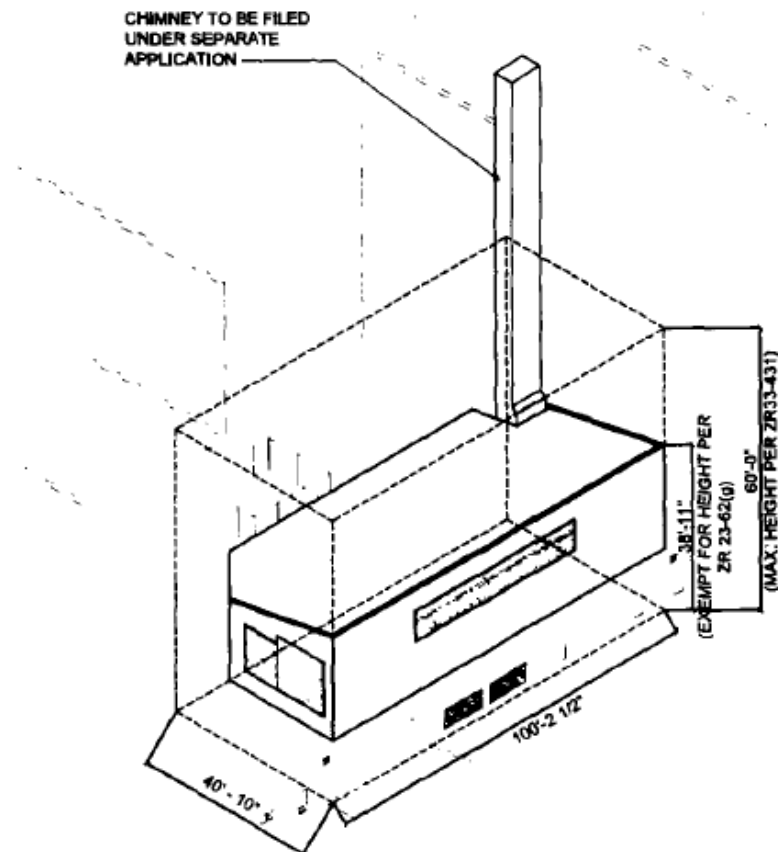
DCP explained that this change in the definition is necessary to permit bicycle parking and energy infrastructure equipment (EIE) onto other lots as accessory uses. This is a reasonable goal, but this text is overly broad as it would impact all accessory uses. To be clear, when the zoning reads, “alternate ownership arrangement,” it is referring to zoning lot merger-type agreements, where two private interests would agree to locate an accessory use on another zoning lot. During the Council’s session, Chair Garodnick referenced “campuses.” While this would impact campuses, it could also be used on unrelated buildings, similar to how zoning lot mergers currently function. I believe that there are two serious problems with this proposal.

First, DOB recently approved a Coney Island-style amusement park ride as an accessory use to a Midtown hotel. That approval relied upon a ZRD1 that used hotel/casino complexes in Las Vegas and Macau in China as evidence of such accessory uses and extrapolated that such uses should be accessory in NYC as well. This interpretation and DOB’s approval are both ridiculous and dangerous because it suggests an extremely wide definition of accessory uses.¹ As a result,

¹ It was not always so; as recently as 2014, DOB defended very narrow interpretations of accessory uses before the BSA (128-14-A).

making a broad change to the definition of all accessory uses invites unintended consequences.

Second, this change could invite large developments to export noxious accessory uses to areas off their campuses. For example, in 2021, Stuyvesant Town's owner decided to install a Combined Heat and Power (CHP) plant, which is another way of saying gas-fired power plant. DOB approved it as an accessory use, even though all the electricity it would generate would be sold to the grid, while only the steam/hot water would be used on site. It was utility-scaled and required a NYSDEC air quality permit. The image from their approved ZD1 is below:



Under the proposed zoning change, this gas-fired power plant could have been located off-campus, across any street bounding Stuyvesant Town. If not accessory, it would be UG 18, permitted in only M3 districts. As an accessory use, though, it is permitted in any R district, and with this change, it can be moved away from the R use it serves. So, imagine a developer wanting such a use, but not having to deal with it on their property. With this change, they can offload it to a neighboring owner for a fee, get the benefits of the accessory use, but not have it on their lot.

The change in the definition of Accessory Use should be narrowed. Simply amend subsection (a) of the definition of Accessory Use as follows with the underlined text:

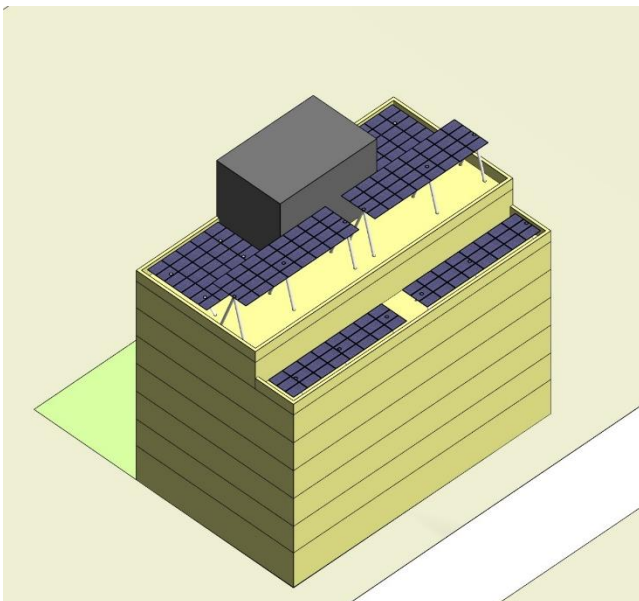
An "accessory use":

- (a) is a use conducted on the same zoning lot as the principal use to which it is related (whether located within the same or an accessory building or other structure, or as an accessory use of land), except that, where specifically provided in the applicable district regulations or elsewhere in this Resolution, accessory docks, off-street parking, bicycle parking, #energy infrastructure equipment#, or off-street loading need not be located on the same zoning lot; and

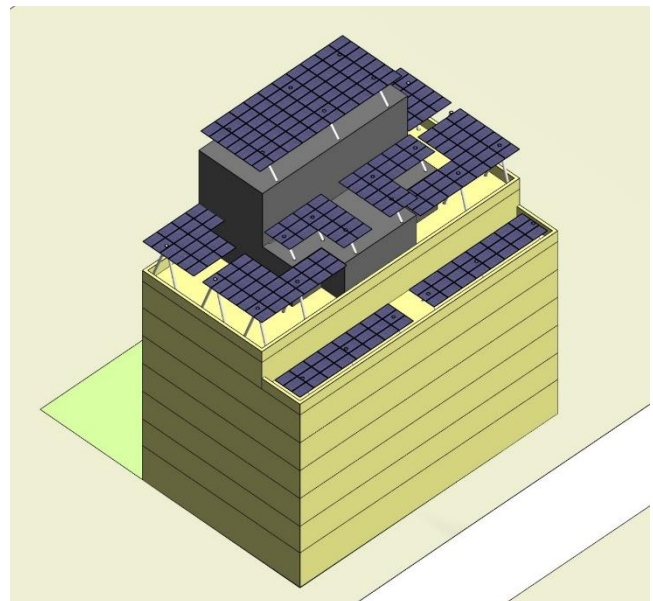
Narrow changes are almost always better, especially when we don't know how DOB will interpret the change.²

3. Changes in rooftop permitted obstructions are very large. Do they need to be?

The following shows maximum obstructions to height under current regulations and under the proposed regulations in both axonometric and street level views for an R7B building.

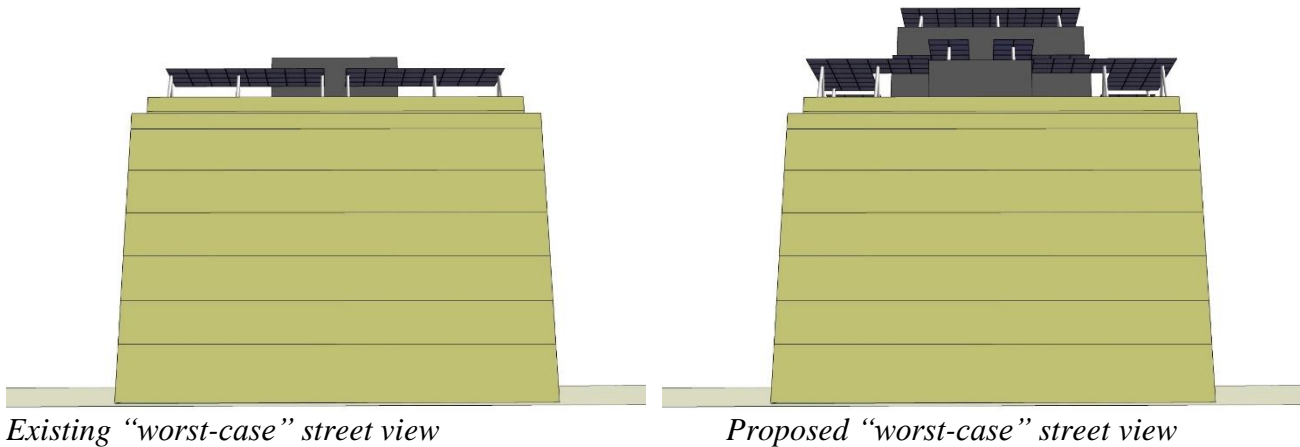


Existing "worst-case" axonometric view



Proposed "worst-case" axonometric view

² This change would likely require other changes in the text that describe how these facilities can be located on other zoning lots. I would be happy to help identify those changes.



By my calculations, for buildings under 120 feet, the proposed zoning would permit bulkheads to increase in volume by up to 170% over the existing maximums. For buildings over 120 feet, they can increase by 144%. How was this increase developed? How do we know that the increase in height and coverage is right?

Local Laws 97 and 154 will make additional demands on rooftop space, but at the same time, much of this additional mechanical equipment is getting smaller and more energy efficient. And while allowances for more space makes sense considering the recent local laws, is 170% the right number for smaller buildings? How was this number determined? DCP never explains.

This is especially concerning because it makes no sense that the percent increase in the size of permitted obstructions for smaller buildings is greater than the percentage increase in larger buildings. Considering that buildings over 120 feet and those under 120 feet often have the same building footprint, but serve differently-sized buildings, it would make sense that taller buildings would need a larger percentage increase because they are serving more floors, but that’s the opposite of the proposal.

Unfortunately, I don’t know what right increase is. I cannot make a recommendation to Council other than saying the increase as described in the proposal is not internally consistent and should be improved. I cannot say if that means increasing the exemption for larger buildings, or shrinking it for smaller buildings, but one of those two should happen.

3.A Bulkhead location

Currently, bulkheads for stairs and elevators need to be setback from the streetwall or suffer penalties that reduce their size, determined via a formula as follows:

such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet

of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage;

This formula allows the bulkhead to be within 10 feet of the street wall, but if it is, it can't be very large. The proposed zoning text changes the above to this:

such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, does not exceed 30 percent of the #street wall# width of the #building# facing such frontage;

The change simplifies the regulations but, as a result, stair and elevator bulkheads could be at their full size at the streetline, just as long as they don't exceed 30% of the frontage. Considering the increase in size from 25 to 40 feet (for smaller buildings), this would result in a significant increase in the appearance of mass from the street for buildings that use this option. This increase might be justified if it was for necessary mechanical equipment, but this change is completely unrelated to carbon neutrality, it just allows stair and elevator bulkheads to be bigger near the street. Why? The zoning text should not change the limitations on bulkheads within 10 feet of a street wall for no good reason. The only reason given was "simplicity," which does not help with carbon neutrality.

4. Solar panels, larger bulkheads and rooftop greenhouses work cross-purposes

At the same time, zoning is being changed to allow 100% coverage for solar panel canopies and 50% coverage for bulkheads, the zoning text adds greenhouses as a rooftop permitted obstruction in non-residential buildings and removes the CPC certification to permit them. The idea is to encourage more greenhouses on the roofs of non-residential buildings.

It is difficult to imagine a rooftop having both solar and greenhouses, unless the solar would be undersized, since both need access to direct sunlight. The removal of the certification effectively incentivizes developers to undersize solar, which is not in the public interest. I believe it is in the City's interest to encourage solar panels over the installation of rooftop greenhouses. Greenhouses should be left as a certification to lessen their competition with solar.

Finally, Zoning for Carbon Neutrality is just a small part of a change in how NYC powers itself, but opportunities for real change have been missed

The following comment has nothing to do with the zoning text amendment. It is being shared because the City Council needs to think about more than just zoning.

The shift to widespread green power generation on land, along with large-scale offshore wind and tidal power generation, is a generational opportunity for the public sector to assert itself as the source of public power generated for public purpose. Similar to how the City controls and maintains water and sewer services, the public sector could become a major producer of electricity. An opportunity was lost last year when offshore parcels for wind generation were auctioned by the Federal Government to high bidders, using a model that seemed to be inspired by the oil and gas industry. The winners will develop those offshore parcels, generate electricity, and sell it to the residents of New York City at a profit to benefit their shareholders.

While all New Yorkers will benefit from cleaner air, it was still a lost opportunity. The USA is, and will remain, an international anomaly. Globally, most offshore wind generating capacity is owned by the public and the electricity it generates is for the public interest. This decision was especially disappointing considering that there is a long history of public authorities generating public electricity for public use. Such models can and do work in the USA.

Solar farms have been, and are being, developed all around NYC, especially in the Hudson River Valley. In most cases, these are located on private land and power generated there is sold to a regulated private utility. Perhaps the only significant area in the Hudson River Valley where no power is being generated is on the publicly owned land in the watershed of the New York City water supply. To be clear, private land in the New York City watershed area is being developed with solar farms, but public land used for watershed protection is not.

The following map was produced by my office and shows the Croton Watershed outlined in blue.³ Publicly-owned land for watershed protection is shown in

³ The data for this map come from the following data sources:
Watershed Boundary and NYC controlled areas from:
<https://www.nyc.gov/site/dep/recreation/recreation.page>
<https://nycdep.maps.arcgis.com/apps/webappviewer/index.html?id=9622fdc0897a4067a80fe25bc2f25f53>

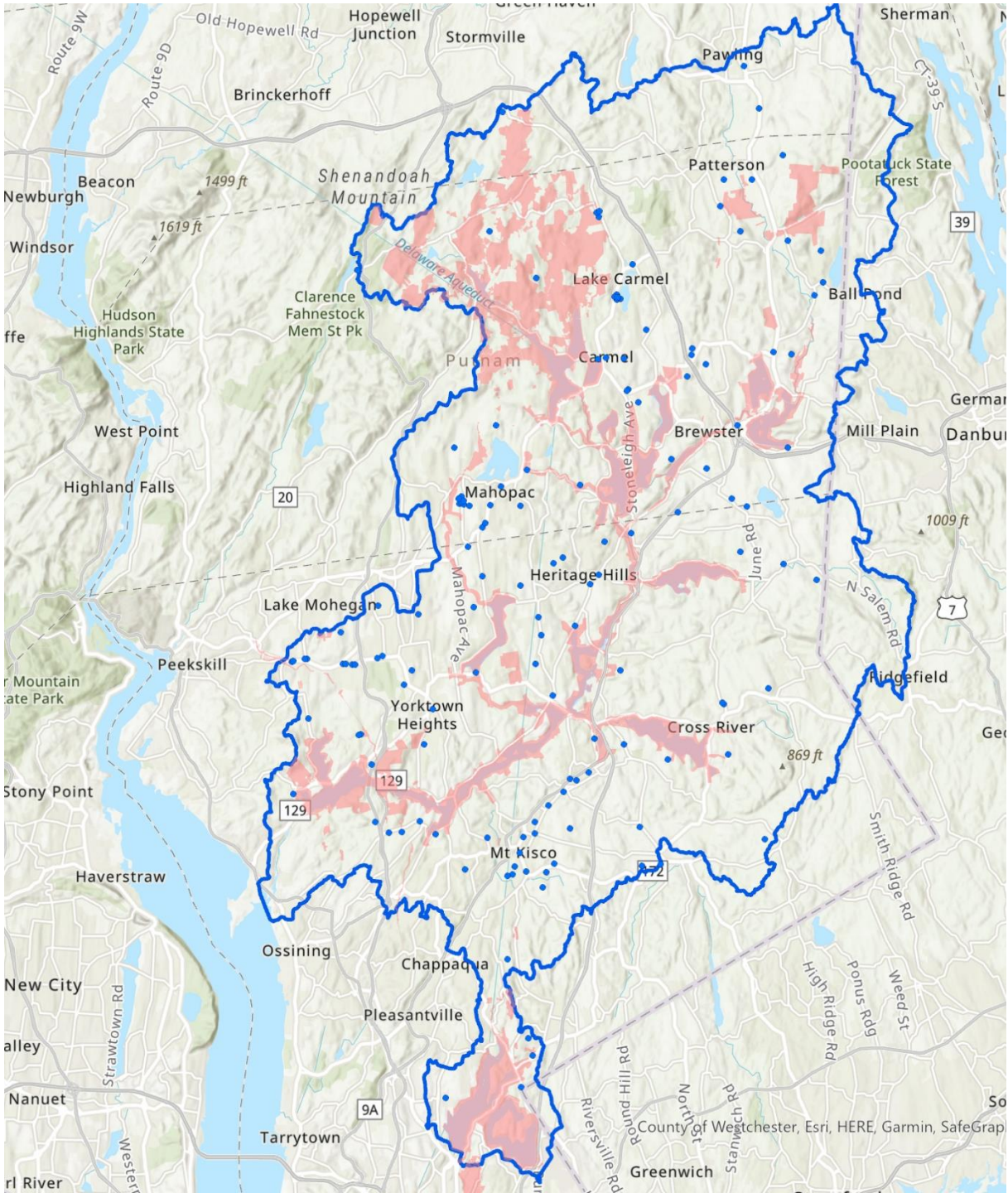
Parcels were scrapped from:
<https://spatialags.vhb.com/arcgis/rest/services>

Statewide Solar Permits were downloaded from New York State here:
<https://data.ny.gov/Energy-Environment/Statewide-Solar-Projects-Beginning-2000/wgsj-jt5f>

Some solar permit sites were geocoded to the centroid of the census tract by New York State. We relocated those that were obviously wrong as best we could.

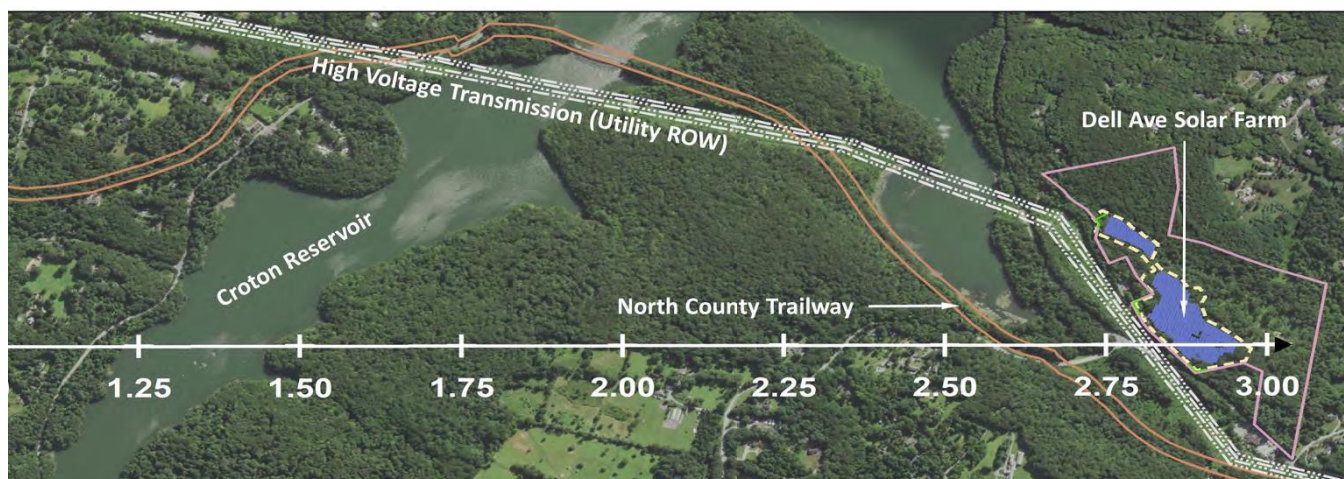
mauve. Blue points show solar installations on land not used to protect the watershed, which is mostly privately-owned. Purple points would show solar installations on public land used to protect the watershed, but there are no purple points because there is no solar installed (or planned to my knowledge) on public land used to protect the watershed.

(Image on next page.)



Publicly-owned watershed land in the Croton Watershed shown with solar projects (blue points). None of them are located in publicly-owned land used for watershed protection

For example, the following is from a solar farm application on Dell Avenue in the Town of Yorktown (Westchester County). The proposal is located in the watershed, *directly across the street* from the Croton Reservoir. There are many properties like this, either in planning, approval, or recently constructed.



The land in the watershed is highly regulated, including required approvals from NYCDEP for stormwater management plans. But solar and wind is not inconsistent with land reserved for protection of the watershed, especially if stormwater is appropriately managed and construction impacts are minimized. Further, many local jurisdictions have recently passed land use regulations that make the siting and permitting of solar much easier than it was in the past.

Zoning for Carbon Neutrality and Local Laws 97 and 154 demonstrate New York City's commitment to changing the status quo, but in many ways its ambition is too little. The City has major assets it can use to help achieve those goals directly, rather than just changing regulations to allow others to achieve those goals. Further, the benefits of such direct action will mean that more of the benefits will accrue to the people of the City of New York. At minimum, the City should investigate the regulatory requirements that encumber this land and what kind of legislative actions or policy decisions it would take to use this land to both protect the watershed and generate power for a public purpose.

Thank you for everything you do to make NYC a better place. If you have any questions about these comments, please feel free to contact me at George@georgejanes.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'George M. Janes'.

George M. Janes, AICP
George M. Janes & Associates



THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

**Testimony of LANDMARK WEST!
Certificate of Appropriateness Committee
Before the New York City Council, Subcommittee on Zoning and Franchises
City of Yes for Carbon Neutrality
October 4, 2023**

Dear Commissioners,

LANDMARK WEST! is a not-for-profit community organization committed to the preservation of the architectural heritage of the Upper West Side. LANDMARK WEST! is committed to sensible land use of the Upper West Side and we can appreciate stated goals of the proposed Zoning for Carbon Neutrality under the City of Yes initiative to reduce our city's carbon emissions.

When we first heard of the title of the proposed changes, certain expectations arose. Some were met in the text, but much was left to be desired in terms of both meeting the goals of reducing carbon emissions and the continued effort to safeguard aspects of the city's urban heritage. We find it hard to support a 'feel good' document without real world implementation and vague language at this review stage. We remain concerned about proposals to eliminate any and all impediments to reducing carbon emissions which don't take into account the preservation of our cultural heritage.

These evolving energy policies will likely incur significant challenges for NYC's historic buildings. Our biggest concern is incrementalism. A traditional Upper West Side block features an elaborate street wall guarding the doughnut, an urban green space. A century of tweaking and further encroachment and underpinning into the doughnut has led to eroding the lungs of each block. The proposed zoning - further cluttering the roofs and yards of historic districts - adds to this - or, more appropriately put, detracts from this asset. One would imagine the goals of carbon neutrality would support permeable surfaces and enhanced greening rather than the production of further bulk, construction and obstruction.

The greenest choice is reusing and therefore retrofitting a historic building rather than creating more waste and emissions building a new 'efficient' tall building. While we cautiously advocate for adapting historic buildings to energy efficient ones (acknowledging that almost one-third (32%) of the built floor area of Manhattan is energy code-exempt due to historic status), we

don't believe the current proposed zoning for decarbonisation of existing buildings pays mind to the preservation of the character of historic buildings. Our main concerns and questions include:

- Changing the definition of Floor Area for unused floor space within a building may yield unintended consequences and leads our Committee to question the full intentions of this maneuver. Reflecting on Floor Area, will Supertalls with their average of 16'-4" floor-to-floor heights ever meet carbon net zero emissions and therefore will they have to comply with the same zoning regulations as a smaller structure?
- The proposed increased rooftop coverage and height allowances could inflate the volume allowed on rooftops by up to 170%. New mechanical equipment could reach three or four floors in height and solar panel canopies could cover 100% of the roof, reaching all the way to the street wall. These additions would be fully visible and contribute to an increase in the bulk and volume already present in many historic districts. Our Committee requests specific language whether these volume increases would apply to smaller residential buildings.
- Our Committee understands that electrifying old buildings is on the forefront of tackling carbon emissions but these proposals are not adequately addressing the impact the bulk and weight of new mechanical overruns and solar panels will have on not only the durability of the buildings but the integrity and authenticity of their historic character.
- Our Committee seeks a clearer definition of the term Accessory Use that spans different zoning lots. We support greater bike parking allowances, however a bike is not the same as it used to be three or four years ago. More consideration has to be taken into account before removing limits on where e-vehicle infrastructure can be placed. Additionally, if an amusement park ride in a hotel can be classified as Accessory Use, therefore what precedent is being set for this proposal?

NYC has a Zoning Code that exceeds 1,300 pages. Too often, the complaint is that building in NYC is too difficult to navigate and execute. Let's be wise and pointed in any further goals rather than incrementally tweaking the Code with under-examined proposals that yield further unintended consequences.

Thank you.

From: [Moshe Bunin](#)
To: [Land Use Testimony](#)
Subject: [EXTERNAL] Your meeting 10/4/2023
Date: Wednesday, October 4, 2023 1:50:11 PM

Your goals and proposed rules are COMMUNIST, UNCONSTITUTIONAL both in NYS laws and in federal laws, and are nonsensical, idiotic, wasteful, FRAUDULENT, and literally benefit nobody. I vote AGAINST them.

From: [Moshe Bunin](#)
To: [Land Use Testimony](#)
Subject: [EXTERNAL] Carbon Neutrality
Date: Tuesday, October 3, 2023 10:09:45 AM

This is completely unscientific nonsense. This is an outright lie. There is a G-d that created and continues to operate this world. Nobody needs carbon neutrality. The world doesn't need carbon neutrality. G-d is immensely more capable of maintaining the world than you are!

Please plant countless thousands of additional trees. The world can maintain itself.

Please immediately follow the laws, and COMPLETELY close the United States and the NYS borders to FELON INVADERS, as per both Federal and NYS laws.



October 6, 2023

Public Testimony:

New York City Council Subcommittee on Zoning & Franchises Hearing – October 4, 2023
City of Yes for Carbon Neutrality (COYCN) – Application N230113ZRY

My name is Corina Solis. I am a project developer for New Leaf Energy testifying on behalf of New Leaf Energy. New Leaf is a nation-wide developer of clean energy projects, but especially in NY state where we have an office in Latham and have been developing projects for close to a decade, including battery energy storage in New York City. New Leaf supports much of what's in the City of Yes for Carbon Neutrality (COYCN) proposal, but our testimony will focus on the provisions related to energy storage.

I have been developing energy storage projects in New York City for over 6 years, throughout which time I have witnessed the deliberate creation and implementation of permitting standards for energy storage. City of Yes streamlines the permitting process for energy storage projects without compromising rigor, and any opportunity to deploy this technology more efficiently is critical.

Battery energy storage is a cleaner, healthier way to make New York City's grid more reliable. Today, during peak electricity demand or events that damage the grid, New Yorkers routinely lose power or receive power provided by diesel generators parked in neighborhood streets or the dirtiest power plants, which are most often located in disadvantaged communities. Those approaches are inequitable, bad for our health, disruptive and costly for individuals and businesses, and contribute to dangerous and costly climate events. And NYISO, New York's transmission system operator, confirmed in its recent STAR Report study, the expectation that those issues are going to get worse in just over a year.

Storage of energy is also crucial to providing energy from multiple renewable sources, including wind and solar. Battery energy storage systems connect to the utility grid storing excess electricity during low use periods and releasing the electricity to local residents and businesses during high peak periods to avoid power outages. For residential neighborhoods to benefit from the resiliency energy storage adds to the grid, a BESS must be located on property that is on the same "grid" or on spurs that lead to the grid in the residential area.

We support the proposed COYCN text that makes small scale systems in residential and commercial districts as-of-right. One as-of-right battery energy storage system in a residential zone would serve approximately 4000 surrounding homes. We appreciate many of the concerns of opponents regarding neighborhood impacts and encourage the adoption of the COYCN's screening requirements that enable these sites to be compatible with the adjacent residential or commercial uses.

Under the current zoning framework that requires a special permit from the Board of Standards and Appeals (BSA), the rigorous administrative review by The Fire Department of New York City (FDNY) and Department of Buildings (DOB), as well as discretionary review by BSA takes upwards of 4 years. That's too long to wait for battery storage to benefit your constituents. Such a delay hampers the city's ability to rapidly adopt renewable energy and stalls installations where energy storage is needed most.



The responsibility of safe energy storage deployment is one that we and the industry take very seriously. But, it should be reassuring to know that regardless of which company is doing the development, nobody can build a battery energy storage system anywhere in NYC without a permit from the FDNY, which has developed the most stringent standards in the country, maybe the world. City of Yes does not diminish that stringency in any way.

The FDNY's nationally respected, rigorous review of each model battery and each site can take several years on its own, which this zoning text will not shortcut. FDNY maintains in-house energy storage expertise to carefully review each new project proposed per their own department rule 608.01. Unlike what is used in e-bikes, energy storage systems are more than just batteries: they contain monitoring, control equipment, and safety systems all of which are reviewed by multiple expert teams prior to permit approval.

Contrary to some perceptions, battery energy storage projects are hard to develop in NYC. An as-of-right project typically takes 3 years or more from the time a lease is signed until a project is approved to interconnect by Con Edison, and approved to be built by the city, and only the best of the best pass FDNY's strict safety standards. Ultimately, only 1 in 5 sites pass all those tests. We strongly urge the Commission to adopt the City of Yes proposal so we can get to work safely and efficiently deploying these projects where they will be most effective at meeting the health and grid challenges New Yorkers are already facing and before they get worse.

I have attached maps to this testimony to demonstrate the incredible challenge of achieving New York City's energy storage goals or providing benefits to communities if alternative proposals for energy storage zoning are implemented. The attached maps show the areas of the city that are currently zoned as-of-right for energy storage (manufacturing and commercial zones). Example maps show what would be available to energy storage installations if a 200' buffer is required between residential uses and energy storage sites, which easily reduces the overall permittable land available for energy storage considerably, even in heavy manufacturing zones.

Thank you for your consideration of our testimony. Please adopt the City of Yes for Carbon Neutrality text with no modifications.

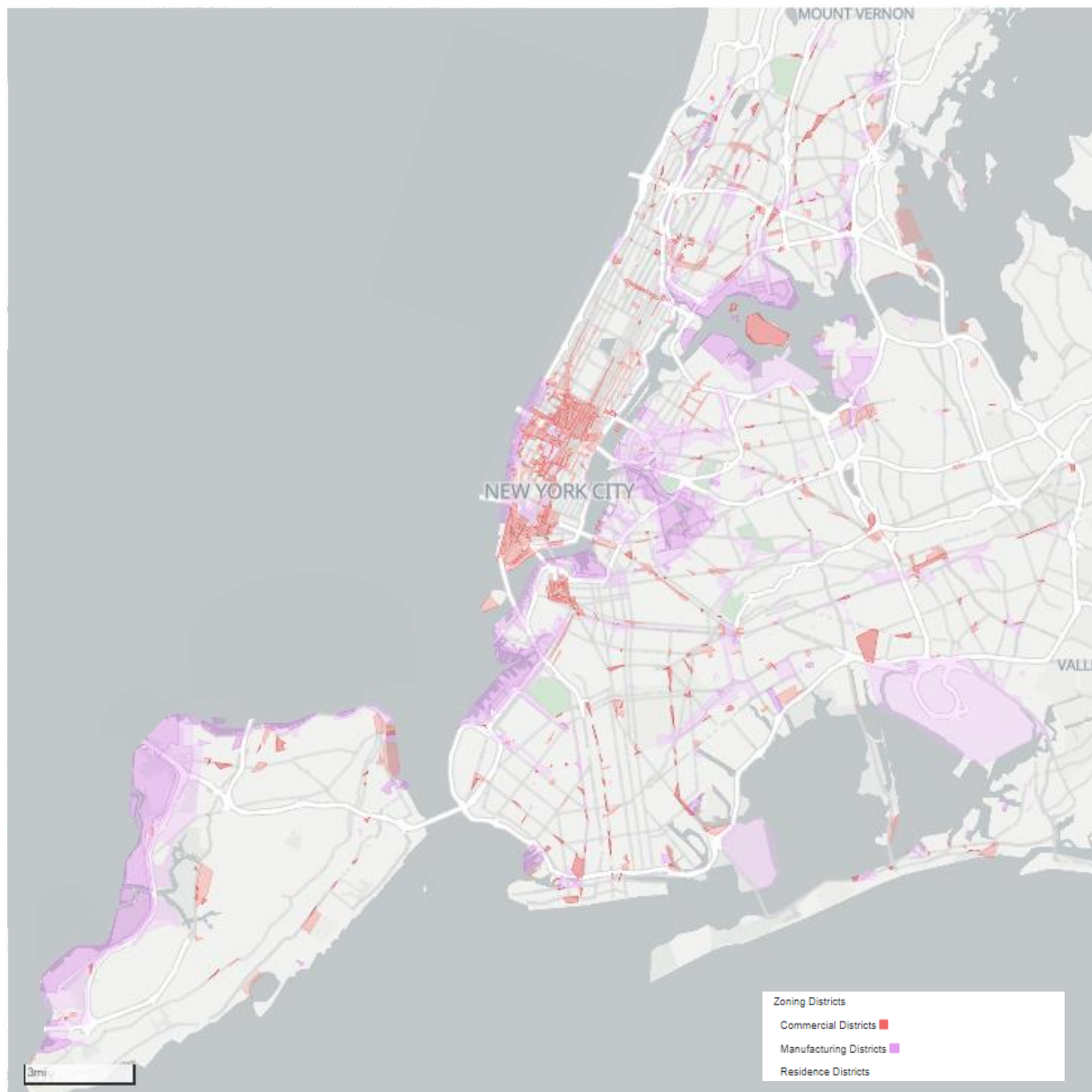
Thank you,

Corina Solis
Project Developer
csolis@newleafenergy.com

Map Attachments

The below map shows the relatively limited manufacturing and commercial lots available in NYC for energy storage installations overall.

Because energy storage needs to be installed near to the end user of energy, there are large areas (grey) where its benefits cannot reach if limited outside of lots zoned residential and/or 200' away from residential uses. The next set of maps will show that a 200' buffer between an energy storage project and any residential use leaves even fewer options for energy storage locations.

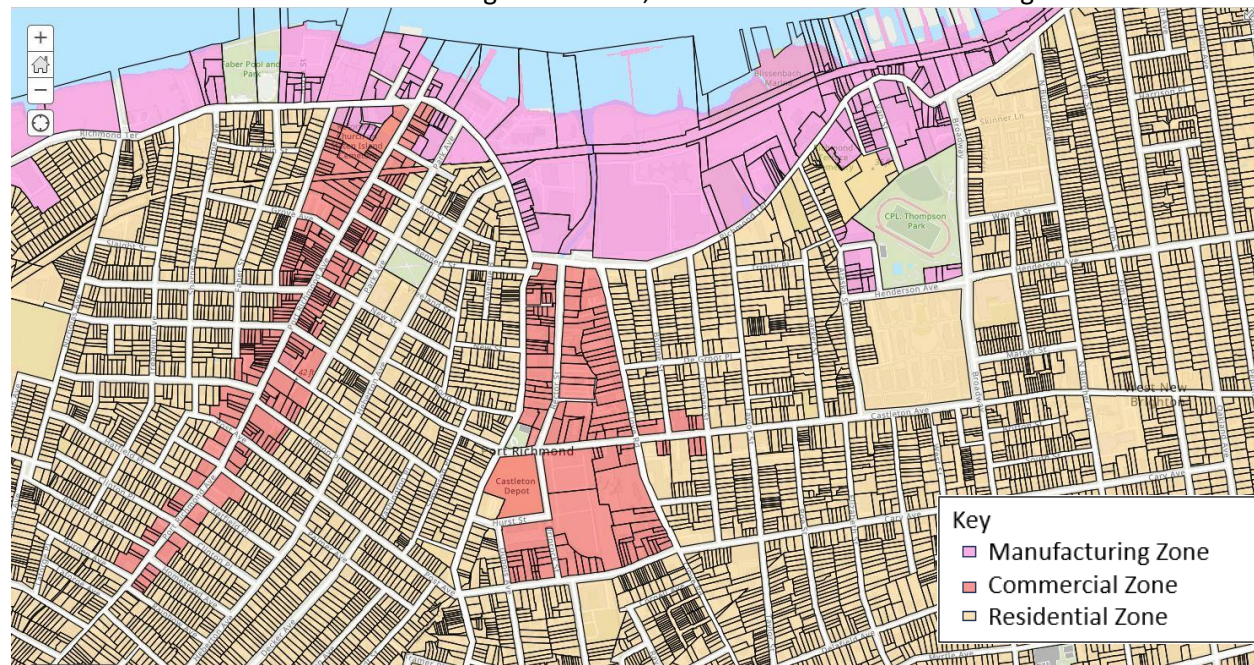




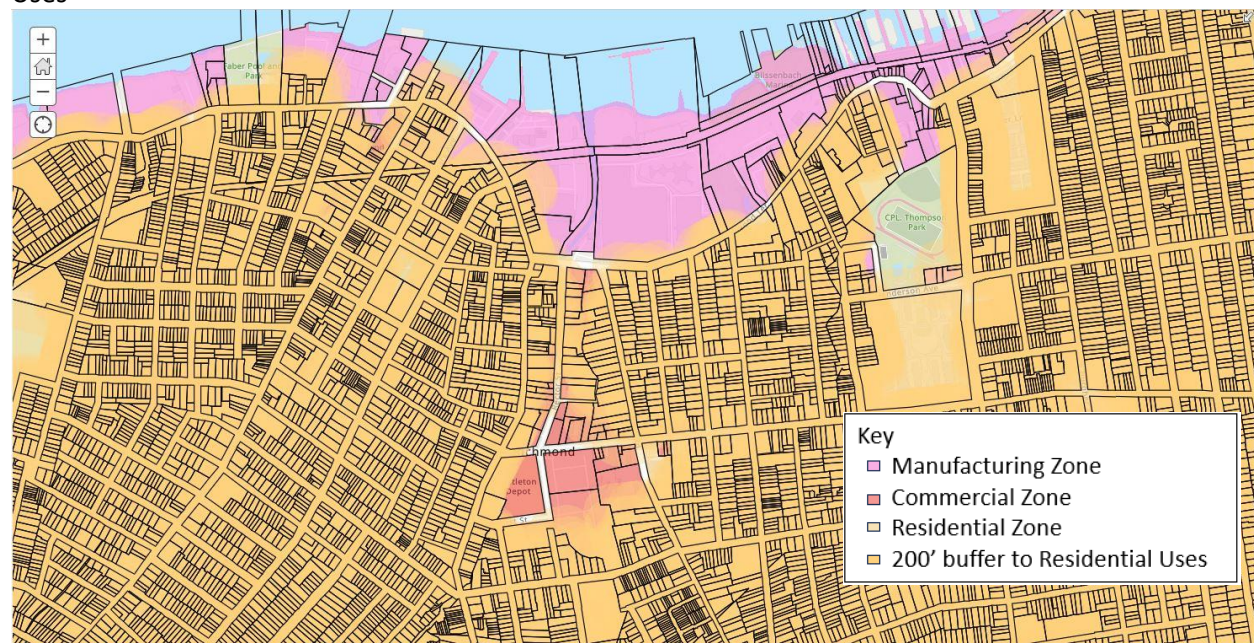
A 200' required distance between energy storage installations and residential uses has a dramatic impact on the permissible land for energy storage, as demonstrated by the below examples.

Example 1

Staten Island North Shore Tax Lot Zoning: Residential, Commercial and Manufacturing

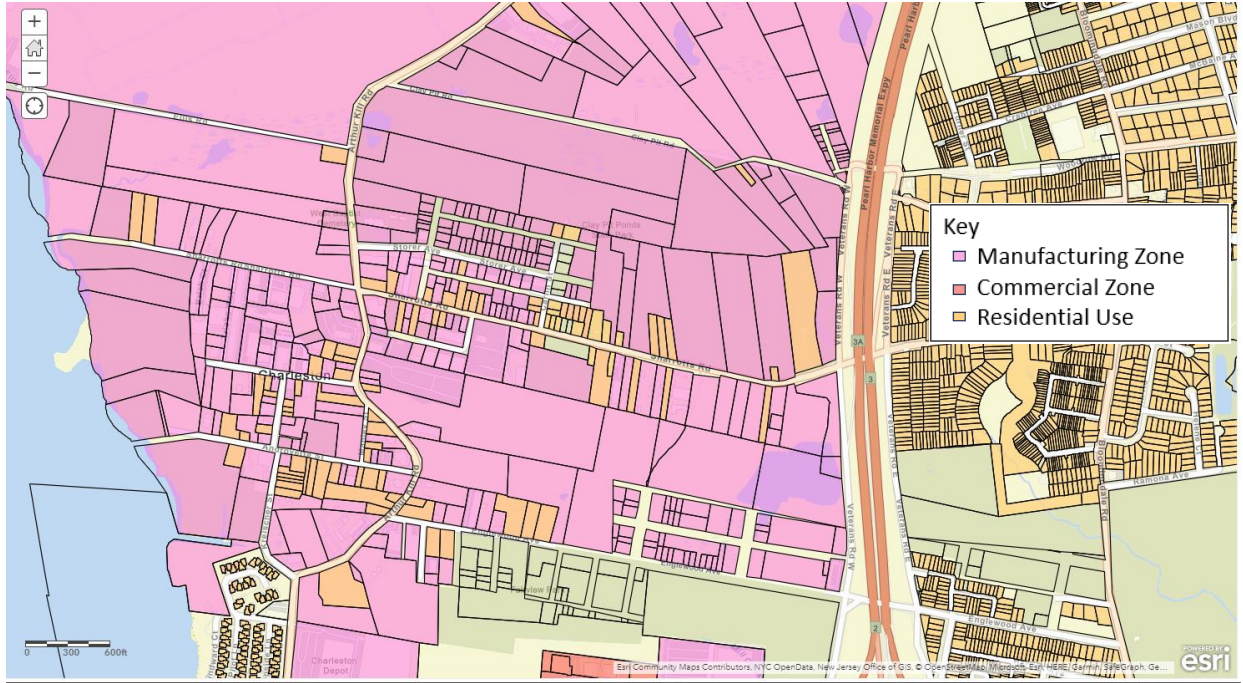


Staten Island North Shore Lot Area Available for Energy Storage if required 200' away from Residential Uses

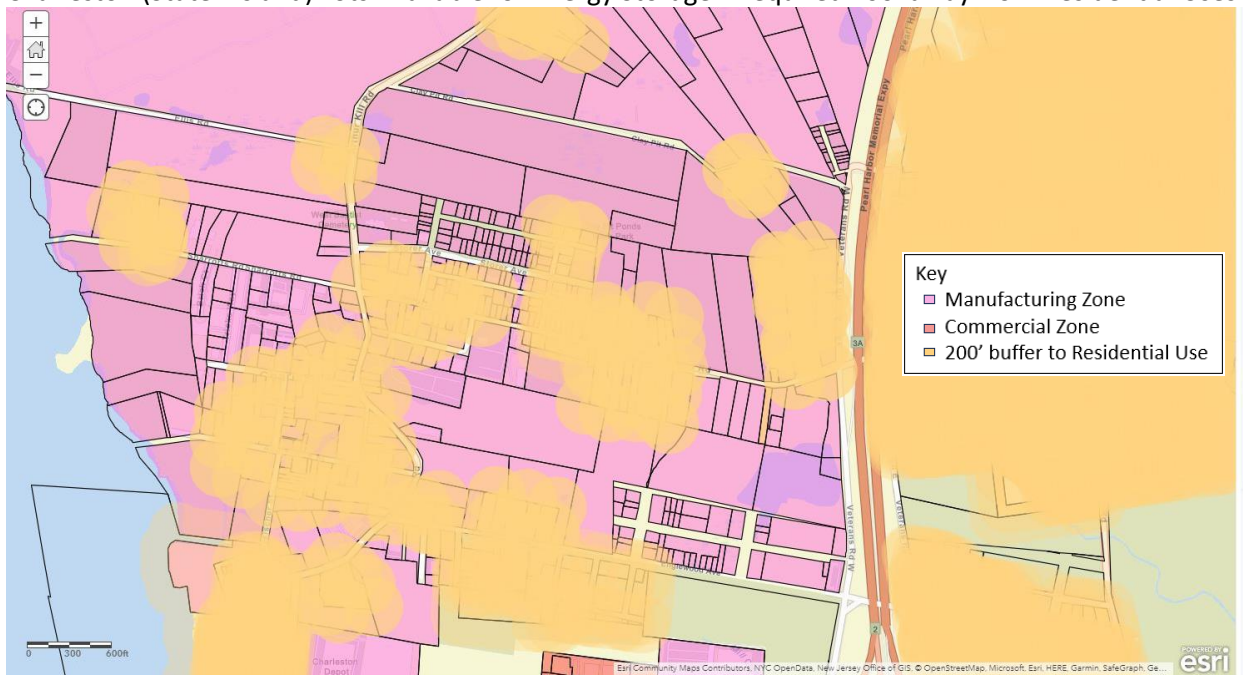


Example 2

Charleston (Staten Island) Zoning: Commercial and Manufacturing overlaid with Residential Uses



Charleston (Staten Island) Lots Available for Energy Storage if required 200' away from Residential Uses





**Testimony of Alia Soomro, Deputy Director for New York City Policy
New York League of Conservation Voters
New York City Council Subcommittee on Zoning and Franchises
Public Hearing on City of Yes for Carbon Neutrality, ULURP No. N 230113 ZRY
October 4, 2023**

Good afternoon, my name is Alia Soomro and I am the Deputy Director for New York City Policy at the New York League of Conservation Voters (NYLCV). NYLCV is a statewide environmental advocacy organization representing over 30,000 members in New York City. Thank you, Chair Riley and members of the City Council Subcommittee on Zoning and Franchises for the opportunity to testify today in support of the NYC Department of City Planning's City of Yes for Carbon Neutrality (COYCN) zoning text amendment.

New York has some of the most ambitious climate laws in the country. In 2016, the City introduced "80x50," setting an ambitious target of 80% carbon emission reduction by 2050. In 2019, the State passed the Climate Leadership and Community Protection Act (CLCPA), a sweeping plan that set a goal of 40% reduction in greenhouse gas emissions by 2030 and an 85% reduction by 2050. Additionally, in 2019, the City enacted Local Law 97, which requires many large buildings to cut their carbon emissions or face significant fines. Nevertheless, New York City's zoning regulations can be a barrier to making the necessary green investments that are crucial to meet these carbon reduction goals, fight climate change, and reduce toxic air pollution.

Given the extreme temperatures our planet experienced this summer and the recent rainfall and flooding our City went through, we need to do everything in our power to combat the impacts of climate change. NYLCV believes that COYCN is one tool in the toolbox to help us meet our City and State emission reduction goals by removing outdated zoning restrictions that limit the placement of EV charging infrastructure, installation of solar photovoltaic (PV) systems and energy storage systems, energy efficient building facade retrofits, green infrastructure, and more.

Since the majority of the City's greenhouse gas emissions come from our buildings, COYCN will help us move away from fossil fuels and ultimately improve the City's air quality, a longstanding environmental justice issue. We believe this proposal is essential to helping us move towards a renewable energy grid—one that can alleviate the disproportionate impacts that have burdened low-income and communities of color. This year, NYLCV included the COYCN proposal as one of our top policy priorities for New York City in our [annual Policy Agenda](#).

We commend DCP's leadership and staff on its robust engagement not only with City agencies such as DOB, FDNY, LPC, MOCEJ, but with utilities, advocacy groups, and industry stakeholders such as architects, engineers, solar and EV experts. COYCN currently has the support of 4 Borough Presidents, twenty-five Community Boards, and the City Planning Commission.

With that said, we'd like to address some concerns that have been raised about this proposal. First, NYLCV stresses the importance of distinguishing e-bike lithium ion battery fires with battery storage systems, the latter of which this proposal addresses and are much safer under current regulatory standards. [FDNY and DOB have strenuous standards, regulations, and annual inspections for battery energy storage systems on buildings](#). Unlike e-bike lithium-ion batteries in use—which can be safe when properly regulated, but many of the ones in use by deliveristas are not regulated or tested for individual devices, are charged improperly due to lack of access to safe charging, or are second hand—the batteries used in energy storage systems must be made to specifications by [UL Standards & Engagement](#), the product testing and safety company. Installing energy storage systems are highly regulated and need to be approved by FDNY and DOB before they're installed on buildings. DCP has been working with FDNY and DOB to develop COYCN proposal.

Second, some opposition to COYCN cites aesthetic concerns with more rooftop solar, meaning that solar panels will be easier to see from the street, or with upgraded building facades, meaning that a neighborhood's look may change. In terms of solar canopy visual impacts, landmark rules still apply to landmarked buildings and historic districts. LPC will continue to review and permit any requested changes to individual landmarks and buildings in historic districts, as stated in LPC's [support letter](#). But let's be clear: aesthetic objections to solar panels, green roofs, energy efficient building facades, and other steps that will reduce carbon emissions and improve public health cannot stand in the way of action on climate change.

Lastly, while we recognize that this zoning proposal does not address funding, we want to underscore that there are many funding and grant opportunities at the federal and state levels that could help fully realize this proposal's potential. This includes, but is not limited to:

- The Inflation Reduction Act offers various tax credits and rebates for individuals, businesses, nonprofits, and local governments to decarbonize buildings. For example, Section 25D of the federal tax code offers a 30% uncapped tax credit for rooftop solar installation, solar-powered water heaters, small wind energy, geothermal heating installation, and battery storage installation.
- In June, the [EPA released its \\$7 billion Solar for All Notice of Funding Opportunity](#), which will award up to 60 grants to states, territories, Tribal governments, municipalities, and nonprofits to expand the number of low-income and disadvantaged communities primed for residential solar investment—enabling millions of low-income households to access affordable, resilient, and clean solar energy.
- The New York State Energy Research & Development Authority (NYSERDA) has programs like [NY-Sun](#) that work directly with solar contractors and developers to offset the cost for New York residents to go solar.

- The New York State Environmental Bond Act requires not less than \$400 million for green building projects to increase energy efficiency or site renewables at state-owned buildings and public schools. The Bond Act also directs [at least 35% with a goal of 40% of total funding towards disadvantaged communities](#) that are often the most impacted by pollution and climate change.
- This year, the New York State legislature passed the NYC Solar Tax Abatement extension, which incentivizes more resilient solar development. This incentive will be in place for the next 10 years, providing long-term certainty for a growing solar market. It will cover solar and/or battery storage, including hybrid systems.

As our planet experienced [record-breaking heat this summer](#) and with the recent downpour and flooding in our City, we are once-again reminded of the urgency of fighting climate change. Approving COYCN will not only accelerate the transition to a carbon-neutral future but also promote a healthier and more sustainable New York City for all its residents. We urge the City Council to approve this zoning text amendment and not weaken its provisions.

Thank you for the opportunity to speak.



370 Jay Street, 7th Fl.
Brooklyn, NY 11201

November 2, 2023

Council Member Rafael Salamanca
Chair, Land Use Committee
New York City Council
250 Broadway
New York, NY 10007

Dear Chair Salamanca,

NineDot Energy (NineDot) is a Brooklyn-based community-scale clean energy developer with a growing portfolio of projects across New York City, in support of our mission to provide the City with a cleaner, more resilient, more affordable, and more equitable power grid. One focus of our development are battery energy storage systems (BESS), which are critical to maximizing the use of intermittent renewables, such as wind and solar. Energy storage also reduces reliance on high-emissions “peaker” plants, which are disproportionately located in low-income neighborhoods of the City. Our first BESS development in New York City in the Pelham Gardens area of the Northeast Bronx is designed to discharge electricity to the local grid during peak hours this summer, helping that neighborhood avoid increased costs and potential brownouts / blackouts.

NineDot writes to offer our support of the Department of City Planning’s (DCP’s) proposed City of Yes: Carbon Neutrality text amendment (COYCN), which would facilitate important progress in reducing New York City’s carbon footprint in the coming decades. We believe COYCN represents a comprehensive effort to clear barriers to achieving our climate goals, including through development of community-scale battery energy storage systems (BESS). We urge the Committee to approve COYCN without modifications.

WHY BESS?

BESS can help reduce carbon and other dangerous emissions.

Currently, New Yorkers rely on high-emissions “peaker” plants during hours of peak electrical demand to avoid brownouts and blackouts. In addition to nearly 2.7 million tons of CO₂ (or almost 5% of the City’s total carbon emissions), these facilities spew multiple noxious chemicals which cause serious health issues for nearby residents. Tragically but unsurprisingly, these facilities - many of which are more than 50 years old - are disproportionately located in low-income and minority communities. By deploying BESS throughout the City, including in residential (“R”) zoning districts, we can reduce reliance on peaker plants and eventually take them offline - all while maximizing clean but intermittent energy sources such as wind and solar.

BESS development throughout the City significantly increases the resiliency of the power grid. As we seek to electrify buildings and vehicles as quickly as possible, strain on the power grid will only increase. Within ConEdison’s “Zone J,” there are roughly 200 different distribution networks throughout the five boroughs, each with different load capacity and variable demand. By strategically developing BESS sites close to loads on the most stressed of these networks, including in R zoning districts, community-scale developers like NineDot provide significant resiliency benefits at the distribution level, preventing localized brownouts and blackouts - all while avoiding the need for costly ConEdison construction.

SAFETY AND AESTHETICS

NYC BESS safety standards are best in class.

Nothing in COYCN would affect the safety oversight exercised by DOB and FDNY - standards which we believe are the most rigorous in the nation. DOB and FDNY currently require several layers of approval before, during, and after construction of BESS projects, including pre-approving any battery technology which would be installed at any site. To date, there have been no safety incidents involving BESS in the City on roughly a dozen different operational sites.

BESS and e-bike technology are vastly different in several respects.

None of these standards currently apply to e-bikes, many of which lack any safety certifications and are commonly used second- and third-hand, far past their useful life and with defects that the original equipment manufacturers would not be permitted to sell. E-bikes batteries are also, by their nature, far more prone to degradation: unlike BESS, they (a) are mobile and can collide at high speeds with curbs and other objects; (b) do not have protective covering or cooling systems and thus can suffer from adverse weather conditions; (c) are not subject to operational inspections and thus often charged haphazardly (e.g., overnight).

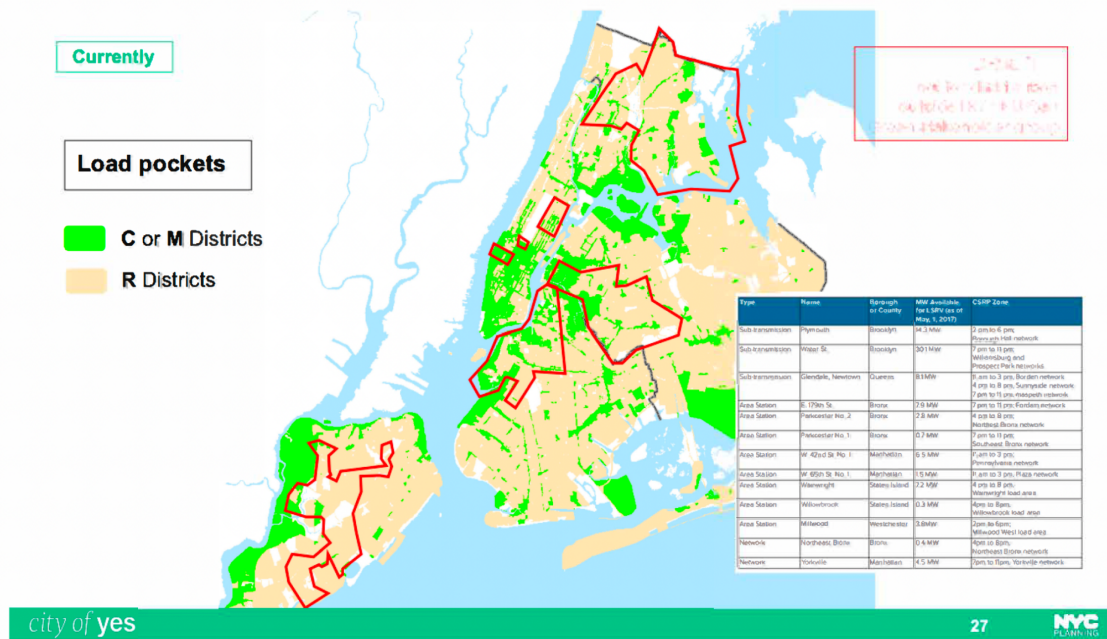
BESS can be developed to be consistent with neighborhood character.

The approved text would add special BESS screening and enclosure provisions for the first time, requiring fencing and evergreen vegetation. NineDot commits to working with community members to design projects which match the aesthetics of the surrounding neighborhood.

WHY COYCN?

BESS development is currently not allowed in several key areas of the City.

Currently, BESS cannot be developed as-of-right in certain commercial or in any R district - i.e., in the majority of areas of the City. These areas include those which ConEdison has identified as within a “Locational System Relief Value” (LSRV) areas, suffering from poor grid reliability and high stress, as shown outlined in red in the graphic below developed by DCP:



Approval of the proposed text amendment would result in BESS being classified as “energy infrastructure equipment,” allowed citywide as-of-right though limited to 10,000sf in R districts. COYCN would also afford greater flexibility in BESS site design, and would clarify and standardize various other zoning provisions affecting BESS development.

We understand that a very small minority of Council members have discussed modifying COYCN to require “buffer areas” between existing residential uses and BESS, supposedly for safety reasons. This proposal ignores (1) the tremendous efforts of FDNY to ensure BESS safety, (2) existing required setbacks between any lot line and BESS equipment under the Fire Code, and (3) existing yard requirements in R zones which any BESS would be subject to. More to the point, these “buffer areas” would make it functionally impossible for BESS to be developed in R zones, squeezing the usable square footage of most lots below a feasible size.

For further information, please contact:

Sam Brill
Director, Strategic Policy Initiatives
NineDot Energy
sam.brill@nine.energy

Yanni Trittas
Vice President
Constantinople & Vallone
yanni@candvconsulting.com

Public Testimony:

New York City Council Subcommittee on Zoning & Franchises Hearing – October 4, 2023

City of Yes for Carbon Neutrality (COYCN) – Application N230113ZRY

My name is Salvatore Cassano. For 4 decades, it was my honor to serve as a member of The New York City Fire Department (FDNY). Throughout my tenure, I was blessed with the opportunity to have held every rank in the Department, including becoming Chief in 2006, before I was eventually appointed to be the City's Fire Commissioner by Mayor Bloomberg in 2010.

I want to thank the City Council for holding this very important hearing as New York City continues to map out its plans to reach our critical sustainability goals in the coming years. I am writing to express support for the proposed text amendment, but I also want to acknowledge some of the feedback that has been expressed in regard to it.

More specifically, I wanted to address concerns regarding the safety of battery energy storage systems (BESS). As you know, FDNY has been actively engaged in the development of comprehensive standards for battery BESS. In 2019, the Department adopted a rule that put in place several requirements and procedures surrounding BESS in every aspect including, but not limited to, their design, installation, operation, and maintenance.

As a result of the rule, our city has some of the most, if not the most, thorough BESS safety requirements in the country. The rigor of FDNY's requirements is designed to ensure the safety of neighboring uses to BESS installations, even in the dense NYC landscape. For example, all BESS technologies that are looking to be installed within NYC are required to obtain a Certificate of Approval for each specific product and all of their iterations (FDNY keeps an updated list of approved technologies and posts them on their website). Battery manufacturers are required to submit documentation to FDNY that proves that their technologies hit performance benchmarks for full-scale fire and fault conditions, smoke detection capacity, explosion protections, 24/7 monitoring by staff that have obtained a Certificate of Fitness – an FDNY requirement that ensures that these systems are handled by trained and knowledgeable individuals. FDNY is also required to have access to the systems and must be notified of each system's installation, commissioning, decommissioning, and of course, if any emergency situations were to occur. The regulations on manufacturers are put under even more scrutiny when considering special accommodations such as larger batteries or rooftop outfits.

Simply put, as it pertains to safety, I have no doubt that, with FDNY involved at every level of the process, these storage facilities will pose the smallest risk possible to individuals, families, and communities.

Thank you for considering my testimony.

Salvatore Cassano



The Community Preservation Corporation
220 East 42nd St, 16th Floor
New York, New York 10017

New York City Council Subcommittee on Zoning and Franchises Hearing City of Yes for Carbon Neutrality | October 4, 2023

Testimony submitted on behalf of The Community Preservation Corporation

This testimony is submitted on behalf of The Community Preservation Corporation (CPC), a nonprofit affordable housing and community revitalization company that was formed in the early 1970s to help New York City and State restore and rebuild communities that had been devastated by deterioration and abandonment.

Today, CPC uses its unique expertise in housing finance and public policy to expand access to housing and drive down the costs of affordable housing production, advance diversity and equity within the affordable housing development industry, and address the effects of climate change in our communities through the financing of sustainable housing. Since our founding, CPC has invested over \$14 billion to finance the creation and preservation of more than 225,000 units of housing through our lending and investing platforms. CPC is a permanent lending partner to the New York City Retirement Systems and we are also an equity partner in the PACT Renaissance Collaborative, the team selected by NYCHA to renovate and preserve 16 NYCHA properties located in Manhattan. We were involved in the recovery from Hurricane Sandy, and have centered the transition to the green economy across everything we do since launching our Green Financing Initiative in 2008. Currently, we are administering NY State's Climate Friendly Homes Fund, a \$250M commitment to decarbonize 10,000 units of housing statewide in the next 5 years.

Our 50 years of experience working in New York City tells us that many affordable housing developments across the city were built in another era, long before energy efficiency became a priority – and long before modern tools were conceptualized and brought to market. This is especially true for affordable and public housing developments, many of which were built in low-lying areas that are particularly vulnerable to climate threats like storm surges and rising sea levels and using technology that is extremely outdated and inefficient.

City of Yes for Carbon Neutrality (COYCN) is a vital step to green our buildings and fight climate change across the five boroughs. Currently, buildings account for over 70% of New York City's overall emissions. COYCN will help address this by providing building owners, architects, and government agencies the desperately needed flexibility to undergo green retrofits and add solar energy to rooftops. City of Yes would address burdensome restrictions on wall thickness, height, and other regulations that limit building electrification and retrofitting. Buildings could get energy efficient upgrades they need while maintaining the look and feel of their neighborhoods.

COYCN, which would allow elevated solar panels to cover over 100 percent of a roof area, could increase potential solar energy generation by 290 percent. COYCN would also enable building retrofits using exterior insulating panels, which will help prevent energy waste. Additionally, COYCN would expand the ability to place efficient HVAC equipment, like heat pumps, on roofs and in yards, opening up options for building owners to electrify and replace gas and oil boilers with clean, green technology. For these reasons, we urge the Council to approve this zoning text amendment. Furthermore, we request that the City Council not modify the proposal to reduce its impact.

Thank you for the opportunity to submit testimony on this important topic.

From: [Timon Malloy](#)
To: [Land Use Testimony](#)
Subject: [EXTERNAL] City of Yes for Carbon Neutrality Bill
Date: Tuesday, October 3, 2023 10:32:02 PM

10/3/2023

Council Member Kevin Riley
Chair, Subcommittee on Zoning and Franchises
250 Broadway, Room 1770
New York, NY 10007

Council Member Rafael Salamanca Jr.
Chair, Committee on Land Use
250 Broadway, Suite 1747
New York, NY 10007

Subject: Letter of support for City of Yes for Carbon Neutrality

Dear Council Members Riley and Salamanca,

I am writing to express support for the NYC

Department of City Planning's proposed City of Yes for Carbon Neutrality (COYCN) zoning text amendment. COYCN's success is not only critical for New York to reach its carbon emission reduction goals but will also improve the City's air quality, sustainability, and resiliency.

As our planet continues to experience record-breaking heat this summer and as New Yorkers were confronted with poor air quality due to Canadian wildfires, New York City must lead the way in moving us away from fossil fuels to fight climate change.

Yet, as it stands today, New York City's zoning regulations can be a barrier to making the necessary green investments that are crucial in our fight against climate change and reducing toxic air pollution. COYCN will help us meet our emission reduction goals by removing zoning restrictions that limit the placement of EV charging infrastructure, installation of solar photovoltaic (PV) systems and energy storage systems, energy efficient building facade retrofits, green infrastructure, and more.

I support COYCN because it will remove existing zoning barriers and help New Yorkers make necessary green investments. The NYC Department of City Planning has actively engaged with industry experts, advocates, neighborhood groups, and more, to ensure this proposal reflects the need's of New Yorkers.

I urge the City Council Subcommittee on Zoning to vote in favor of COYCN. Approving COYCN will not only accelerate the transition to a carbon-neutral future but also promote a healthier and more sustainable New York City for all its residents.

Sincerely,

Timon Malloy