



Legislation Text

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Res. No. 9

Resolution calling on the Mayor, the Mayor's Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood's character or socioeconomic status requires a detailed analysis and possible mitigation, and calling on the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.

By Council Members Barron, Levin and Cornegy

Whereas, In recent years, the City of New York has rezoned and redeveloped (or allowed to be redeveloped) a substantial portion of the real estate in the City; and

Whereas, Specifically, the Furman Center has reported that between 2002 and 2010 the City of New York rezoned roughly twenty percent of the land in the City and recent reports suggest that as much as forty percent of the City was rezoned between 2002 and 2014; and

Whereas, Some major redevelopment projects directly displace local residents and businesses to make room for new construction; and

Whereas, Such projects may also displace local residents and businesses by substantially altering the character and affordability of the affected neighborhoods (a process often called indirect or secondary displacement); and

Whereas, Before the City of New York may undertake or give discretionary approval to a project, Article 8 of the New York State Environmental Conservation Law and related regulations generally require the City to consider whether the proposed project would have a significant adverse impact on the "environment" (including on "existing patterns of population concentration, distribution, or growth, and

existing community or neighborhood character”); and

Whereas, The New York State environmental review regulations specify that projects may cause an adverse environmental impact if they “creat[e] . . . a material conflict with a community’s current plans or goals as officially approved or adopted; . . . impair[] . . . existing community or neighborhood character; . . . [or cause] a substantial change in the use, or intensity of use, of land”; and

Whereas, Section 192 of the New York City Charter requires the City Planning Commission to “oversee implementation of” environmental review laws and “establish by rule procedures for environmental reviews of proposed actions by the city”; and

Whereas, The City of New York accordingly has adopted the City Environmental Quality Review (CEQR) process for evaluating any project it plans to undertake or give discretionary approval to; and

Whereas, Section 5-04 of Title 62 of the Rules of the City of New York obliges the Mayor’s Office of Environmental Coordination to assist all city agencies in fulfilling their environmental review responsibilities, and to “[w]ork with appropriate city agencies to develop and maintain technical standards and methodologies for environmental review”; and

Whereas, The Mayor’s Office of Environmental Coordination plays a central role in developing and maintaining the CEQR Technical Manual, which offers City agencies standards and guidance for conducting these required environmental reviews; and

Whereas, Depending on the type and scale of the project, CEQR review may involve several stages of study and evaluation, including 1) a determination of whether the action is the kind that requires any significant environmental review or instead has been identified by state or local rule as requiring no environmental study, 2) an Environmental Assessment Statement (“EAS”) to help identify any impacts the proposed project may have on the environment and whether those environmental impacts may be significant and adverse, and 3) if significant adverse impacts might result, either adopting changes to the project or conducting a full Environmental Impact Statement (“EIS”), which generally involves a deeper analysis of the possible impacts

and of project alternatives or mitigation measures; and

Whereas, Specifically, after considering the EAS, the reviewing agency may issue one of three determinations. A Negative Declaration means that the proposal will not result in any significant adverse environmental impacts. A Conditional Negative Declaration (which is only available for certain types of projects) means that, while the “action as initially proposed may result in one or more significant adverse environmental impacts,” the proposal has been changed and will no longer cause such impacts. In other words, this finding means that, through mitigation or changes to the project, the project sponsor likely can avoid having to prepare a full EIS. Third, a Positive Declaration means that there are potentially significant adverse environmental impacts and a full EIS is necessary; and

Whereas, The Technical Manual offers guidance on assessing a variety of possible adverse environmental impacts, including socioeconomic impacts and damage to the character of the neighborhood; and

Whereas, The Technical Manual describes three major levels of analysis that may be necessary to evaluate each kind of potential adverse impact as part of an EAS or EIS. If a particular level of analysis cannot rule out the possibility of a significant adverse impact, the project sponsor must proceed to the next level and ultimately (if necessary) identify possible mitigation measures or project alternatives; and

Whereas, The first level is an initial screening, often consisting of a set of initial questions or thresholds spelled out in the Technical Manual and also included on the standard EAS forms; and

Whereas, The second level is a preliminary assessment; and

Whereas, The third level is a detailed analysis; and

Whereas, At the initial screening level, the Technical Manual calls for a project sponsor to undertake further socioeconomic assessment “if a project may be reasonably expected to create socioeconomic changes within the area affected by the project that would not be expected to occur without the project,” including by producing levels of direct or indirect displacement of area residents and businesses that “typically” warrant further study, such as 1) the direct displacement of more than 500 residents, 2) the direct displacement of more

than 100 employees, 3) the displacement of a business or industry that is “unusually important,” and 4) “substantial new development that is markedly different from existing uses, development, and activities within the neighborhood” - usually involving the addition of more than 200 residential units or 200,000 square feet of commercial development; and

Whereas, If at least one of those thresholds is met or the agency otherwise concludes that more analysis is necessary, the analysis proceeds to the next level, a “preliminary assessment.” Under the Technical Manual’s preliminary assessment standards, generally a project sponsor may have to go on and conduct the most detailed level of analysis of, for example, direct residential displacement only if: 1) more than 500 residents will be directly displaced, 2) the displaced residents constitute more than five percent of the population in the area surrounding the project, and 3) the average income of the displaced population is markedly lower than that of the relevant area more generally; and

Whereas, Similarly, the most detailed level of analysis of indirect residential displacement is usually only required if 1) the project would add a new population with higher average income relative to the people who would otherwise live in the area, 2) the population increase is more than five percent of the population otherwise expected to live in the area, and 3) the relevant area is not already experiencing a sustained trend toward increasing rents and new market rate development; and

Whereas, Although the Technical Manual emphasizes that adequate analysis depends upon the project’s context, the initial screening and preliminary assessment thresholds may in practice be applied formulaically - particularly the initial screening questions, which are presented in check-box format on the standardized EAS forms; and

Whereas, It is the view of the City Council that these initial screening and preliminary assessment thresholds for more detailed study underestimate the impact of displacing long-term area residents and businesses; and

Whereas, If the third, most detailed level of analysis reveals a change in socioeconomic conditions or

neighborhood character, the project sponsor must assess the significance of the impact and, if it is significant and adverse, must identify possible mitigation measures or project alternatives; and

Whereas, The Technical Manual already recognizes a variety of reasonable mitigation measures that project proponents may rely on to address significant adverse socioeconomic impacts, including relocation expenses, lump-sum payments, building or preserving affordable housing, and similar measures for displaced businesses; and

Whereas, While the Technical Manual recognizes that a combination of multiple moderate impacts, such as a moderate socioeconomic impact combined with an impact on cultural and historic resources and on community facilities and services, can harm a neighborhood's overall character, when assessing whether there is a significant adverse impact on "neighborhood character," the Technical Manual focuses on a few "defining" features of the relevant community and so may miss major, adverse changes in the character of an affected neighborhood; and

Whereas, Because the thresholds for deciding when further study is needed, and ultimately for identifying potentially significant adverse socioeconomic and neighborhood character impacts, are too high, too many projects receive only limited CEQR scrutiny, stopping, for example, at the initial screening stage, and so project sponsors are never required to adequately assess or mitigate immediate and long-term displacement of community residents and businesses; and

Whereas, For example, if the Technical Manual set lower initial screening thresholds, more project sponsors would have to take a closer look at the characteristics of the neighborhood that the project will impact, providing additional valuable information for the agency and the public to consider when assessing the proposal; and

Whereas, Similarly, if the Technical Manual also set lower preliminary assessment and detailed study thresholds for identifying possible significant adverse socioeconomic impacts, more project sponsors could be required to adopt displacement mitigation measures (such as providing permanently affordable housing and

commercial space) in order to receive a Conditional Negative Declaration following an EAS, or would be required to explicitly evaluate such mitigation options, along with less-impactful project alternatives, as part of an EIS; and

Whereas, When projects that may impact the relevant neighborhood are studied in greater detail, the resulting disclosures support meaningful review by community members and city stakeholders and may generate new and creative solutions for minimizing significant adverse effects (as occurred in the Greenpoint-Williamsburg rezoning process in 2004 to 2006); and

Whereas, Creating permanently affordable housing and commercial space for directly and indirectly displaced residents and businesses is essential to ameliorating the negative effects of redevelopment and preserving the character of our neighborhoods and should be a priority in every project undertaken or approved by the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Mayor, the Mayor's Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood's character or socioeconomic status requires a detailed analysis and possible mitigation, and calls upon the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.

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