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April 30, 2015

Mr. Robert Dobruskin, AICP  
New York City Department of City Planning  
22 Reade Street  
New York, NY 10007

RE: Draft Scope of Work for the Environmental  
Impact Statement for the Zoning for Quality  
and Affordability Text Amendment Proposal  
(CEQR 15DCP104Y)

Dear Mr. Dobruskin:

I have reviewed the Draft Scope of Work for the above proposal and this letter contains my comments. I am a certified planner who has helped to write or evaluate many Environmental Impact Statements. While I often represent clients who have interests in these matters, these comments are solely my own. My comments are split into two parts: serious issues in the Draft Scope of Work that will require additions to the Scope, and minor issues which simply need clarification.

### **Serious issues**

There are two serious issues in the Draft Scope of Work. The first relates to how the socioeconomic impacts of the proposed action will be analyzed, and the second relates to the action's Reasonable Worst Case Development Scenario.

### **Socioeconomic Impacts**

The Draft Scope of Work (Scope) states that one of the reasons the building envelope is changing is to accommodate new construction practices, including "block and plank" and modular construction. The Scope explains that these practices are favored to reduce construction cost in low and mid-rise construction, but in New York City they often cannot be used while still using all the floor area available. The change in the envelope is intended to allow developers to both use these lower cost construction techniques, as well all the floor area the underlying zoning provides.

The use of pre-fabricated materials in construction reduces costs by eliminating tradespeople and laborers from the construction site, when compared to building using more traditional site-built construction techniques.

The CEQR Technical Manual tells us, "A socioeconomic assessment should be conducted 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." As an example of a significant impact, the Technical

Manual uses the displacement of 100 workers. If this change in the building envelope is successful and results in a significant number of additional buildings using prefabricated materials, there is the potential for a significant socioeconomic impact that would not occur otherwise, and that impact needs to be studied and disclosed. The Building Congress estimates that in 2015 there are 125,100 construction jobs in New York City. If just 1% of these jobs are lost due to savings related to the use of prefabricated materials that is a loss of 1,251 jobs.

Yet the Scope only identifies one area of study in the socioeconomic chapter: indirect residential displacement. Considering the potential impact on the construction industry and the tradespeople and laborers that work in it, the Scope should be amended to include an assessment of direct business displacement and indirect business displacement.

Further, the Technical Manual tells us, “If the project is expected to affect conditions within a specific industry, an assessment is appropriate. For example, a citywide regulatory change that would adversely affect the economic and operational conditions of certain types of businesses or processes may affect socioeconomic conditions in a neighborhood.”

Zoning is a part of the City’s regulations, and if the changes to the building envelope reduces construction costs, as it expressly hopes to do, the proposal will certainly impact the construction industry and that impact needs to be understood and disclosed. The change also has the potential to impact the socioeconomic conditions of particular neighborhoods more than others. Highly skilled construction jobs will still be needed to fit prefabricated buildings together--perhaps even more in certain trades than traditional building techniques--but some number of lower skilled laborers may effectively be replaced by factory workers who are manufacturing these products outside of New York City. These lower skilled construction workers tend to reside in certain New York City neighborhoods, and the loss of these jobs and their impact on the socioeconomic conditions of already distressed New York City neighborhoods should be understood and disclosed. The Technical Manual supports this reasoning with its requirement that an assessment is appropriate when an action, “may affect socioeconomic conditions in a neighborhood.”

Reducing costs to make housing more affordable is a laudable goal, but a reduction of costs does not occur in a vacuum. With any reduction of costs, there is also a corresponding reduction in the economic activity, which is often someone’s job. As the CEQR Technical Manual clearly instructs, these socioeconomic impacts need to be understood and disclosed and the Scope needs to be expanded to include these potential socioeconomic impacts.

### **The Reasonable Worst Case Development Scenario**

The Scope reads, “To produce a reasonable analysis of likely effect of the text amendment, 13 representative development prototypes have been identified. . . .

these prototypes represent a reasonable worst case scenario for the Proposed Action.” It is not clear, however, how the reasonable worst case development scenario (RWCDS) for the entire action will be constructed. Will it include other prototypes? Since the prototypes detailed in the Scope represent only a handful of zoning districts, this would make sense, but do they also use the same assumptions as the prototypes in the Scope? If they do, this is a problem for the development of a RWCDS for CEQR purposes.

All of the prototypes found in the Scope are informative regarding the building forms that the proposal would allow, but most of them are too idiosyncratic for a generic RWCDS for CEQR purposes. Much of the desired articulation and partial floors shown in the prototypes, while desirable for both urban design and design flexibility, would likely make buildings more expensive to build. Unless this type of articulation becomes a requirement of the proposed text amendments instead of an option,<sup>1</sup> a generic RWCDS should not assume that developers will choose more expensive building forms over less expensive building forms if each has the same amount of floor area. A generic RWCDS should show a reasonable worst case, which would be relatively uniform massings with minimal articulation built to maximum base and building height in contextual districts. This would likely result in higher floor-to-floor heights than the proposal anticipates, but such building massing would represent the reasonable worst case scenario that CEQR requires. For example, some of the prototypes do not reach the maximum building height and these certainly should not be a part of the RWCDS. To effectively study a worst case scenario for shadows, an environmental impact statement needs to study a RWCDS that shows the reasonably maximum height, which in these contextual building envelopes are the maximum heights proposed. The scope should provide more detail on how the RWCDS should be constructed, and use a RWCDS that is built with reasonable worst case assumptions.

## **Minor issues & clarifications**

### **Figure 16 is missing wide streets**

Figure 16 lists existing and proposed heights for buildings on narrow streets. The Scope should clarify that no change is proposed for the building envelope on wide streets, or it should detail the change proposed for wide street building envelopes.

### **Clarify the proposed height and setback for R8QH option on wide streets**

Figure 17 shows the proposed maximum base height and building height for an R8 district using the quality housing option on a wide street to be 105 and 145 feet. Figure 16 shows the proposed maximum base height and building height for an R8A to be 95 and 125 feet. This difference between the R8A and R8QH is seen despite the text which states: “In non-contextual districts utilizing the

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<sup>1</sup> If this articulation will be required by the amendments, the Scope should be amended to clearly state that the articulation seen in the prototypes will be a requirement of the action, not simply an additional option provided to the developer.

Quality Housing option, the proposal is generally seeking to make the district envelope comparable to that of a comparable ‘A’ zoning district.” Are the different height and setbacks for R8A and the R8QH intentional? If so, the text describing Figure 17, quoted above, should be revised. If not, the proposed height and setbacks for R8A and R8QH should be changed so that they match.

**Clarify what is being proposed for building spacing**

The proposed action is unclear on building spacing rules for heights over 125 feet. The Scope reads that building spacing in mid- and high-density districts would, “mimic the provisions set forth in the state Multiple Dwelling Law, which stipulates portions of buildings below a height of 125’ shall be no closer to one another than 40’ and portions above shall be no closer than 80’.” But the MDL reads, “The provisions of this subdivision requiring an open space eighty feet in depth between portions of buildings in excess of one hundred twenty-five feet above the curb level *shall not be applied when both such portions are towers.*” [emphasis added.] Is the proposal to mimic MDL including this exception for towers, or is the proposal to keep building spacing over 125 feet at 80 feet for all buildings as the text suggests? Either way, the Scope should be clarified.

**Close**

The Draft Scope of Work for the proposed text amendments is well-written and clearly explains complex topics in a way that most lay-people can understand. The proposal itself contains many long overdue amendments to the zoning resolution that will, at least in a small way, ultimately make our City better place to live and work. But the most difficult thing about policy is understanding the unintended consequences of those policies. While I detail several issues with the Scope, the socioeconomic impact of encouraging the outsourcing of a percentage of the City’s construction employment is likely one of the larger impacts of the proposed text amendments, yet the Scope does not even propose to study it. This is an impact that needs to be understood and disclosed so that the public and our elected officials can make decisions on the proposal with full knowledge.

Thank you for your efforts and for a clear, well-reasoned Draft Scope of Work. If you have any questions about these comments, please let me know.

Sincerely,



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