Zoning Lot Mergers and Transfers of Development Rights

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September 21-22, 2006
Equitable Building
THE CITY OF NEW YORK
FILE THESE SHEETS IN YOUR ZONING BOOK
Update #4

Zoning Text Amendments as Adopted by the City Council on:

Zoning Map Amendments* as Adopted by the City Council on:

CITY PLANNING COMMISSION DEPARTMENT OF CITY PLANNING
MEMORANDUM

TECHNICAL POLICY & PROCEDURE NOTICE # 14/93

TO: DISTRIBUTION

FROM: Richard C. Visconti, R.A., A.I.A.

Deputy Commissioner

DATE: November 23, 1993

SUBJECT: Definition of Floor area Section 12-10 of the Zoning Resolution

EFFECTIVE: IMMEDIATELY

PURPOSE: Further clarification of Department's interpretation of floor area definition Section 12-10 of the Zoning Resolution pertaining to floor space used for dwelling purposes.

SPECFICALLY: Cellar space used for dwelling purposes shall be included on floor area whether the cellar level is determined by curb level or base plane.

RCY: PA:sp

01/00
Zoning

Zoning controls

Use and Bulk
Use

A use is any activity, occupation, business or operation carried on, or intended to be carried on, in a building or on a tract of land.
Use

A "use" is:

(a) any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or

(b) any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.
A "non-conforming" use is any lawful use, whether of a building or other structure or of a tract of land, which does not conform to any one or more of the applicable use regulations of the district in which it is located, either on December 15, 1961 or as a result of any subsequent amendment thereto.
**Bulk**

Bulk is the term used to describe the size (including height and floor area) of buildings.
"Bulk" is the term used to describe the size of buildings or other structures, and their relationships to each other and to open areas and lot lines, and therefore includes:
Non- Complying

A "non-complying" building or other structure is any lawful building or other structure which does not comply with anyone or more of the applicable district bulk regulations either on December 15, 1961 or as a result of a subsequent amendment thereto.

A "non-compliance" is a failure by a non-complying building or other structure to comply with any one of such applicable bulk regulations.
Government Agencies

Department of Buildings
Board of Standards and Appeals
Department of City Planning
Community Boards
Borough President
Landmarks Preservation Commission
City Council
Mayor
Approvals Types

As of Right

Dept of Buildings
Certifications (CPC)
Authorizations (CPC)

Discretionary

Variances (BSA)
Special Permits (BSA)
ULURP
ULURP

Special Permits
Re-Zoning
Map Changes
Floor area

"Floor area" is the sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.
Floor area ratio

"Floor area ratio" is the total floor area on a zoning lot, divided by the lot area of that zoning lot.

(For example, a building containing 20,000 square feet of floor area on a zoning lot of 10,000 square feet has a floor area ratio of 2.0.)
Floor Area Ratio

FAR = 1.0
10,000 sf building covering 100% of lot

FAR = 1.0
10,000 sf building covering 50% of lot

FAR = 1.0
10,000 sf building covering 25% of lot
Development Rights

Under New York City's zoning law, the unused development rights of a lot may be sold and transferred as-of-right to adjacent lots only through a zoning lot merger, except in the case of designated landmarks where such transfer is possible by a special permit without a zoning lot merger. Unused development rights are often incorrectly called "air rights."
Zoning Lot Mergers

Zoning lot mergers are critical to the successful functioning of the zoning. They enable developers to assemble small lots into the larger merged lots needed to build efficient, economical new buildings. The mergers also provide an incentive to preserve small existing buildings that are not built to the full permitted floor area, by enabling the transfer of the unused floor area from the site of a small existing building to the development site.
Zoning Lot Mergers

A zoning lot merger is the joining of two or more adjacent zoning lots into one new zoning lot. Unused development rights may be shifted from one lot to another, as-of-right, only through a zoning lot merger.
Zoning Lot Mergers

- Unused development rights
- Additional floor area from lot A
- Permitted floor area on zoning lot B
- Merged zoning lots

Zoning lot A

Zoning lot B
Granting and Receiving Sites
Tax Lots and Zoning Lots

Tax Lots: Affect the way you pay your taxes

Zoning Lots: Affect the way you can develop your property
Tax Map
Zoning lot (A)

A "zoning lot" is either:

(a) a lot of record existing on December 15, 1961 or any applicable subsequent amendment thereto;
Zoning lot (C)

(b) a tract of land, either unsubdivided or consisting of two or more contiguous lots of record, located within a single block, which, on December 15, 1961 or any applicable subsequent amendment thereto, was in single ownership;
Zoning lot (C)

(c) a tract of land, either unsubdivided or consisting of two or more lots of record contiguous for a minimum of ten linear feet, located within a single block, which at the time of filing for a building permit........... is under single fee ownership....
195 Broadway, New York

Zoning Lot (B)
"Bulk" is the term used to describe the size of buildings or other structures, and their relationships to each other and to open areas and lot lines, and therefore includes:
Non-Complying Buildings

54-31 General Provisions
Except as otherwise provided in Section 54-13, a non-complying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new non-compliance or increase the degree of non-compliance.
Development, or to develop

A "development" includes the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of a tract of land for a new use.

To "develop" is to create a development.
Enlargement or to enlarge

An "enlargement" is an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

To "enlarge" is to make an enlargement.
195 Broadway, New York

Zoning Lot (B)
Granting and Receiving Sites
ZONING LOT DEVELOPMENT AND EASEMENT AGREEMENT

THIS ZONING LOT DEVELOPMENT AGREEMENT ("Agreement") made as of the ___ day of __________, 2006 by and between _________, a New York limited liability company ("Land") with an address at ____________, ______ Street, New York, New York 10019, _______, a New York corporation ("C") with an address ________________, and ____________, both individuals (collectively, "Developer"), having an address ____________, New York, New York 10022.

WHEREAS, Developer is the owner of certain land, with the buildings and improvements thereon, in the City of New York, Borough of Manhattan, generally known by the street address 155 West 57th Street, designated as Lot 10 in Block 1040 which is more particularly described on Exhibit A annexed hereto and made a part hereof (said land being herein called the "Developer Land"); said buildings and improvements, together with any future replacements thereof permitted pursuant to the provisions of this Agreement, being herein called the "Developer Building," and the Developer Land and the Developer Building being herein collectively called the "Developer Premises");

WHEREAS, Developer is also the owner in fee of a certain parcel of air which lies above a horizontal plane drawn at an elevation of 163.75 feet referenced to Manhattan Datum located within the boundaries of that certain parcel of land known and numbered as 158 West 59th Street, New York New York and designated as Lot 55 in Block 1010 on the Tax Map of the City, County and State of New York (the "Lot 55 Land"); and said air parcel as more particularly described on Exhibit B attached hereto and made a part hereof, being herein called the "Air Parcel");

WHEREAS, Owner is the owner of the condominium units that comprise the condominium located on certain land, with the buildings and improvements thereon, in the City of New York, Borough of Manhattan, generally known by street addresses as 140 West 58th Street, New York, New York, designated as Lots 1001, 1002, 1003, 1004, 1005, 1006, 1007 and 1008 in Block 1010 on the Tax Map of the City of New York and more particularly described on Exhibit C annexed hereto and made a part hereof (said land being herein collectively called the "Owner Land"); said buildings and improvements, together with any future replacements thereof permitted pursuant to the provisions of this Agreement, being herein called the "Owner Building," and the Owner Land and the Owner Building being herein collectively called the "Owner Premises");

WHEREAS, pursuant to a certain Zoning Lot Development Agreement by and between Developer's predecessor in interest, Murfex Management Company LLC, and New Hampton, LLC dated April 26, 2004 and recorded in the office of the New York City Register on August 18, 2004 bearing CRFN 200400512840 (the "Lot 55 ZLDA"). Developer is entitled to utilize the unused development rights attributable to the Lot 55 Land on other parcels of land and
Easement for Light and Air

LIGHT AND AIR EASEMENT AGREEMENT

EASEMENT AGREEMENT made this day of , 200 between

hereinafter referred to as the “Grantor,” having an office/residing at

and

hereinafter referred to as the “Grantee,” having an office/residing at

WHEREAS, the Grantor is the fee owner of certain land located in the City and State of New York, Borough of , designated as Block Lot on the Tax Map of the City of New York, hereinafter referred to as Parcel A and more particularly described by a metes and bounds description set forth in Schedule A annexed hereto and by this reference made a part hereof.

WHEREAS, the Grantee is the fee owner of certain land located in the City and State of New York, Borough of , designated as Block Lot on the Tax Map of the City of New York, hereinafter referred to as Parcel B and more particularly described by a metes and bounds description set forth in Schedule A annexed hereto and by this reference made a part hereof.

WHEREAS, there is an existing/will be constructed a ______-story building on Parcel B.

WHEREAS, Grantee has requested the New York City Department of Buildings (the “Department of Buildings”) to set upon Application No. to construct a new building (to alter floors _______ to ________) for residential use on Parcel B, and

WHEREAS, the Department of Buildings may approve the Application upon the condition, inter alia, that the Grantor create an easement for light and air for the benefit of the present and future owners of Parcel B in order to comply with the applicable provisions of Title 27, Chapter 1, Subchapter 12, Articles 3 and 6 of the Administrative Code of the City of New York and applicable light and air provisions of the Multiple Dwelling Law.

NOW, THEREFORE, good and valuable consideration having been paid, the Grantor for her/himself, her/his heirs, legal representatives, successors and assigns hereby makes the following grant to Grantee, her/his heirs, legal representatives, successors, and assigns and to any future owner of Parcel B:

1. The right to unrestricted light and air over Parcel A as described herein, such that any construction on Parcel A shall never infringe upon the light and air provided to Parcel B.

* This easement agreement may be entered into as a means of compliance with light and air requirements of the New York City Administrative Code and New York State Multiple Dwelling Laws. This agreement may not be used to satisfy provisions of the New York City Zoning Resolution.

NYC.gov/buildings 15 safety service integrity
Channel Club, NYC
Channel Club, NYC
Lot line

A "lot line" is a boundary of a zoning lot.
Types of Lots

Corner Lot
Interior Lot
Through Lot
Building

A "Building" is any structure which:

(A) is permanently affixed to the land;

(B) has one or more floors and a roof; and

(C) is bounded by either open area or the lot line of a zoning lot.
Grand Central Station

Transfer of Development Rights
Grand Central Station

Landmarks Transfer of Development Rights
74-711 Landmark preservation in all districts

In all districts, for zoning lots containing a landmark designated by the Landmarks Preservation Commission, or for zoning lots with existing buildings located within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may permit modification of the use and bulk regulations, except floor area ratio regulations, provided that:

..................
Republic National Bank (HSBC)

Zoning Lot Merger
Split Lot
Historic Special Permit
Modification of Bulk
Split Lot

A split lot is a zoning lot located in two or more districts in which different use, bulk, parking, or other regulations apply.
Narrow Buildings

CHAMBERS STREET
(NARROW STREET)

LOT X
5S

LOT Y
7S

7S
PH

PLOT PLAN

ADDRESS: CHAMBERS STREET
BLOCK: ----
LOT: ----
ZONING MAP: 12B
ZONING DISTRICT: C6-3A TMU. A-3
Mixed Use Building

A "mixed building" is a building in a Commercial District used partly for residential use and partly for community facility or commercial use.
Crossroads, 10  Rutgers, NY

Lot Coverage
Crossroads, 10  Rudgers, NY
(b) In other R6, R7, R8, R9 or R10 Districts, the bulk regulations applicable to Quality Housing developments may, as an alternative, be applied if the zoning lot is developed pursuant to all of the requirements of the Quality Housing Program……. In these districts, the Quality Housing bulk regulations may apply to developments or enlargements on zoning lots with existing buildings to remain, if:

(1) the existing buildings are non-residential and the entire zoning lot will comply with the floor area ratio and density standards applicable to Quality Housing developments; or
# Zoning Analysis

**Quality Housing as Amended by the City Council**  
**June 29, 1984**

<table>
<thead>
<tr>
<th>Zoning Resolution</th>
<th>Item</th>
<th>Permitted/ Required</th>
<th>Proposed</th>
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<tbody>
<tr>
<td>32-15</td>
<td>USE GROUP 6</td>
<td>AS OF RIGHT IN C1-5/R7-2</td>
<td>PROP. IN NEW DEVELOPMENT</td>
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<tr>
<td>32-11/22-12</td>
<td>USE GROUP 2</td>
<td>AS OF RIGHT IN C1-5/R7-2</td>
<td>PROP. IN NEW DEVELOPMENT</td>
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<tr>
<td>22-14</td>
<td>USE GROUP 4</td>
<td>AS OF RIGHT IN R7-2</td>
<td>EXISTING 1-STORY CHURCH</td>
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## II. Bulk Regulations

<table>
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<tr>
<th>Resolution</th>
<th>Description</th>
<th>Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>35-011</td>
<td>Quality Housing Program</td>
<td>Bulks regulations may be applied to residential portion under same cond. set in sect. 23-011 &amp; 35-23</td>
</tr>
<tr>
<td>23-011 (b)</td>
<td>Quality Housing Program</td>
<td>In R7 district quality housing bulk regulations shall apply if zoning lot is developed under all quality housing program requirements.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Resolution</th>
<th>Maximum FAR</th>
<th>Residential</th>
<th>Community Facility</th>
<th>Commercial</th>
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<tbody>
<tr>
<td>23-145</td>
<td>3.44</td>
<td>6.5</td>
<td>2.0</td>
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<tr>
<td>24-11</td>
<td>0.55</td>
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<tr>
<td>33-121</td>
<td>0.44</td>
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<table>
<thead>
<tr>
<th>Resolution</th>
<th>Description</th>
<th>Calculation/ Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>23-145</td>
<td>Maximum BLD. M.A.</td>
<td>30,932.89 ft² * 3.44 = 105,748.62 ft²</td>
</tr>
<tr>
<td></td>
<td>Maximum Residential BLD. M.A.</td>
<td>6,021 ft² * 3.44 = 20,579.44 ft²</td>
</tr>
<tr>
<td></td>
<td>Available for Community Facility</td>
<td>102,536.12 ft² * 3.44 = 352,353.26 ft²</td>
</tr>
<tr>
<td></td>
<td>Maximum Commercial BLD. M.A.</td>
<td>102,536.12 ft² * 2.0 = 205,072.40 ft²</td>
</tr>
</tbody>
</table>

**Notes:**  
- Word counts:
  - 33 words
  - 423 characters
  - 2 paragraphs

- **Type of text:** Analysis
- **Level of difficulty:** Intermediate
- **Summary:** The document outlines zoning regulations and bulk requirements for residential, community, and commercial use. It includes calculations for maximum building area (BBLD) and residential, community, and commercial areas.

**Conclusion:** The document provides a detailed analysis of zoning regulations, including permitted and proposed requirements for various uses, ensuring compliance with established guidelines and standards.
Lot Coverage

"Lot coverage" is that portion of a zoning lot which, when viewed directly from above, would be covered by a building or any part of a building.

However, for purposes of computing a height factor, any portion of such building covered by a roof which qualifies as open space, or any terrace, balcony, breeze way, or porch or portion thereof not included in the floor area of a building, shall not be included in lot coverage.
Height Factor

The "height factor" of a building is equal to the total floor area of the building divided by its lot coverage.

If two or more buildings are located on the same zoning lot, their height factor is the sum of their floor areas divided by the sum of their lot coverages.

The height factor is thus equal to the number of stories, if the building were erected without setbacks. In computing a height factor, a fraction of .5 or more may be considered a whole number, and smaller fractions shall be disregarded.
Open Space

"Open space" is that part of a zoning lot, including courts or yards, which:
(a) is open and unobstructed from its lowest level to the sky, except as provided below;
(b) is accessible to and usable by all persons occupying a dwelling unit or a rooming unit on the zoning lot; and
(c) is not part of the roof of that portion of a building containing dwelling units or rooming units.
Location of Open Space

35-33 A non-residential use occupying a portion of a building that was in existence on December 15, 1961, may be changed to a residential is and the regulations on minimum required open space ratio shall not apply to such change in use.
Location Of Open Space
Preconsideration

Additional Information

1. Title Status
   
2. Additional Information
   
Block:
Lot:

Respectfully requesting a pre-consideration for the future following condition:

The area enlarging on existing, two-story commercial building and altering the existing building and building an enlargement to create a twelve story residential building.

This building on Orchard Street, lot 11, will be merged with Orchard Street, lot 10. Orchard is a building built before 1981 and the 2nd and 3rd stories were converted to residential use under application 103 and COA 103 was issued.

By merging with Orchard Street, floors 2 and 3 will be enlarged. This enlargement will be done by basic height and setback regulations of the Zoning Ordinance.

Section 35-33 applies in this situation, it states:

"A non-residential use occupying a portion of a building that was in existence on December 15, 1981, may be changed to a residential use and the regulations on minimum required Open Space Ratio shall not apply to such a change of purpose.

Floors 2 and 3 of Orchard Street will have a lot coverage of 70%. The portion of Orchard Street does not count toward Open Space Ratio per Section 35-33.71.

Our interpretation is that since the building existed prior to December 15, 1981 and a change of use to residential is being made in non-residential space, then the Open Space Ratio does not apply to this change of use application.

Acceptance of our interpretation is respectfully requested.

[Signature]

[Stamp: Approved by the Board of Zoning Appeals]

[Stamp: Approved by the Board of Zoning Appeals]

Statements and signatures:

[Signatures and dates]
Legally required window

(A "legally required window" is a window or portion of a window (including a window either in addition to or as a substitute for mechanical ventilation) which is required by any applicable law or statute to provide light or ventilation to a "living room," as defined in Section 4 of the Multiple Dwelling Law.)
Internet Resources

4. Oasis NYC map: [www.oasisnyc.net](http://www.oasisnyc.net)
5. Property Shark: [www.propertyshark.com](http://www.propertyshark.com)
Part B
Split Lot

A split lot is a zoning lot located in two or more districts in which different use, bulk, parking, or other regulations apply.
77-11 Conditions for Application of Use Regulations to Entire Zoning Lot

Whenever a zoning lot existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between districts in which different uses are permitted, the use regulations applicable to the district in which more than 50 percent of the lot area of the zoning lot is located may apply to the entire zoning lot, provided that the greatest distance from the mapped district boundary to any lot line of such zoning lot in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.
Whenever a zoning lot existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between:

(a) two Residence Districts limited to single- or single- and two-family residences; or
(b) two Commercial Districts or two Manufacturing Districts in which the same uses are permitted but different bulk regulations apply;

the bulk regulations applicable to the district in which more than 50 percent of the lot area of the zoning lot is located may apply to the entire zoning lot, provided that the greatest distance from the mapped district boundary to any lot line of such zoning lot in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.
Split Lot
Existing prior to 1961
Split Lot
Merged
Split Lot regulations
Republic National Bank (HSBC)

Zoning Lot Merger
Split Lot
Historic Special Permit
Modification of Bulk
Split Lot

A split lot is a zoning lot located in two or more districts in which different use, bulk, parking, or other regulations apply.
77-22 Split Lot Floor Area Ratio

The maximum floor area ratio permitted on each portion of such zoning lot for the applicable type of building or buildings on such zoning lot shall be determined under the applicable regulations of the Chapters indicated:........

Each such floor area ratio shall be multiplied by the percentage of the zoning lot to which such #floor area ratio applies. The sum of the products thus obtained shall be the adjusted maximum floor area ratio# applicable to such zoning lot.

...... (other conditions apply).....
<table>
<thead>
<tr>
<th>Block</th>
<th>Lot</th>
<th>Building</th>
<th>C5-3</th>
<th>C6-4</th>
<th>M 1-6</th>
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<tr>
<td>49</td>
<td>450</td>
<td>450 Fifth Avenue (New)</td>
<td>6,575</td>
<td>4,360.625</td>
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<td>45,47,53</td>
<td>444</td>
<td>444 Fifth Avenue</td>
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<td>4,937.5</td>
<td>3,456.25</td>
<td>18,237.75</td>
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<td>841</td>
<td>31</td>
<td>1 West 39th</td>
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<td>30</td>
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<td>57</td>
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<td>-</td>
<td>2,320.625</td>
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<td>2,320.625</td>
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</tbody>
</table>

Total Area: 19,750.000 SF, 14,417.58 SF, 17,034.378 SF. 51,201.8758 SF.

% of Lot Area: 38.5728%, 28.1582%, 33.2689%. 100% of lot area.

Adjusted F.A.R. \( \left( 0.3857 \times 15 \right) + \left( 0.2816 \times 10 \right) + \left( 0.3327 \times 10 \right) = 11.9286 \text{ F.A.R.} = 610,768.68 \)

**TOTAL AVAILABLE ZONING FLOOR AREA**

Maximum allowable bulk in C5-3 \( 19,750 \times 15 \text{ F.A.R.} = 296,250 \text{ Z.F.A.} \)

Maximum allowable bulk in C6-4 \( 14,417 \times 11.929 = 171,980 \text{ Z.F.A.} \)

Maximum allowable bulk in M1-6 \( 17,034 \times 11.929 = 203,198 \text{ Z.F.A.} \)
REQUEST TO REAL PROPERTY ASSESSMENT BUREAU SURVEYING DIVISION FOR TENTATIVE LOT NUMBERS

BOROUGH Manhattan
DATE 06/22/2006

CHAMBERS STREET

TENTATIVE LOT NUMBERS

32

for Department of Buildings filing only

TAX MAP CHANGE WILL NOT BE MADE UNTIL RECEIPT OF APPROVAL BY DEPT. OF BUILDINGS

Owner's Name 146 Chambers Owners LLC

Architect's or Engineer's Seal

TAX MAP CHANGE WILL
NOT BE MADE UNTIL
RECEIPT OF APPROVAL
BY DEPT. OF BUILDINGS

Official Seal and Signature

Assistant Surveyor

Tax Lot
Zoning Lot
Subdivision
PW-1

Plan/Work Approval Application

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<th>Submission Date</th>
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<tr>
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<th>Part A: Plan Overview</th>
<th>Plan Overview</th>
<th>Work Type Area</th>
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<th>Completion Date</th>
<th>Final Date</th>
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<table>
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<tr>
<th>Site Location</th>
<th>Remarks</th>
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<table>
<thead>
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<th>Site Type</th>
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