

## New York City Planning Commission Approves Rules to “Fast Track” Environmentally Friendly Housing Development

**March 28, 2024**

On March 20, 2024, the New York City Planning Commission (“CPC”) approved the Green Fast Track for Housing Program. These are rules that would expedite approval of small to medium-sized residential developments by exempting them from time-consuming environmental reviews that can add a year to a project timeline and cost \$100,000 or more. The program qualifies as good news for developers and anyone eager to see the City take concrete steps to tackle its housing shortage by streamlining the building approval process. The new rules go into effect in June.

Under the State Environmental Quality Review Act and the City Environmental Quality Review law, city agencies may categorically exempt as “Type II” certain actions from environmental review that have been “determined not to have a significant impact on the environment.” 6 NYCRR § 617.5(b). Before passage of the new rules, CPC analyzed thousands of environmental reviews from the last decade, in an effort to discern project characteristics that consistently result in reviews showing no negative impacts on the environment. From these characteristics CPC developed eligibility criteria that a project must satisfy in order to be eligible for the “Green Fast Track” Type II exemption.

Green Fast Track only applies to small to medium-sized residential buildings, with certain environmental attributes. Projects must:

- Add 175 or fewer units in R1-R4 Residence districts, or 250 or fewer units in R5-R10 Residence, Commercial, or Manufacturing districts.
- Use all-electric heating (i.e., no fossil fuels) for heat and hot water
- Be located outside the most vulnerable coastal areas (i.e., Special Coastal Risk District) or away from arterial highways as identified in the Zoning Resolution.
- Meet specific standards for areas with hazardous materials, industrial emissions, high level of ambient noise, natural resources (e.g., wetlands), or historic resources.

The Department of City Planning is currently developing a digital tool that will assist developers in determining whether their sites satisfy the eligibility criteria. For most eligibility criteria, the tool will be able to provide a direct output, drawing on existing data sets, that indicates whether an eligibility criterion is satisfied at the development site. However, determining eligibility is by no means a fully automated or desk-based process.

For example, developers with the assistance of consultants will still need to take ambient noise measurements in the field for submission to DEP, and where a site is proximate to an unpermitted industrial emissions source, consultants will also be needed to provide estimates of likely air emissions limits. Developers may also need to perform Phase I/II Environmental Site Assessments. In addition, eligibility will also require “historic

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clearance” from the City’s Landmarks Preservation Commission and in certain cases clearance from the New York State Department of Environmental Conservation where a wetland is nearby. DCP is in the process of drafting guidance on all these issues.

We will be closely monitoring the launch of the Green Fast Track Program in the coming months and look forward to advising clients on how to save time and money through this program.

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