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June 14, 2021

Marisa Lago
Chair
NYC City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Frank Ruchala Jr.
Director of Zoning Division
NYC Department of City Planning
120 Broadway, 31st Floor
New York, NY, 10271

Olga Abinader
Director of Environmental Assessment and Review Division
NYC Department of City Planning
120 Broadway, 31st Floor
New York, NY, 10271

Re: Zoning for Accessibility (ZFA) Citywide Text Amendment

Dear Chair Lago, Mr. Ruchala, and Ms. Abinader,

On May 12, 2021, at Manhattan Community Board 4's (MCB4) Clinton /Hell's Kitchen Land Use Committee meeting, the Department of City Planning (DCP) presented its proposed City-wide text amendment to improve zoning rules that allow the MTA to locate access to subway stations within private developments to help expedite the delivery of a fully accessible transit system.

The text amendment was developed by DCP in collaboration with the Metropolitan Transportation Authority (MTA), the City Council, and the Mayor's Office for People with Disabilities (MOPD).

At its June 2, 2021, regularly scheduled full board meeting, MCB4 with 46 in favor, 0 opposed, and 0 present but not eligible, voted support for the vital necessity of providing subway access for all New Yorkers, with conditions as listed below.

The Proposed ZFA Amendment

According to the DCP, only about 30% of the City’s 493 transit stations are fully accessible.¹ All MTA stations are below grade in Manhattan Community District 4 (MCD4). Approximately half of all MTA stations in MCD4 have full ADA accessibility, one station with partial ADA accessibility, the other half have no ADA accessibility. The expansion of the transit improvement bonus would affect the areas around Sixth, Seventh, and Eighth Avenues below 33rd Street, and around Eighth Avenue to Ninth Avenues from 33rd to 59th Street.

The proposed ZFA text amendment seeks “to expand existing zoning tools that help coordinate new developments near transit with the construction of improvements to station accessibility and capacity” by expanding it in two ways.²

First, it would allow a wider range of zoning districts to be eligible for the transit improvement bonus. The **system-wide easement requirement** would increase the rate and breadth at which station improvements and easement volumes are provided within the transit system.

Second, it would expand the geography of areas where the transit bonus may be used to sites beyond those which are immediately adjacent to a station. The proposed **expansion of the transit improvement bonus** to the highest-density districts in the city would accelerate transit improvements to stations by incentivizing developers to provide substantial transit station improvements in exchange for an FAR bonus and other zoning related modifications. The Proposed Action also includes specific zoning modifications intended to ensure the new transit improvement can be integrated with the building construction.

The easement requirement would provide relief for developments that required additional construction to improve access to nearby stations. The bonus program would allow developers to proactively apply for floor area bonuses in return for investments in station improvements. Easement benefits include floor area exemptions, maximum lot coverage reductions, parking deductions, while bonus program benefits would allow a floor area bonus of up to 20%.

Currently, this zoning tool is limited to a few areas of the city, mostly in Manhattan. ZFA would require property owners of developments near stations “to proactively work with

¹ [Elevate Transit: Zoning for Accessibility, NYC Department of City Planning.](#)

² Ibid.

the MTA to provide station access easements and would expand zoning incentives for developments in high-density districts to construct station improvements.”³

Essentially, this means the developer would be required to meet with the MTA to determine if space on its property would have to be accessed by the MTA. For example, if a developer builds an elevator, instead of the MTA, the zoning development parcel could receive up to a 20% density bonus,

MCB4 Response to Proposed Text & Approval Conditions

Overall

Accessibility to mass transit should be a right for all New Yorkers. The Board supports a proposal of increasing accessibility at transit stations throughout the city for persons with disabilities. This zoning proposal adds to the toolbox for increasing accessibility and a transformation, over time, of the subway system. It should not be looked on as a full solution, since it is zoning driven, and therefore development driven. Development relies on market cycles of real estate. Relying solely on the private sector, and outsourcing through private development, is no substitute for greater public financing of the MTA to bring full accessibility to the system.

Relying on a zoning solution, brings achieving accessibility into conflict with other requirements and goals in the zoning resolution, especially those in fine grained zoning text, embodied in Special Zoning Districts. MCB4 has multiple Special Zoning Districts:

- Special Clinton District
- Special Midtown District (Theatre Subdistrict)
- Special Garment Center District
- Special Hudson Yards District
- Special West Chelsea District

With hundreds of pages of zoning text, the overlay of the proposed Zoning for Accessibility text, must be carefully considered with the layering of those provisions.

Recommended Text Revisions

Decreasing Radius for Improvements

MCB4 requests, that in MCD4, the radius for applicability of accessibility be decreased from 1,500 feet to 800 feet, the length of an avenue block on the west side of Manhattan. MCB4 proposes this change, to create a clearer nexus to station improvements and to reduce increased density further from the affected station.

Zoning Lot Combinations

³ See Appendix - Elevate Transit: Zoning for Accessibility Site Maps

The ZFA Amendment's requirements should apply only to *tax* lots, and not zoning lots, adjacent to station entrances or within 800 feet within Manhattan Community District 4. Many Special Zoning Districts in MCD4 allow for both zoning bonuses and transfer of development rights over large geographic areas, creating and redistributing additional density. MCB4 has worked with the Department of City Planning to develop and craft these districts to the City's and the community's benefit. The current text refers to zoning lots. Such zoning lot combinations, in MCD4, would allow for bonuses to be applied to development at too great a distance from the applicable station. For example, a 20% bonus, on the majority of west side block, of 160,000 square feet, could result in an out-of-scale tower over a block from the affected station. For application in MCD4, MCB4 requests the text be modified to be applied to tax lots, not zoning lots, adjacent to stations.

Easement and Bonus Stacking

MCB4 requests for clarification if the easement and density bonus can be stacked for a second height increase. DCP stated that generally a stacking situation would not be allowed. MCB4 asks DCP to confirm where this provision is embodied in the text.

Conflict with Special Zoning District Bonus Provisions

The Clinton Special District was first adopted in 1973, with a choice of zoning bonuses for Open Space or Affordable Housing. In the 1990s, the district bonuses were modified to include only Affordable Housing, then referring to it as Inclusionary Housing, which had been adopted in 1987. By limiting that bonus to Affordable Housing, the district saw an increase in the supply of affordable housing. The choice of bonuses became an issue later in the 1990s, with the proposal of the Theatre Development Rights Transfer District, in the Special Midtown District, Theatre Subdistrict, to preserve Broadway theatres.

During ULURP, after much negotiation and policy discussion, the western side of Eighth Avenue between West 42nd to West 45th Streets, in the Special Clinton District, was added as an overlay of the Special Midtown District, with the TDR transfer bonus included. However, that bonus can only be invoked after Inclusionary Housing requirements are met. In the Clinton Special District, the Inclusionary Housing bonus allows a 10-12 FAR bonus, the theatre bonus allows a 12-14.4 FAR bonus. The proposed ZFA text is analogous, and should be invoked only after, not instead of the Inclusionary Housing Bonus. The public policy conflicts with the Theatre TDR bonus and must also be resolved.

For the Hudson Yards Special District and the Garment Center Special District developed *pari passu*, in conjunction with Inclusionary Housing, MCB4 requests clarification that agreed upon precedent and hierarchy of those Special District Zoning Bonuses remains in place.

We request for removal of the Hudson Yards subway station as a site eligible to receive bonuses, as the station is already fully accessible and is an existing transit bonus area. The current FAR is 33, with the densest zoning in the entire the city. The station is also adjacent to the eastern and western railyards, which are on three full city blocks and single zoning lots.

Standardizing Calculating Bonuses for Accessibility Improvements

Accessibility improvements should be quantified and standardized. Leaving the application of bonuses as a discretionary decision does not provide the guarantee that accessibility improvements will result in equitable bonuses across the city. The MTA should have a standard list of significant improvements rather than allowing the developer to present arguments for what it considers significant. MCB4 recommends that standard definitions of significant accessibility improvements be developed and incorporated by reference into the proposed zoning text. Thus, priority and focus should remain on critical improvements and developers should not be given an option to choose easier tasks.

Improving station appearance should be part of the basis for zoning bonus, only if directly connected to the improved accessibility. MCB4 recommends that improvements described in 66-51 (b) "enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways" be characterized as incidental to the main application and should not stand alone, receive a density bonus.

Also, Certificates of Occupancy for any development receiving a density bonus, should be conditioned on MTA sign off for the completion of the proposed accessibility improvements.

Accessibility Entrance Hours

The hours for any accessible entrance created must mirror the regular station hours for that station.

Construction and Maintenance Standards

Construction of improvements should be to MTA standards not the developer's. Maintenance will be administered through a Maintenance Agreement between the developer and the MTA. The MTA also holds a Maintenance Reserve. If the developer does maintain the improvements, the MTA can exercise self-help, complete the maintenance, and require the reserve be replenished.

However, it is the Board's experience that developers have not been held accountable for the maintenance of accessibility improvements. For example, the Worldwide Plaza's elevators were out of service off and on for 20 years.

Approval Process & Community Review

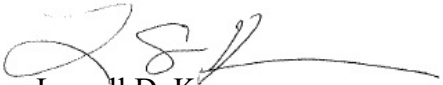
Major stations improvements should be defined and be subject to Chair Certification and community review to ensure public input and transparency in the development and accessibility process.

Open Restaurants Initiative

MCB4 requests how the proposed ZFA text will be coordinated with Open Restaurant initiative in regard to easement and entrance siting of accessibility improvements.

The Board looks forward to addressing these issues and working with DCP to make City public transportation system fully accessible to all New Yorkers.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Betty Mackintosh
Co-Chair
Chelsea Land Use Committee



Jean-Daniel Noland
Chair
Clinton/Hell's Kitchen Land Use
Committee



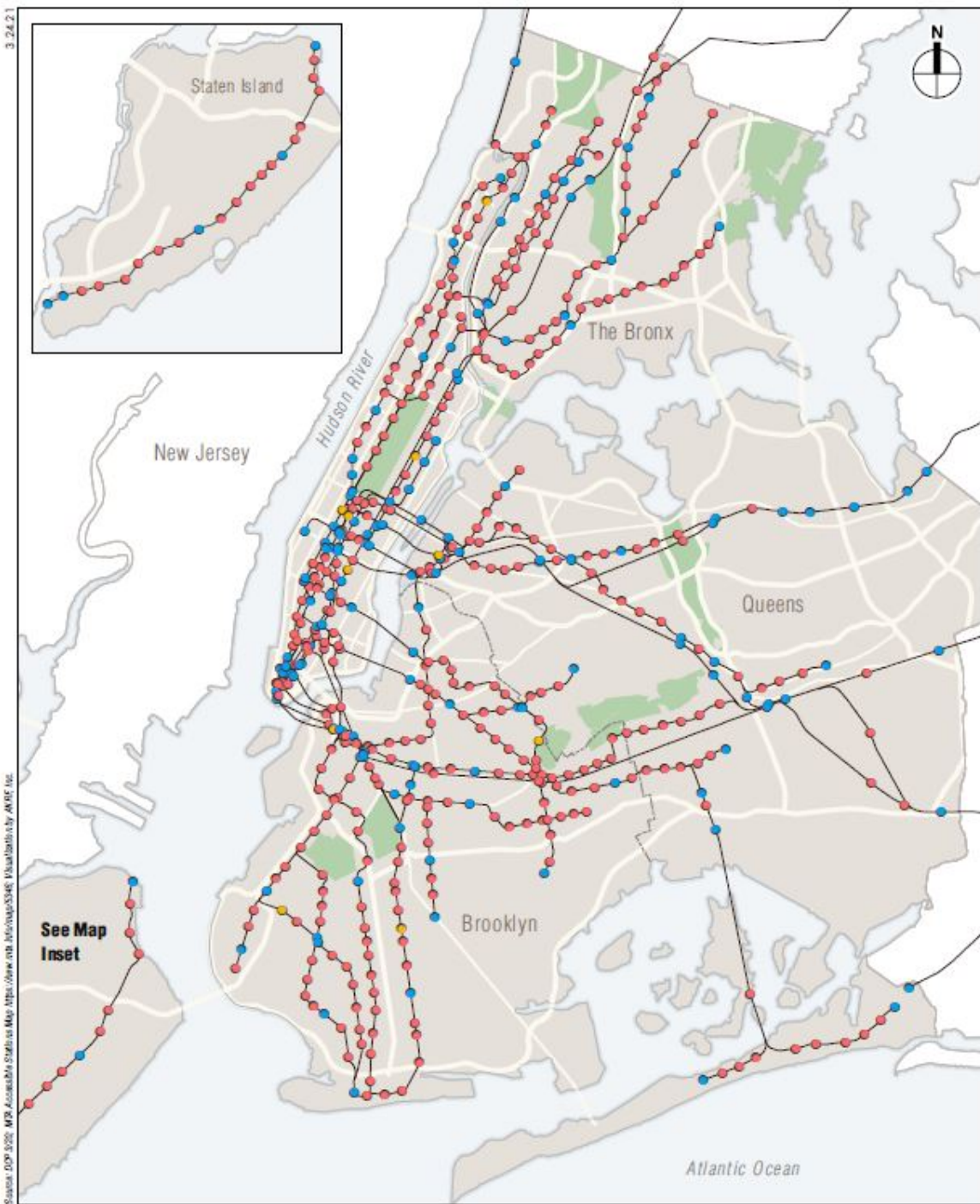
Paul Devlin
Co-Chair
Chelsea Land Use Committee

Enclosure

cc: Hon. Bill de Blasio, Mayor
Hon. Corey Johnson, Speaker, City Council
Hon. Scott M. Stringer, NYC Comptroller
Hon. Jumaane Williams, NYC Public Advocate
Hon. Gale Brewer, Manhattan Borough President
Robert Paley, Director of Transit-Oriented Development, Metropolitan
Transportation Authority

Appendix

Elevate Transit: Zoning for Accessibility Site Maps



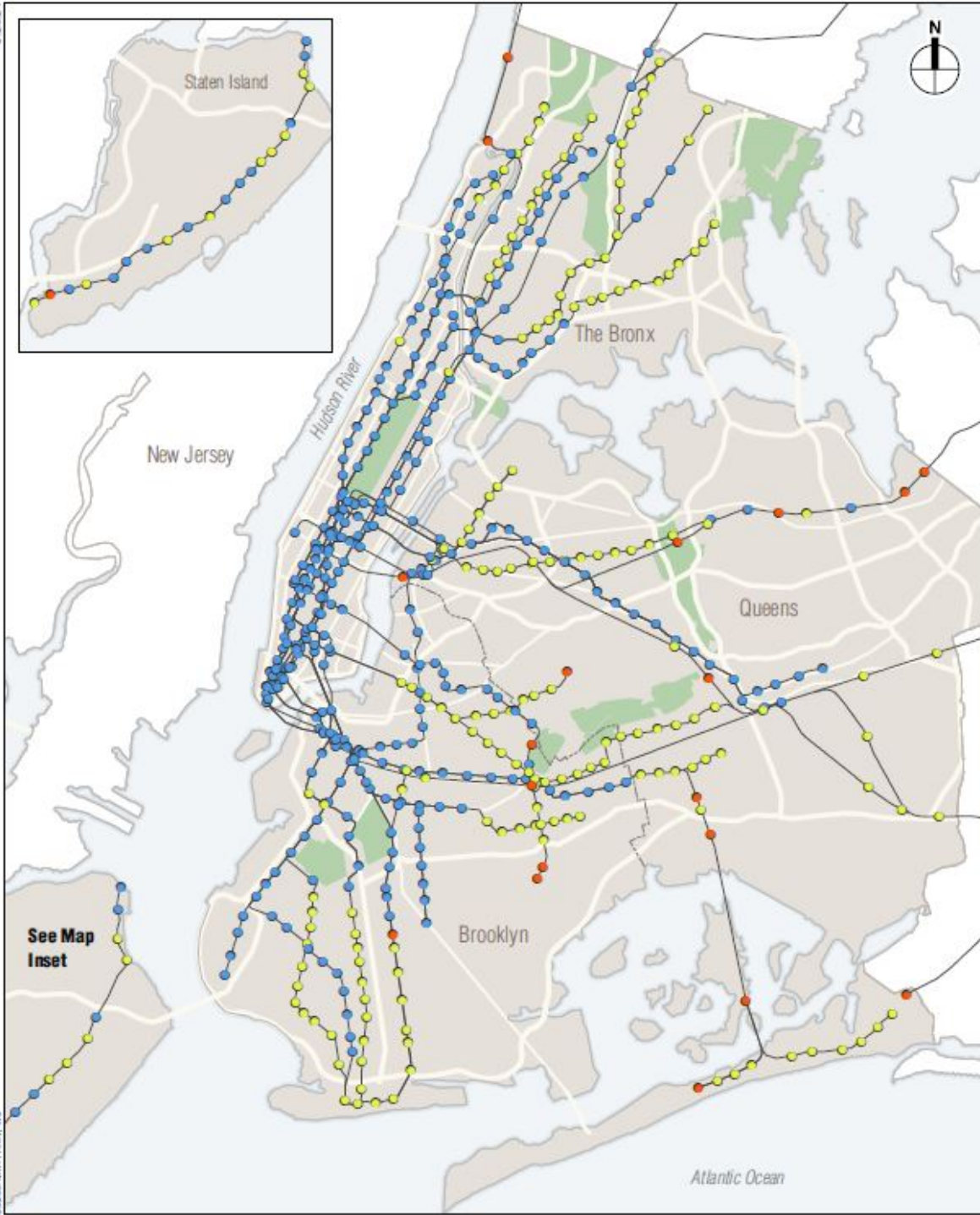
- Full ADA Accessibility
- Partial ADA Accessibility
- No ADA Accessibility

0 2 Miles

ELEVATE TRANSIT: ZONING FOR ACCESSIBILITY

MTA Station Accessibility
Figure 1

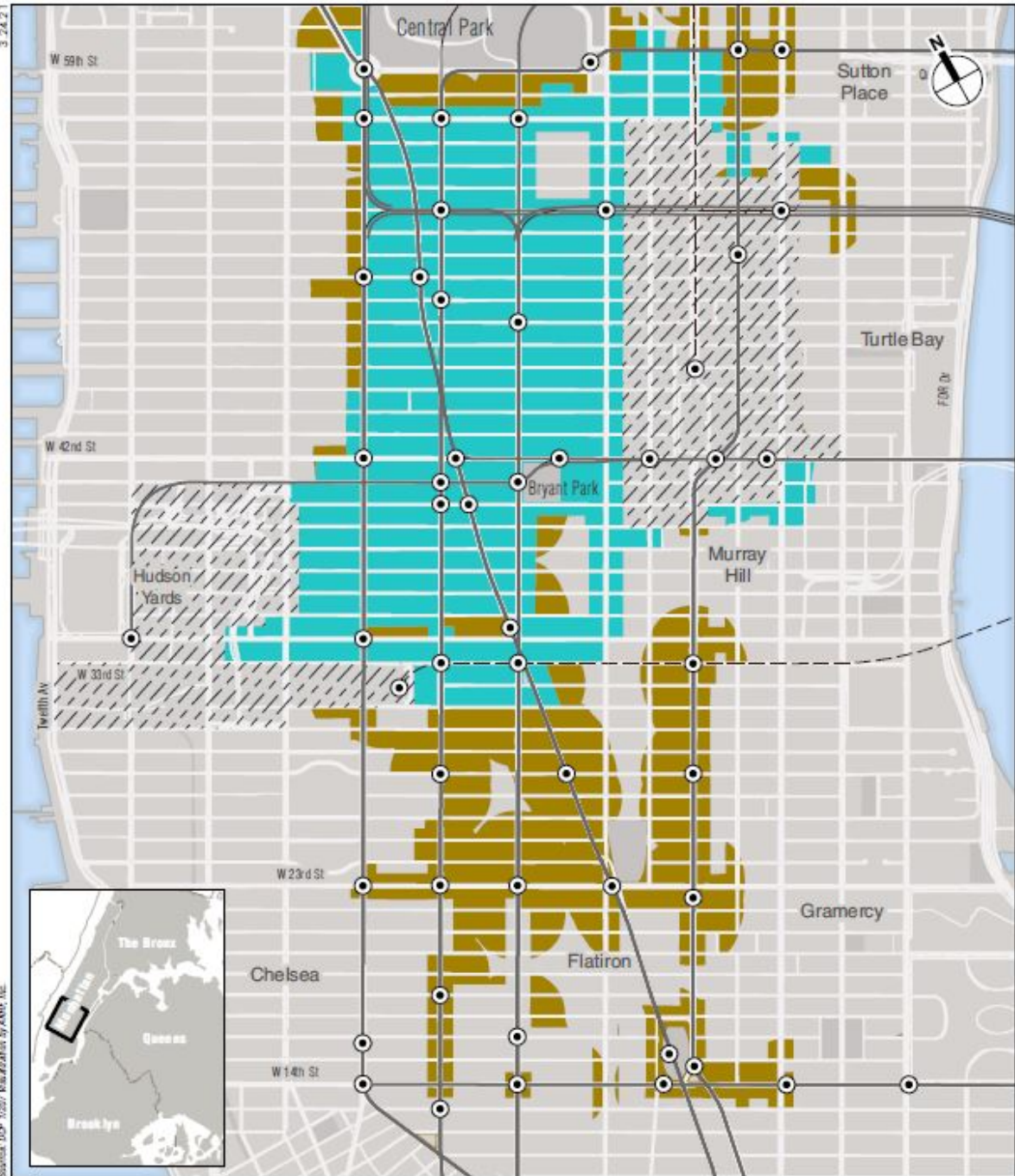




- Below Grade Station
- Above Grade
- At/Near Grade Station

ELEVATE TRANSIT: ZONING FOR ACCESSIBILITY

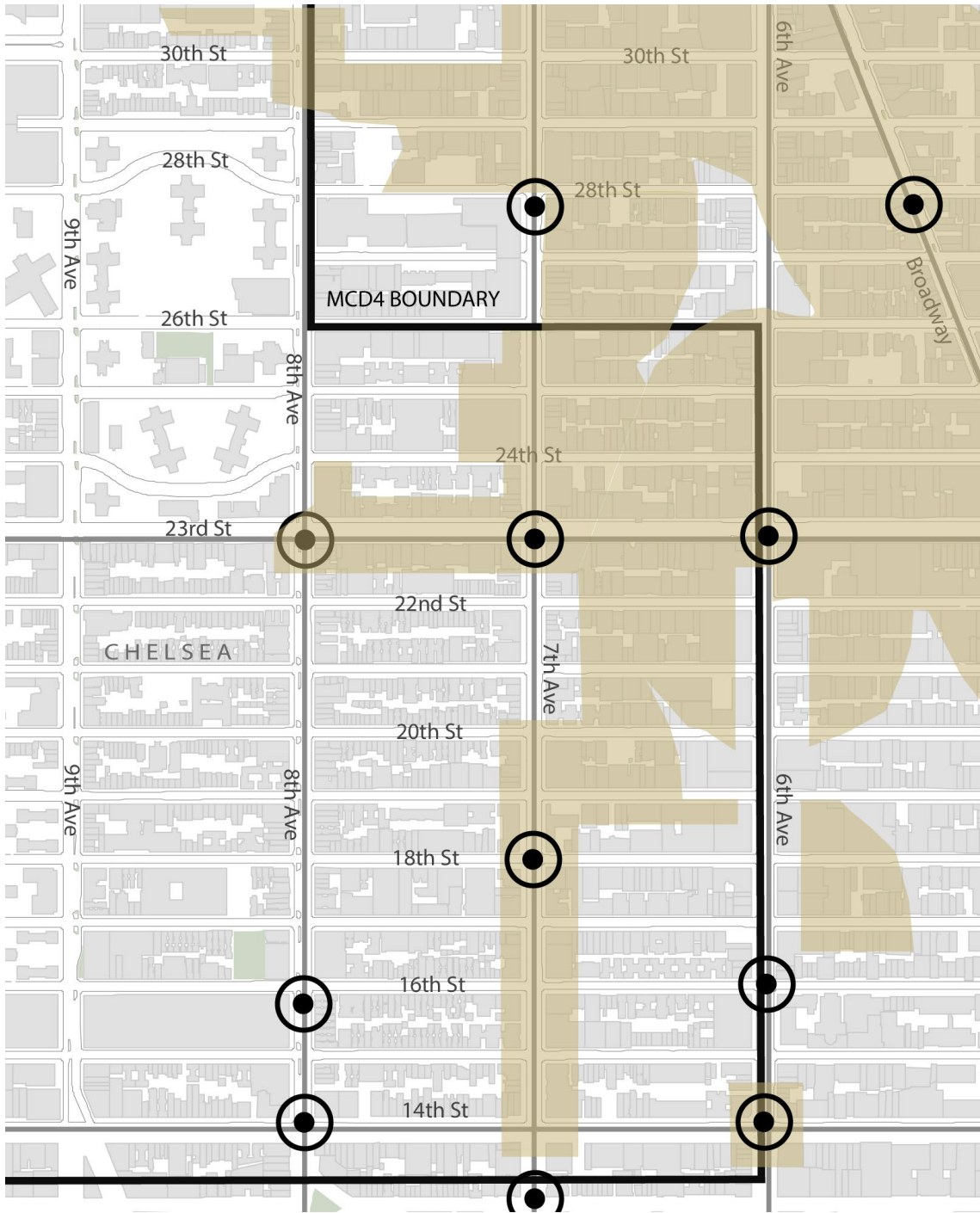
MTA Station Typology
Figure 3



- MTA Station
 - ⊙ Proposed Improvement Bonus Station
 - NYCT/SIR
 - - - LIRR/MNR
- Proposed Transit Improvement Bonus Area*
- Inside Central Business District (1,500-foot station radius)
 - Outside Central Business District (500-foot station radius)
 - - - Excluded Area

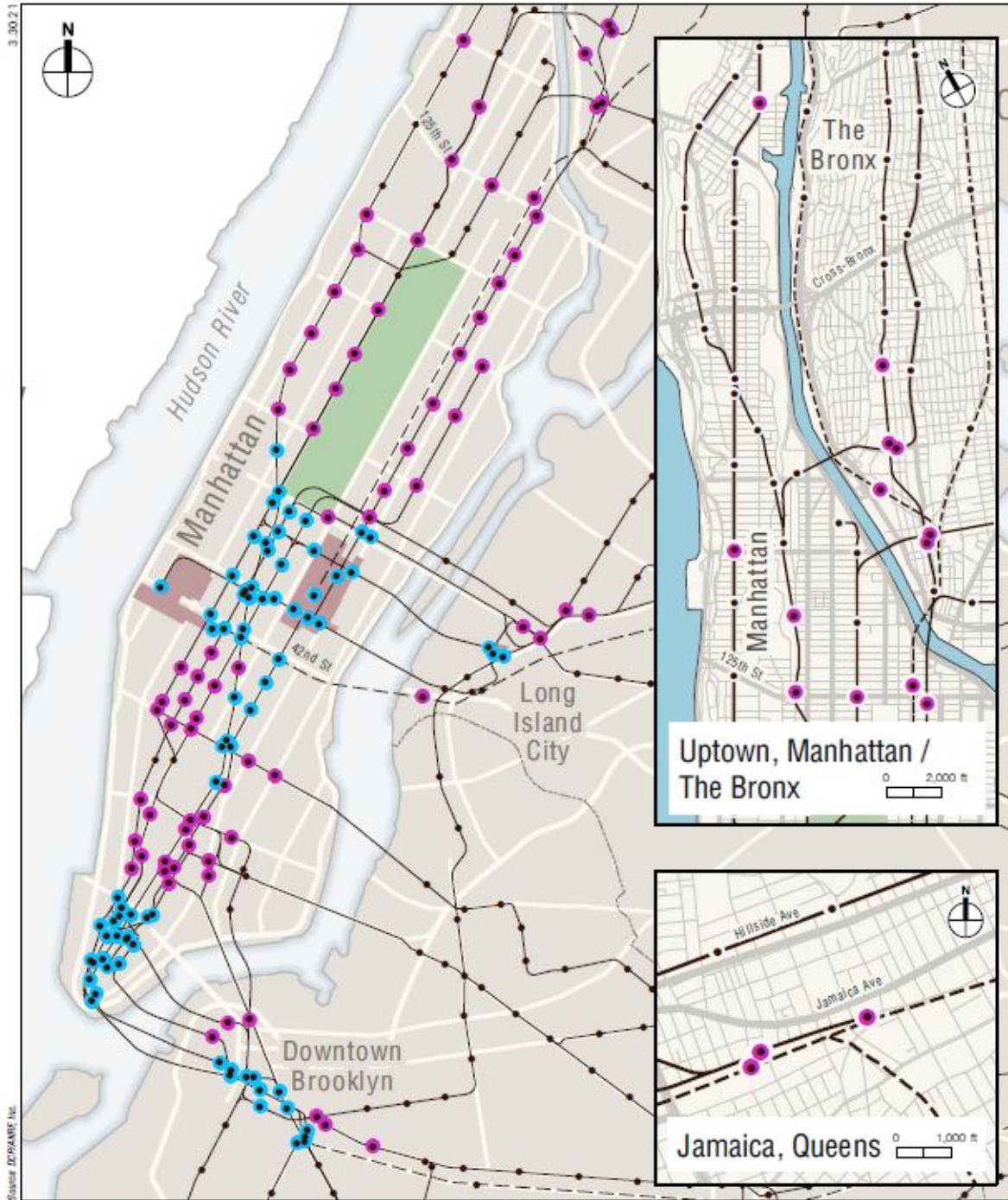
0 1,000 Feet

Midtown Manhattan
Proposed Transit Improvement Bonus Area
Figure 4b



- MTA Station
- ⊙ Proposed Improvement Bonus Station
- NYCT/SIR
- - - LIRR/MNR
- Proposed Transit Improvement Bonus Area
 - Inside Central Business District (1,500-foot station radius)
 - Outside Central Business District (500-foot station radius)
 - ⋯ Excluded Area

Chelsea Proposed Transit Bonus Area **Figure 4b**



Existing and Proposed Transit Bonus
Figure 5