



**JESSICA CHAIT**  
Chair

**JESSE R. BODINE**  
District Manager

CITY OF NEW YORK  
**MANHATTAN COMMUNITY BOARD FOUR**

424 West 33 Street, Suite #580  
New York, NY 10001  
tel: 212-736-4536  
[www.nyc.gov/mcb4](http://www.nyc.gov/mcb4)

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Dan Garodnick  
Chair  
City Planning Commission  
120 Broadway  
New York, New York 10007

**Re: Proposed Citywide Zoning Text Amendment to Allow Gaming Facilities as a Permitted Use in Certain Commercial and Manufacturing Districts**

Dear Chair Garodnick,

On December 13<sup>th</sup>, 2023, the NYC Department of City Planning (DCP) presented to Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee (CHKLU) its proposal for a citywide zoning text amendment to allow gaming facilities as a permitted use in certain commercial and manufacturing districts.

DCP's proposed text amendment would allow gaming facilities in C4, C5, C6, C7, and C8 commercial districts as well as M1, M2, and M3 manufacturing districts, which would include areas like Times Square and Hudson Yards. It would remove all proposals for gaming facilities from the Uniform Land Use Review Procedure (ULURP), thereby bypassing New York City's standard public review process and entirely eliminating City oversight for zoning compliance of all gaming facilities.

Gaming facilities, including casinos, would only need approval from four members of a six-member Community Advisory Committee (CAC), comprised of the governor, mayor, and four local officials.

**At its regularly scheduled Full Board meeting on January 3<sup>rd</sup>, 2024, MCB4, on the recommendation of its CHKLU Committee, voted 40 in favor, 0 opposed, 0 present but not eligible, and 1 abstaining, to recommend denial of the proposed zoning text amendment.**

## **Background**

In 2013, the New York State Constitution was amended to authorize up to seven commercial casinos in New York State. Four casinos were subsequently licensed in upstate New York. The 2022 legislation requires that the remaining three gaming facility licenses are only open to the downstate New York region which consists of New York City, Nassau, Suffolk, Putnam, Rockland, and Westchester Counties.

The New York State Gaming Commission regulates all aspects of gaming activity in New York State. The Gaming Facility Location Board was established by the Gaming Commission to oversee the selection and review process related to the three unissued licenses. In January 2023, the Gaming Facility Location Board outlined a process to review applications for the three casino licenses which includes siting and review criteria, establishing Community Advisory Committees to review and approve each individual application. Every CAC will consist of six members, all elected officials: the Governor, Mayor, local Assemblymember, State Senator, Borough President, and City Councilmember.

As noted above, DCP's proposed text amendment would allow gaming facilities in C4, C5, C6, C7, and C8 commercial districts as well as M1, M2, and M3 manufacturing districts, which would include areas like Times Square and Hudson Yards. (See attached map). Further, the amendment specifies that **a gaming facility, as approved by the State, will be deemed complying and conforming with all applicable use and bulk zoning regulations. This proposed action would entirely remove normal city oversight for zoning compliance of all gaming facilities**, and as such, the proposed text amendment would remove all gaming facilities from the ULURP process. These actions would have the consequence of effectively eliminating the standard New York City public review process.

DCP has represented that this will apply only to gaming licenses issued under the legislation enacted by the 2022 legislation. There are seven casino sites proposed citywide, two of which are within Manhattan Community District 4.

The presentation from DCP at December 13<sup>th</sup>'s Clinton/Hell's Kitchen Land Use Committee was met with considerable concerns and questions from the Committee and attending members of the public.

## **Eliminating Public Review**

The NYC Charter was amended in 1975 to include transparent public review, with a predictable mandated time clock. The thorough public review process through ULURP is a mandate of the City Charter to ensure full technical review and transparent political compromise. Removing the gaming facilities from the ULURP process eliminates the public review process.

If this text amendment were not proposed, there would have to be a ULURP process at each proposed casino site. However, DCP contends that an individual ULURP process for each site would be time-consuming and delay the New York State license approval. By this rationale, any and all public review of land use applications might be considered time-consuming and eliminated, eroding the democratic participations of citizens in planning the future of their communities.

### **Community Advisory In Name Only**

The current proposal will deem a gaming facility, as approved by the State, in compliance with all applicable use and bulk zoning regulations. This proposal will cede public review, mandated under the standard NYC land use process, to a six-member Community Advisory Committee, composed solely of elected officials with no technical expertise in zoning regulations and no members of the community.

Ceding public review process to a committee composed of only six elected officials, and putting the approval power in the hands of only four of these officials (only four of the six have to approve) is not a true, open public review process since there is no actual community representation in this process. In a non-regulated, non-transparent public review process, where applicants, lobbyists, and special interest groups can advise elected officials but community boards cannot, there is no guarantee that the interests of the community will be heard.

### **City Charter Mandate For Public Review**

In the 1975 NYC Charter revision, ULURP was established to be a transparent public process on all land use matters. DCP is asking MCB4 to approve through public review a text amendment to eliminate public review. The Board is unclear of the legitimacy of voting to eliminate its City Charter mandated responsibility to hold public review for “proposals for the use of land...in the district.” \*

Further, this text amendment is a ‘one size fits all’ action in a city which is not a monolith, but is made up of varying neighborhoods and districts, all of which have different zoning and development requirements. This proposal is only being presented to seven of the 59 Community Boards and is not being presented citywide. Yet if all three licenses are not approved by the CACs in the current proposed sites, there is the potential that a gaming facility could be proposed in any number of Community Districts across the City. The restricted sharing of information while seeking all 51 Councilmembers to vote on this proposal is inappropriate given that their constituents are not being educated on the potential ramifications.

### **Short Circuiting This Amendment’s Public Review**

The timing of City Planning Commission certification of this proposed amendment has created serious difficulty for adequate public review. The proposed text amendment was certified on November 27<sup>th</sup>, 2023, the Monday after Thanksgiving. DCP is asking Community Boards to review this through the Thanksgiving, Christmas, and New Years holidays, straining the ability of the volunteer Community Board members during the busy holiday season.

Such timing can give the impression to the public that the City wants to certify this citywide text amendment during the end of the year holidays in order to short circuit a thorough public review of its consequences.

### **Circumventing The Hotels Text Amendment**

The proposal also includes language that would permit non-gaming uses related to gaming, and deem those uses in compliance with applicable use and bulk regulations. These uses include hotels, restaurants, and bars.

Midtown Manhattan is dense with hotels. The Department of City Planning proposed and the City Council adopted the Citywide Hotels Text Amendment on December 9<sup>th</sup>, 2021, which is a citywide text amendment requiring ULURP for a special permit for new and enlarged hotels and motels. This proposed gaming facilities text amendment would permit hotels associated with gaming uses to be reviewed by a CAC, circumventing the recently adopted 2021 Citywide Hotels Text Amendment. The City should not propose to exempt these hotels from the permit process, especially when these hotels tied to casinos will be very large with high room counts, high parking requirements, and an outsized impact on the community.

Within the proposed gaming facilities text amendment, there is a section stating the applicant must comply with the parking provisions of the Manhattan-Core off-street parking regulations in Article 1, Chapter 3 within Manhattan Community Districts 1 through 8. DCP's presentation noted that this section was outdated and removed from the proposed text amendment.

### **Circumventing The Court's Decision on Parking In Hudson Yards**

The two proposed casino sites within MCD4 are both in the Hudson Yards Special Zoning District (HYSD). This Special Zoning District is subject to the Hudson Yards Parking Text Amendment, resulting from a 2009 lawsuit brought by the Hell's Kitchen Neighborhood Association against the Bloomberg Administration.

Elements of the settlement included in the 93-80 Off Street Parking regulations section of the zoning are:

- No minimum parking requirement in the HYSD.
- Total off-street parking is subject to a hard cap of 6,084 spaces.

However, the proposed text amendment will deem parking, as a non-gaming use related to gaming uses, compliant with use and bulk regulations, only certified by CACs without any technical input from DCP. CACs must abide by the settlement and the Hudson Yards Parking Text Amendment in their review process. Such text must be included in the proposed text amendment.

### **Recommendations**

MCB4 does not support the proposed citywide zoning text amendment to allow gaming facilities as a permitted use in certain commercial and manufacturing districts since the proposal eliminates the standard public review process through ULURP, a mandate of the 1975 NYC Charter amendment. The community review process is part of the mandate for a Community Board, and in eliminating this process, the City is also eliminating the community's ability to voice its needs.

MCB4 also opposes the idea of removing the professionals at DCP or at the City Planning Commission from the review process to speak to zoning regulations and compliance; the idea that the six-member CAC can approve without knowledge of zoning regulations is bad policy.

This text amendment, coupled with the 6-member CACs which have the review and approval power, eliminates the public review process, to the detriment of our communities.

MCB4 asks that New York State extend its casino siting timeline and have each proposed site go through the ULURP process instead of eliminating public review with the CAC proposal. And, to adequately inform the public and ensure complete transparency, the Board urges DCP to present its proposal to all New York City community boards to get feedback, not only from the boards, but also from the citizens they serve.

Sincerely,



Jessica Chait  
Chair  
Manhattan Community  
Board 4



Paul Devlin  
Co-Chair  
Clinton/Hell's Kitchen Land Use Committee



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

Enclosure

Cc: Hon. Brad Hoylman, NYS Senator  
Hon. Tony Simone, NYS Assemble Member  
Hon. Erik Bottcher, NYC Council Member  
Hon. Mark Levine, Manhattan Borough President  
Vikki Barbero, Chair, Manhattan Community Board 5  
Sandra McKee, Chair, Manhattan Community Board 6  
Local Block Associations

\*For each proposed location.

<https://casetext.com/case/hells-kitchen-neighborhood-association-v-bloomberg>

- **New York City Charter**, Chapter 70, Section 2800. Community Boards. (17) Exercise the initial review of applications and proposals of public agencies and private entities for the use, development or improvement of land located in the community district, including the conduct of a public hearing and the preparation and submission to the city planning commission of a written recommendation;...

# Commercial and Manufacturing Districts within CB4 Subject to DCP Citywide Gaming Facilities Text Amendment

