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April 22, 2024

Daniel Garodnick
Chair
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

**Re: Midtown South Mixed-Use Plan
Proposed Rezoning**

Dear Chair Garodnick,

On March 13th, 2024, Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee (CHKLU) was given a presentation by Andy Cantu of New York City's Department of City Planning (DCP) on its proposed rezoning for its Midtown South Mixed Use (MSMX) Plan ("Plan"). The Plan would rezone four areas in Midtown South, to create mixed-use neighborhoods by introducing residential uses.

MCB4 wishes to thank Mr. Cantu for his in-person presentation of DCP's proposal to the land use committee. As noted in our communication in February 2024 regarding the City of Yes, Economic Opportunity proposal, in-person presentation and discussion enables a fuller, clearer, and more productive engagement between MCB4 and DCP.

At its Full Board Meeting on April 3rd, 2024, MCB4 voted 39 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible to vote, to submit the following response to DCP's proposed rezoning for its MSMX Plan.

THE PROPOSAL

In October 2023, DCP introduced the concept MSMX Plan, proposing to rezone four distinct areas in Midtown South, totaling 42 blocks:

- Northwest Area: West 34th to West 40th Streets, Broadway to the west side of Eighth Avenue
- Northeast Area: West 35th to West 39th Streets, Fifth to Sixth Avenues
- Southeast Area: West 23rd to West 31st Streets, Fifth to Sixth Avenues
- Southwest Area: West 23rd to West 31st Streets, Sixth to Eighth Avenues

A portion of this proposed rezoning is within Manhattan Community District 4 (MCD4).

- Northwest Area: The west side of Eighth Avenue from West 35th to West 39th Streets
- Southwest Area: West 23rd to West 26th Streets between Sixth and Seventh Avenues

The Plan proposes rezoning the four areas, currently zoned M1-6, into mixed-use districts:

- Northwest and Northeast Areas: M1-9A/R10
- Southwest and Southeast Areas: M1-8A/R10

Through this proposed rezoning, DCP expects to create mixed-use neighborhoods by introducing residential uses as-of-right in these areas of Midtown South. By permitting residential use as-of-right, with a requirement for affordable housing under Mandatory Inclusionary Housing (MIH), the proposal, DCP submits, would foster a mixed-use neighborhood character similar to surrounding blocks.

MCB4 COMMENTS

The existing zoning in the four project areas is M1-6, which has a maximum 10 FAR, bonusable to 12 FAR only through a plaza bonus. DCP's plan proposes mixed-use zoning districts in the four areas.

- The Southwest and Southeast areas are proposed to be rezoned to M1-8A/R10 with a maximum 12 FAR (maximum 12 FAR residential).
- The Northwest and Northeast areas are proposed M1-9A/R10 zoning, with an increase of 3 FAR, to a maximum of 15 FAR (maximum 12 FAR residential)

MCB4 is in favor of the idea of converting commercial space to residential use to create a mixed-use neighborhood. However, an overly broad, un-nuanced rezoning may lead to unintended, and undesirable, consequences.

High Density Midblock

DCP's rationale for this rezoning is that parts of the surrounding blocks area are a C5-3 high-density zone, with a maximum 15 FAR (maximum 12 FAR residential). However, that high density zone is mapped along wide midtown avenues and the southern portion of Times Square, not in the midblocks, on narrow 60-foot-wide streets. MCB4 questions the need for such density throughout the proposed areas.

As DCP has noted, the majority of the buildings in the project areas were built prior to the 1961 Zoning Resolution with current bulk greater than 12 FAR. Therefore, those buildings will be prime candidates for residential conversion. It is standard NYC DOB (Department of Buildings)

practice to permit full conversion to residential use of manufacturing or commercial buildings built prior to 1977, even existing density exceeds an FAR of 12. Therefore, an existing commercial or manufacturing building, for example, built to 16 FAR, could be converted as-of-right to a residential building and MCB4 supports such a conversion.

Threat Of Demolition

However, a maximum of 15 FAR will lead to demolition of underbuilt to 15 FAR. To address that issue, before proceeding with this proposed rezoning, MCB4 requests that DCP produce maps of the existing bulk and density of buildings within the project areas to illustrate which buildings are underbuilt and overbuilt, both to current and proposed zoning. Thus, the consequences of this proposed action can be evaluated and understood in the upcoming public review process.

Unnecessary Major Upzoning

The west side of Eighth Avenue is an integral part of the Hell's Kitchen neighborhood, from West 34th to West 57th Street. North of West 42nd Street. It is mapped as the Perimeter Area B of the Clinton Special District. The Perimeter Area of Eighth Avenue and West 42nd Street functions as a high-rise development corridor, with a 10 FAR, bonusable 12 FAR only through Inclusionary Housing. It balances the low-rise low-density Preservation Area to the west as transition zone in density from Midtown to Hell's Kitchen. That transition zone must continue south from West 39th to West 35th Streets. Currently those blocks are zoned M1-6, with a maximum FAR of 10, bonusable to 12 FAR only through a Plaza Bonus.

Based upon information from the 2018 Garment Center Rezoning, the majority of buildings on the west side of Eighth Avenue between West 35th and 39th Streets are currently well overbuilt above 12 FAR. To achieve the goal of converting those buildings to housing, there is no further need for such a major upzoning.

Instead, MCB4 proposes a modest increase, to map the same density at that immediately to the west, with a 13 FAR. Those midblocks were rezoned as part of Hudson Yards Rezoning 2005 to C6-4M, with a maximum FAR of 13, to encourage residential development of 12 FAR, with an additional 1 FAR for ground floor retail use.

Height Limits Work

MCB4 supports street wall and setback requirements, but requests to see the exact text and zoning table to understand the proposal. MCB4 also supports the proposed elimination of the Plaza Bonus, a bonus which has resulted in poorly designed and maintained public plazas which break the strong streetwalls of Eighth Avenue and the Garment Center.

In discussing height limits, DCP noted in its presentation that the agency "did not want to place any arbitrary constraints that may impact the production of affordable housing." This reasoning is questionable at best. Creating residential density will produce both market rate and affordable housing.

Is the goal of the rezoning to permit residential use through incentivizing conversion of Garment Center loft buildings or create a new faceless high-rise neighborhood in Midtown South? Lack of

height limits, especially in conjunction with high density zoning, can easily create a series of West 57th Street “Billionaires’ Row” type structures. Those buildings, with small floor plates will stick up like sore thumbs in this unique environment of early 20th century manufacturing loft buildings.

Height limits coupled with high density work. They are mapped at 250 feet immediately to the west from West 35th to West 38th Streets, Eighth to Ninth Avenues, and have accommodated a density of 13 FAR. In the blocks along Eighth Avenue and further east, any proposed height limits should be adjusted whether along the avenues’ or midblocks’ built environment. Height limits will not hinder development but will reinforce the neighborhood character of the existing Garment Center’s early 20th century loft buildings.

DCP noted in its presentation that the plan goal is to “foster vibrant, 24/7 mixed-use neighborhoods across 42 blocks of Midtown South.” MCB4 would like to point out that the majority of blocks in our district are already extremely vibrant. In the Eighth Avenue corridor from Madison Square Garden and Penn Station north to the Port Authority Bus Terminal, the streets are far from quiet. In fact, the streets are jam-packed from early morning through early evening. It is at night, however, that the activity on the side streets, mostly in the West 30s, is dramatically lessened. MCB4 is hopeful that permitting as-of-right residential use will expand the vibrancy to encourage midblock restaurants and shops to keep longer hours of operation.

Guardrails Before Lifting The Residential Cap

DCP noted that the City is advocating for state action, including lifting the 12 FAR residential cap and increasing tax incentives for residential conversions, as a means to stimulate development.

MCB4 insists that DCP make its development objectives clear and provide adequate guardrails to protect the neighborhood from over-development as it transitions from manufacturing lofts to a balanced, viable, and livable mixed-use commercial and residential community.

Landmark Eligible Buildings

Incentivizing residential conversion will also preserve and enhance landmark eligible buildings in the proposed rezoning areas. There are some landmark eligible buildings along the west side of Eighth Avenue that should be landmarked as part of this proposed rezoning process. Most landmark eligible buildings are already overbuilt. MCB4 refers you to its letter from August 2018 in the prior Garment Center Rezoning proposal regarding those buildings.

One exceptional underbuilt building is at 300 West 38th Street. Originally built as theatrical hotel, the three-story building in the Art Nouveau and Egyptian revival style, its extant façade detail in well-maintained condition, was designed by Emery Roth (1871-1948), a Hungarian immigrant to New York, who went on to design some of New York’s most prestigious Beaux-Arts buildings, including the Ritz Hotel tower, the Hotel Belleclaire, and the Eldorado and San Remo apartment buildings. His firm, Emery Roth and Sons would go on to become one of New York’s most influential firms, designing the Pan Am building (now MetLife) and the World Trade Center. The West 38th Street building has been deemed landmark eligible and merits designation.

Residential Conversions Code Compliance

It is standard NYC DOB practice to permit full conversion to residential use of manufacturing or commercial buildings built prior to 1977, even if the total FAR exceeds 12.

However, there are physical constraints (large floorplates, distance from windows, insufficient light and ventilation, etc.) to complying with code requirements when converting purpose-built manufacturing buildings to residential buildings. Furthermore, manufacturing buildings have different building and fire code compliance standards. MCB4 looks forward to reviewing how the proposed zoning text will address these matters without compromising fire, safety, and light and ventilation requirements for residential apartments.

Concentration Of Social Services

DCP noted in its presentation that “social services are providing necessary resources, but more support is necessary.” In fact, the area already has a significant concentration of existing social service facilities. For example, located in a three-block area between Seventh and Ninth Avenues, are the following social service facilities:

- 311 West 35th Street – West Midtown Medical Group (Methadone clinic)
- 255 West 36th Street – ACI Outpatient Services (Substance abuse)
- 330 West 36th Street – Praxis Shelter/Transitional Housing, 100 beds at the Hotel Barbour
- 301 West 37th Street – Housing Works Positive Health Project (Harm reduction center/syringe distribution)
- 347 West 37th Street – Fountain House (Supportive Housing, 30 permanent beds and 12-bed shelter)

It should be pointed out that in 2023, Midtown South Precinct (MTS) had 1,280 narcotic arrests, ranking in the top three out of New York’s 77 police precincts. The majority of arrests took place along the Eighth Avenue corridor from West 34th to West 45th Streets. Heroin sales are centered to the south from West 34th to West 38th Streets while crack sales predominate from West 39th to West 45th Streets. Many were felonies and the significant impact of this narcotic activity has necessitated the Special Narcotics Prosecutor (SNP), at the request of the Manhattan District Attorney, to handle all felony narcotic arrests in MTS. From 2021 to mid-2023, the serious crime created a lack of public safety in this corridor and required a NYPD mobile command center to be installed on Eighth Avenue and West 38th Street along with NYPD pole mounted flood lights along Eighth Avenue in the West 30s and 40s.

The concentration of social service facilities in this high crime drug area creates an impact on social service clients, many of whom have addiction issues. In the course of receiving treatment or services, they may be preyed upon by an ecosystem of active drug dealers and users. Furthermore, some of these facilities are not well-managed or responsibly run, creating more street activity problems.

Thus, it is not a matter of increasing social services. Instead, the City needs to ensure that existing social service facilities are dispersed and not concentrated within a portion of a neighborhood, especially one managing high drug and street crime.

Considering that one of the main goals of the MSMX Plan is to create a balance of market rate and affordable housing for households with a range of sizes and incomes, it must also strike a balance between existing facilities and housing in order to ensure its long-term success. As the Plan proceeds, there also must be coordination between the City agencies, HRA, DHS, and DOHMH, funding social services and DCP that neither city agencies nor building or hotel owners should act in an opportunistic manner to solve their current commercial vacancies.

In the West 30s between Eighth and Ninth Avenues, the DeBlasio Administration, from May 2020 to January 2021, concentrated 812 COVID-19 isolation hotel rooms for congregate shelter residents. Of that number, 518 rooms were located on West 36th Street between Eighth and Ninth Avenues. With the use of single hotel rooms, the social service providers could not provide adequate social services, the consequence of which created an overwhelming public safety condition for the residents of the neighborhood and that block especially.

A more recent case is 315 West 36th Street. This building is comprised of a residential condominium on floors 9 to 15, and the base of which, floors 2-8, were leased by WeWork. After filing for bankruptcy, WeWork vacated their floors and MCB4 was informed that the Adams' administration sought to convert that commercial space into an asylum seeker shelter. Such a proposal would have again concentrated social services in that same problematic three-block area. This is not a winning recipe for creating a successful mixed-use neighborhood.

REQUEST FOR INFORMATION

The Board requests that DCP provide the following to better understand the proposed Plan:

- Maps of the overbuilt and underbuilt buildings in the project areas to establish a clear understanding of the bulk of the existing built environment.
- Graphics of what the district would look like if the areas that can be rebuilt are built to 15 FAR.
- A breakdown showing how many residential apartments, both market rate and affordable, can be expected to be developed under the current proposed Plan along with a breakdown showing how the same number of affordable units can be developed while maintaining mid-blocks height limits to protect the neighborhood from over-development.
- A study to determine how the same proposed bulk can be achieved with height limits on buildings, adjusted to the different proposed rezoning areas.

CONCLUSION

MCB4 thanks DCP for a presentation which raised the above public comments and, we hope, helpful questions. Discussing and addressing these issues early in the public process, prior to beginning formal review process in ULURP, is key to building public and community support. We look forward to working with DCP as this proposed Plan continues to be developed.

Sincerely,



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Chair
Manhattan Community Board 4



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



Paul Devlin
Co-Chair
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Cc: Hon. Brad Hoylman, NYS Senator
Hon. Tony Simone, NYS Assemble Member
Hon. Erik Bottcher, NYC Council Member
Hon. Mark Levine, Manhattan Borough President