



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

JESSICA CHAIT
Chair

JESSE R. BODINE
District Manager

April 26, 2024

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

**Re: Midtown South Mixed-Use Plan
Draft Scope of Work**

Dear Chair Garodnick,

At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use (CHKLU) Committee meeting on April 10, 2024, the committee reviewed the Draft Scope of Work (DSOW) for the NYC Department of City Planning's (DCP) Midtown South Mixed Use (MSMX) Plan. MCB4 wrote to DCP on March 18, 2024, regarding the board's concerns surrounding the MSMX Plan. The DSOW raises further concerns, detailed in this letter.

MCB4 supports the proposed changes with conditions¹. MCB4 has been a long-time advocate for finding solutions to our housing crisis, notably for permanently affordable housing options, including middle- and moderate-income housing. This zoning change proposes solutions to move forward the conversion of underutilized (and many overbuilt) manufacturing buildings into housing units. However, there are many unaddressed issues that could lead to negative unintended consequences which would harm the character and architectural uniqueness of the built environment of the Garment Center District. Therefore, MCB4, in an effort to promote conversions without unnecessary demolition requests additional studies on how to address neighborhood concerns and further neighborhood goals. These include:

- Creating family-sized units, 2 bedrooms or more.
- Applying any bonus to the creation of a maximum of affordable apartments.

¹ This letter is subject to ratification at the Manhattan Community Board 4 May 1st Full Board meeting.

- Applying the transit bonus to improving transportation solely in the vicinity of new or renovated buildings as a direct benefit to those residents.
- Encouraging conversions instead of demolitions.
- Ensuring social service facilities are run by quality providers, maintain high standards, and are not concentrated in one area

MCB4's is mostly concerned with the 8th Avenue corridor that is part of the proposed Northwest area described below.

Background

In October 2023, DCP introduced the concept MSMX proposal. The plan proposes rezoning 4 distinct areas in Midtown South, totaling 42 blocks:

- Northwest Area: West 34th to West 40th Streets, Broadway to the west side of 8th Avenue
- Northeast Area: West 35th to West 39th Streets, 5th to 6th Avenues
- Southeast Area: West 23rd to West 31st Streets, 5th to 6th Avenues
- Southwest Area: West 23rd to West 31st Streets, 6th to 8th Avenues

A portion of this proposed rezoning is within MCB4.

- Northwest Area: The west side of 8th Avenue from West 35th to West 39th Streets
- Southwest Area: West 23rd to West 26th Street between 6th and 7th Avenues

The plan proposes rezoning the 4 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 proposes 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 would foster a mixed-use neighborhood character similar to surrounding blocks.

Response to the DSOW Proposed Zoning Text Amendments

Elimination of Dwelling Unit Factor

The DSOW proposes the elimination of the Dwelling Unit Factor (DUF) within the Project Area, removing the controls on the maximum number of dwelling units in a building. By eliminating the DUF, developers could build more smaller units, creating more apartments bolstering the housing stock. However, developers could capitalize on the lack of the DUF to build larger, more expensive apartments. MCB4 does not support the idea of fewer larger apartments consuming available square footage. MCB4 requests language in the Proposed Zoning Text Amendments that will ensure development of smaller apartments if the DUF is removed. For example, the Special Clinton District requires 20% of units to be 2-bedroom for developments, enlargements, extensions, or conversions of an existing building to a residential use. DCP needs to study zoning mechanisms to:

- Prevent fewer larger units and therefore reducing the overall number of units produced by this zoning action.
- Require 20% of the units be 2 bedrooms or larger in order to ensure a mix of apartments for larger households while at the same time encouraging smaller units.

Covered Pedestrian Space Bonus

Under this proposal, certain development sites within the Northwest Area would be allowed to apply for the Covered Pedestrian Space Bonus for a floor area increase of up to 20%. The built context of the Northwest area has no relation to covered pedestrian spaces. The midblock building typology is typically bulkier, loft-style buildings. The avenues have higher street walls.

The Northwest Area, situated between Penn Station and Port Authority Bus Terminal, is a major corridor for transient use between the two transportation nodes. The current public plaza bonus has been an abject failure in front of multiple budget hotels and during the day has functioned as a waiting area for hotel guests. In the evening and night hours, those poorly designed public spaces have created a haven for illegal activity. The hotels have responded by partially blocking them off, creating a lack of compliance for public space. Covered pedestrian spaces are an indoor version of the multiple non-functioning public plazas.

The Northwest Area contains West 34th to West 40th Streets, an area where a majority of narcotic arrests have taken place. In 2023, Midtown South Precinct had 1,280 narcotic arrests, ranking in the top 3 out of New York's 77 police precincts. Privately-owned open space (POPS), whether a covered outdoor plaza or an indoor arcade, are not appropriate in an area continuing to have serious public safety challenges.

Providing options for density bonuses will only create the easiest bonus and not serve the need to create affordable housing, a central part of this proposal. In the Special Clinton District in 1973, both an affordable housing bonus and a public plaza bonus were introduced. From 1973 to the early 1990s, three plazas were built and no affordable housing. When the public plaza bonus was eliminated, affordable housing through inclusionary bonus came to be built. Developers will always choose producing indoor or outdoor space over affordable housing. Please study having the covered pedestrian space bonus eliminated *as well as the public plaza bonus*.

Transit Bonus

The proposed action would define the proposed MSMX project area as a Central Business District (CBD), making all sites within the Project Area qualifying transit improvement sites. This would allow all sites within the Project Area to receive a 20% density bonus for improving an adjacent subway station. This proposed action was not disclosed during the March 13th, 2024, presentation from DCP to CHKLU. Designating the MSMX Project Area as a CBD expands the CBD further south and west and encourages major demolition of building stock that should be converted to residential. The introduction of multiple incentives will push developers to demolish large existing buildings. This plan should stimulate the conversion of existing buildings, including those that are underbuilt, instead of incentivizing demolition of existing buildings. The identification of potential conversion sites combined with the designation of a CBD is a backhanded attempt to bring excessive density to this area, which has already been accomplished in Hudson Yards. The transit bonus should not be used over the entire area but

should have a direct nexus to subway entrances. Study maintaining the current transit bonus text within 500 feet of a subway entrance.

Development Scenario Parameters

The Development Scenario Parameters lists floor heights for ground, commercial, and residential floors. However, there is no mention of mechanical voids. In 2019, the City Council adopted the Residential Tower Mechanical Voids text amendment. Mechanical voids taller than 25 feet count as zoning floor area, and mechanical void spaces located within 75 feet of each other count as zoning floor area. Please clarify what is the plan to restrict excessive height by the utilization of mechanical voids.

Projected and Potential Development Sites

MCB4 appreciates the analysis of existing projected and potential development sites for which additional FAR could be built under the new zoning. Those development sites focus on small 1-6 story buildings. However, considering the large proposed increase in zoning to a potential 15 FAR, the range of development sites may include existing loft buildings under 15 FAR. Please provide a map, as requested in the MCB4 letter on April 3rd, 2024, of lots underbuilt to 12 FAR and to 15 FAR.

Further, the current scoping does not incorporate the availability of development rights from adjacent properties. Therefore, there are many potential development sites adjacent to buildings underbuilt within the proposed new FAR limits. Please study zoning mechanisms to include limiting aggregating of FAR from underbuilt sites to prohibit the development in the style of the West 57th Street Billionaires' Row. Such development will have a major impact on the visual resources of the surrounding Times Square, Garment Center, and Penn Station areas.

Response to the DSOW Proposed Zoning Map Amendment

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)

Rationale of Rezoning Based on Surrounding Area

DCP's rationale for this action 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. Please study the need for such density and the potential unintended consequences.

Existing Overbuilt Buildings

DCP has noted that 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 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 residential building. MCB4 supports that consequence and result.

Existing Underbuilt Buildings

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. Therefore, the consequences of this proposed action can be evaluated and understood in the upcoming public review process.

West side of 8th Avenue between West 35th and West 39th Street

The west side of 8th Avenue is an integral part of the Hell's Kitchen neighborhood, from West 34th to West 57th Street. North of West 42nd it is mapped as the Perimeter Area B, of the Clinton Special District. The Perimeter Area of 8th Avenue and West 42nd Street functions as a high-rise development corridor, with a 10 FAR, bonusable to 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 8th 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.

Height limits coupled with high density work. They are mapped at 250 feet immediately to the west from West 35th to West 38th Streets, 8th to 9th Avenues, and have accommodated a density of 13 FAR. In the blocks along 8th 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 early 20th century loft buildings.

Please study a modest density increase to 13 FAR, to map the same density at that immediately to the west. 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.

Response to the Tasks Outlined for the DEIS

Task 4: Community Facilities and Services

Despite the addition of 3,952 under the Reasonable Worst-Case Development Scenario (RWCDs), the Proposed Action does not meet the threshold for detailed analyses of potential impacts on healthcare facilities and police/fire protection. Please clarify what the trigger is that would necessitate the analysis.

The development of Hudson Yards with no corresponding expansion of emergency services has overwhelmed the NYPD in the area. Adding residential density in the Project Area will further overwhelm emergency services.

DCP noted in their March 13, 2024 presentation to the CHKLU committee that “social services are providing necessary resources, but more support is necessary.” In fact, the area contains a significant concentration of existing social service facilities. For example, in a 3-block area between 7th and 9th Avenues, the following social service facilities are located:

- 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)

The challenge is that some of these facilities are not well-managed or responsibly run, creating further street activity problems. The solution is not simply to add more services, but to improve current services and avoid the over-concentration of services. In fact, according to a November 9, 2023, report by the Office of the New York City Comptroller— Fair Share? Siting New York City’s Municipal Facilities – social service facilities such as homeless shelters (including sanctuary sites and HERRCs), mental health centers, and substance use disorder treatment programs – are distributed unfairly in New York City, with Midtown, along with Harlem and East Harlem, have far higher concentrations than communities outside of this core region of Manhattan. And Manhattan Community District 5 (Midtown) has one of the highest highest rates of shelter beds per capita.

Please study how to avoid an overconcentration of social services within the Project Area. The City needs to ensure that existing social service facilities are dispersed and not concentrated within a portion of a neighborhood and that they provide quality services --especially in a neighborhood currently managing high drug and street crime activities. (It should be noted that in 2023 Midtown South Precinct (MTS) had 1,280 narcotic arrests, ranking in the top 3 out of New York’s 77 police precincts. The majority of arrests have taken place in the 8th Avenue corridor from West 34th to West 45th Streets.)

We also request that studies to confirm that public school seats are in compliance with the new NYS Education Law 211-D.

Conclusion

MCB4 delivers these comments to DCP with the recognition for the potential that this proposed rezoning has for residential growth creating a greater mixed-use environment. We support the expansion of housing options to bring even more vitality to this neighborhood. Continued engagement through the public review process is paramount to the success of this proposed rezoning, and MCB4 takes its role in this process seriously. We look forward to further collaboration and responses to the requests for study as the proposed zoning continues to be developed.

Sincerely,



Jessica Chait
Chair
Manhattan Community Board 4



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



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