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CITY OF NEW YORK

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Manhattan Community Board 5
450 Seventh Avenue, Suite 2109
New York, NY 10123

RE: Response to MN CB 5 Questions on Midtown South Mixed-Use Plan

Dear Community Board 5,

We would like to thank the Board for their continued engagement in considering the Midtown South Mixed-Use Plan, as well as for your questions as outlined in correspondence with DCP Staff dated February 18, 2025. These questions were a follow-up with respect to DCP's presentation to the LUHZ Committee on the MSMX Plan, held January 26, 2025. We've appreciated learning about your perspective and concerns, and hope to answer as many of your questions as possible.

Overall, we heard a number of questions and concerns regarding the introduction of housing and existing economic ecosystems. Introducing housing in such a central, transit-rich area where it currently isn't allowed under zoning is a critical step to address the city's housing shortage and affordable housing crisis and provide opportunities for New Yorkers to live near important job centers. We're proud to note that any new housing, whether through conversions or new development will be required to provide income-restricted housing in perpetuity through the Mandatory Inclusionary Housing program.

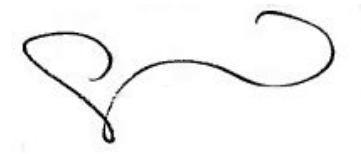
The MSMX proposal maps manufacturing/commercial districts together with residential zoning to permit housing for the first time in Midtown South, while also continuing to allow businesses that call Midtown South home the ability to thrive and grow. The MSMX plan recognizes that housing should not be at odds with economic growth—instead, it can be a critical tool to enhance and sustain it. By allowing housing in Midtown South, we can bring New Yorkers closer to their workplaces, reducing commute times, increasing foot traffic, and supporting the small businesses, restaurants, and services that make neighborhoods thrive.

A well-balanced mixed-use district fosters greater flexibility in building use over time, allowing building owners to adapt to shifting economic and market trends. Overly restrictive zoning in Midtown South has, in the past, resulted in unintended consequences such as commercial vacancies. The proposed zoning framework ensures that existing commercial and light manufacturing businesses can continue to operate and grow while enabling the much-needed addition of new housing, including mandated permanently affordable housing.

We heard a wide range of questions from the board, including the nuances of affordability requirements, how privately owned public spaces will be treated, how street wall and urban design regulations will look in practice, questions regarding the environmental review and CEQR-related assumptions, and many other pertinent subjects. Please note that we've re-organized the questions thematically for ease of answering.

We would like to thank the Community Board Again for your thoughtful feedback, and we look forward to your continued engagement and input through the public review process.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'E' followed by a long, flowing horizontal stroke that ends in a small loop.

Erik Botsford, Director, Manhattan Office

Housing

MSMX Project Area – current condition

- **How many existing buildings in the area are overbuilt, and what is the extent of their FAR overage?**

Approximately 318 buildings within the study area (out of a total of 671) are overbuilt under current zoning. Most of these (244) are built up to 15 FAR, while 37 are built to densities between 15 and 20 FAR, and another 37 buildings are built to densities above 20 FAR.

- **How many buildings in the area contain rent-regulated units? How many rent-stabilized units exist in this area?**

DCP does not have access to the number of rent stabilized units in the study area for privacy reasons, consistent with NYS HCR policy. But this helpful map can indicate which buildings may contain one or more rent stabilized units:

<https://nyshcr.maps.arcgis.com/apps/dashboards/4acf23d988e344d39db749befa881efe>

All Housing and Zoning – MSMX proposed rezoning

- **Could DCP provide the reasonable worst case development scenario that was studied in the DEIS in digital format so we can review the assumptions you used?**

Detailed Reasonable Worst Case Development Scenario (RWCDs) tables were published in Appendix A of the Final Scope of Work (FSOW) for the Draft EIS (DEIS). The analytical assumptions and incremental summary are also discussed in Section H of the FSOW. These items are publicly available and can be found on the MSMX’s project page on the Zoning Application Portal (ZAP) Search under “public documents”: <https://zap.planning.nyc.gov/projects/2024M0142>

- **The current proposal is suggesting R12 for the majority of the rezoning area, but R11 for one section of the rezoning area. If instead of doing R11 for that area, we did R12 for the entire rezoning, how many more units, and how many more affordable units, would we be enabling in the MSMX plan?**
 - **What would be the difference in dwelling unit count if all of the SW Quadrant were to be zoned R12 vs. if only the SW Quadrant above 26th St (the CB5 portion of the SWQ) were to be zoned R12 and the rest of the SWQ were R11 (the CB4 portion)?**

There are 13 projected development sites within the R11 portion of the SW Plan Area. Re-running these numbers on a detailed lot-by-lot analysis is complex and changing assumptions such as densities may affect the number and types of sites that would be projected for development. In our best estimate utilizing the existing projected development sites, were the R11 portion to be zoned R12 instead,

approximately 235 additional dwelling units—up to 70 of which would be permanently income restricted—could be delivered on these 13 projected sites.

- **If a building/lot straddles the new MSMX boundary (example: the NYTimes building on 8th Ave), in what ways would the proposed MSMX zoning allow or constrain additional FAR, uses, or bonuses for these buildings/lots?**

Split lots are subject to the provisions of Article VII, Ch. 7 of the Zoning Resolution (Special Provisions for Zoning Lots Divided by District Boundaries). Each portion of the zoning lot follows the applicable district regulations in which it's located. If a split lot has less than 25 feet of frontage on one side of a zoning district, the entire lot follows the regulations of the district where more than 50% of their lot area is located.

- **In general, how many new homes are required for each additional job to ensure new workers have housing?**

While defining the exact “right” balance of housing to jobs is challenging given each household may include multiple workers or non-workers and most neighborhoods rely on many other neighborhoods to complete a housing/jobs ecosystem, a useful baseline is that our metro region averages .86 homes per job, and that figure has remained relatively stable over time – in other words, approximately one worker lives in each home, on average, so every new home supports approximately one new job, on average. NYC has consistently permitted more jobs than homes (2x more jobs than homes last decade, 5x more jobs than homes last year), part of why our city as an economic center relies in part of suburban housing to complete our housing market. Manhattan, with 800,000 more jobs than housing, relies considerably on both suburban and outer borough housing and commuting to meet the extraordinary demand generated by the country's largest central business districts. For this reason, locating housing in Midtown South, close to hundreds of thousands of jobs, can help correct this imbalance and provide a more sustainable option that reduces commute times for New Yorkers.

Affordable Housing – MSMX proposed rezoning

- **How many units of affordable housing does the current zoning guarantee?**
- **How many total new units of housing is the rezoning expected to create, and approximately how many people will those units house?**
- **How many units of affordable housing will the rezoning guarantee?**
- **How will the rezoning add more permanently affordable housing, including supportive housing?**
- **How many MIH (Mandatory Inclusionary Housing) units will there be?**

With the limited exception of the portion currently zoned M1-6D, the MSMX plan area is zoned M1-6, which does not permit housing at all, much less affordable housing. The MSMX Plan will map Mandatory Inclusionary Housing (MIH) designated areas across the entirety of the plan area, with options 1, 2 and 3 (see response to below question). MIH requires that new developments and residential conversions provide permanently income-restricted housing. As part of the RWCDS, which was analyzed as part of the DEIS, an estimated 2,699 permanently affordable dwelling units were projected within the 10-year time frame from 2024 to 2034. The 2021 CEQR Technical manual estimates an average household size in this area of 1.68. This means that 2,699 permanently affordable units could house over 4,500 New Yorkers. The MIH Program has specified requirements to ensure a mix of units in terms of numbers of bedrooms. At least 50% of MIH units must be two-bedrooms or greater, and 75% of MIH units must be one-bedroom or greater. If not, the bedroom mix between affordable and market-rate dwelling units must be proportional.

- **The AMI for Manhattan is \$72,871, while the AMI for New York City is \$53,373. How will this be factored into the zoning plan? How can we ensure a mix of AMI (Area Median Income) levels for affordable housing?**

The AMI figures provided in the question above do not appear to be accurate. AMI (Area Median Income) is an affordability measure set by the federal government at a regional level (i.e. the New York City region). Using AMI to regulate affordability allows different City, State, and Federal housing programs to work together. MIH has several ways of making sure that affordable housing is provided at a range of AMIs:

- MIH Option 1 requires 25% of dwelling units at 60% AMI (\$83,880 for a family of 3), 10% of floor area must be 40% AMI (\$55,920 for a family of 3);
- MIH Option 2 requires 30% of dwelling units at 80% AMI (\$111,840 for a family of 3);
- MIH Option 3 requires 20% of dwelling units at 40% AMI (\$55,920 for a family of 3).

Each of these requirements can be fulfilled through income averaging – the use of three income bands that average to the requirement, such as 40%, 60%, and 80% to average to 60% AMI. This ensures a mix of affordability levels to meet different New Yorkers needs.

- **Will the Affordable Housing Fund be allocated to CB5 to subsidize additional affordable housing units beyond the minimum MIH requirements? Will the city prioritize funding for CB5 to ensure equitable distribution of affordable housing across the city?**
- **How will MIH's requirement for 25-30% affordable units be enforced, particularly when HPD's 2017 updates require an additional 15% of units to be permanently affordable for projects using HPD subsidies?**

Permanent affordability is enforced through a restrictive declaration approved by HPD and recorded against the property, which identifies the affordable units and their rent and income restrictions. The restrictive declaration does not expire as long as the building exists and provides HPD with the right to

enforce its requirements. It's worth noting that there have been no issues enforcing MIH to date, and it is a far tighter enforcement regime than rent stabilization.

- **Will there be efforts to construct 100% affordable housing on government-owned land, to the extent such land exists in the rezoning perimeter? Please share with us a list of all publicly owned sites in the district and which of these sites could possibly be appropriate for redevelopment.**

There are four publicly-owned sites in the MSMX Plan Area, three of which are either built-out FDNY or NYPD property (142 W. 31st Street; 134 W. 30th Street and 220 W. 37th Street). The fourth, 620 Eighth Avenue, is the NYT Headquarters and is partly-owned by EDC. Because of the active utilization of these publicly-owned sites, redevelopment is not considered as part of the MSMX plan.

- **How does MIH interact with adaptive reuse buildings compared to new construction?**

MIH requirements apply equally whether a building undertakes a residential conversion or redevelops via new construction. There are NYS tax incentives to facilitate the provision of affordable housing through either of these methods.

City and State Housing Policy and Tax Incentives

- **Besides the NYS tax incentives, how will NYC incentivize affordable housing in Midtown, especially extremely affordable units?**

The recently-adopted City of Yes for Housing Opportunity initiative created a new standalone MIH option, formerly referred to as the "deep affordability" option. This new MIH option requires dedication of 20% of new housing to be provided to New Yorkers earning 40% AMI, targeting low income households. In addition, HPD's Extremely Low & Low-Income Affordability (ELLA) Program funds the new construction of low-income multi-family rental projects. ELLA requires that projects include a minimum of 50% Extremely Low Income (ELI) or Very Low Income units (VLI), with at least 25% of units at ELI levels (ELI is <30% AMI and VLI is 31-50% AMI). In addition, at least 15% of units have to be for formerly homeless (that's included in the ELI).

- **How will the NYS 467m tax incentive for converting office buildings to housing rental units interact with MIH and 485x?**
- **The 467m incentive requires 25% of units to be affordable at 80% AMI, while MIH Option 2 requires 30% @ 80%, and 485x applies to 25% of newly built housing units. Is it possible to "double dip" by using both 467m and 485x for the same zoning lot?**
- **Are there any restrictions on using both incentives on the same zoning lot?**

The short answer to the above three questions is no, the subsidies cannot be used on the same development. Buildings are only eligible for 467m if at least 50% of the completed building is from the pre-existing building, whereas buildings are eligible for 485x if no more than 49% of the completed building is from the original building. So it's impossible to use both subsidies for the same building. If a hypothetical zoning lot were to contain two separate buildings, one of which would be pursuing a residential conversion and the other were pursuing a new redevelopment (each independent of the other) it would be theoretically possible that the converting building could use 467m and the redeveloping building could use 485x for their respective buildings.

- ***Comment: 467m abatement phases down from 35 years to 30 years starting 6/30/26, too close to implementation of MSMX. The combined impact of higher MIH affordability and reduced 467m benefit period will considerably reduce the number of affordable units delivered by these programs.***

Comment noted. Developers are very aware of these deadlines and working with HPD and other relevant agencies to meet them.

- **With limited government-owned land available for low-income housing, should eminent domain be considered for purchasing undeveloped properties from developers who have demolished buildings and left them vacant for extended periods? What is the estimated cost of such actions? If eminent domain is not utilized, what other mechanisms can DCP use to pursue affordable housing infill on vacant or underutilized sites?**

The MSMX Plan does not consider eminent domain to be a reasonable path towards the provision of more affordable housing, nor is it within the purview of zoning. The MSMX Plan leverages redevelopment and residential conversion on private property to deliver permanently affordable housing via the MIH regulations.

Office-to-Residential Conversions

- **Will there be provisions for converting empty hotels and offices to affordable housing?**
- **How will MSMX incentivize office-to-housing conversions versus tear-down redevelopments? A lot of these buildings include rent stabilized units which could make office to residential conversions not as viable.**

Comment noted. Residential conversions and new redevelopment are subject to the same MIH requirements.

- **Can air rights be used to facilitate housing conversions or office-to-residential projects in the MSMX district?**

This question is highly hypothetical, as it would only be possible in the instance of a conversion plus enlargement. A building looking to convert from office to residential that is built to less than the maximum permitted residential FAR could convert to residential and utilize the existing 75-42 provisions to increase their FAR by 20% above the maximum permitted residential FAR in an M1-8A paired district, and 30% above the maximum permitted residential FAR in an M1-9A paired district. We anticipate that this would be an extremely rare circumstance, given that a building would require a footprint and floor plates that would allow it to enlarge by 20% to 30%. In addition, any transfer of development rights pursuant to Section 75-42 would require approval by LPC of a program for continuing maintenance of the landmarked property. In addition, it's hypothetically possible for a building to convert to residential and then enlarge using a zoning lot merger with its underbuilt neighbor.

- **Will overbuilt buildings (those built before 1961 and exceed current FARs and the proposed FARs of MSMX) be incentivized to remain as office space? How many overbuilt buildings are there in the MSMX district? Are they clustered in any of the quadrants? Given that during the East Midtown rezoning, DCP forecasted that no building over 1 million square feet would ever be demolished for redevelopment over the next 20+ years, but still we saw the Grand Hyatt property being redeveloped as the 4th project in the first 4 years. What are all the possible scenarios for the overbuilt buildings in the MSMX district? Can any of the overbuilt buildings realistically use the provisions of City of Yes for conversion from office to housing?**

The above questions and comments are noted. Please see the prior responses with respect to overbuilt buildings. The MSMX Plan increases commercial/manufacturing permitted floor area in conjunction with the introduction of permitted residential use, with the intent to allow for a balanced mixing of uses in the Plan Area. Residential conversion of non-residential floor area would be subject to MIH provisions, as would new, ground-up redevelopment, subject to standard exemptions.

The decision to convert an existing building or redevelop is made on a case-by-case basis by individual property owners and there are many variables that inform this decision, including, but not limited to, site constraints, demolition and construction costs, and existing built conditions. Many of the existing buildings in this area are large and demolishing buildings of that size is complex and expensive in a busy city like New York.

Research into the decision-making process related to the economics of redevelopment vs conversion indicates that redevelopment is generally financially feasible when new construction is at least three times the size of the building that it replaces. For MSMX, this means that many of the existing buildings may be more attractive kept as-is or for conversion to residential use.

We believe that existing overbuilt buildings, especially those that exceed 15 or 18 FAR, are some of the best candidates for conversion to residential use since property owners would generally be able to convert all floor area to residential. The City of Yes for Housing Opportunity text amendment relaxed

many of the bulk regulations for former commercial buildings converting to residential, making it easier to deliver much-needed housing.

Tenant Protections: Commercial and Manufacturing Tenants

- **Should the Special Garment Center District zoning text include an anti-harassment provision to protect existing tenants of commercial and manufacturing spaces until the end of their leases?**
- **How can an anti-harassment provision be expanded beyond residential tenants to ensure that tenants in commercial and manufacturing spaces are not threatened or forced to vacate before their lease term ends?**
- **If existing commercial renters had anti-harassment protection, how many fewer homes might be developed in the first five years after the rezoning?**
- **If MSMX's proposed regulations incentivize demolition and new development over conversion of existing building stock, should the developer pay for the cost of relocating their building's manufacturing and commercial businesses and any residents to a comparable space (at least 90% of sq footage, no more than 110% of the rent, and within a half mile radius)?**
 - **Who would mediate, arbitrate, or enforce to make sure that tenants (businesses and residents) were not harassed or exploited?**
 - **What happens if neither the developer nor the tenant can find a comparable space?**
 - **Or, what happens if the tenant does not agree that a developer-identified, alternate space is "comparable"?**

Manufacturing anti-harassment provisions are outside the scope of the MSMX Plan. However, the NYC Department of Small Business Services offers free legal assistance for eligible businesses facing commercial lease issues through the [Commercial Lease Assistance Program](#). Through this program, businesses can get help amending, renewing, or terminating an existing lease, and addressing other commercial lease-related issues. Additionally, SBS offers support and funding for businesses looking to form Merchants Associations to support business retention. Interested businesses can view the [Merchant Organizing Guide](#) or apply to the [FY26 Merchant Organizing Grant](#) by April 20th, 2025.

Tenant Protections: Residential Tenants

- **Under current law, what legal protections exist for rent stabilized tenants to ensure they are not harassed? Would the rezoning make any changes to these protections? What will be done to avoid displacing tenants in rent-stabilized units in buildings that are converted to housing?**

State Rent Stabilization and other laws prohibit harassment of rent regulated tenants and tenants generally. This rezoning would not change these legal protections or their enforcement. New York State Homes and Community Renewal also regulates demolition of any buildings with rent-stabilized units.

If you live in a rent stabilized apartment, you have the right to lease renewal and cannot not be evicted unless you violate the terms of your lease.

The 2019 reforms to the Housing Stability and Tenant Protection Act significantly strengthened tenant protections and restricted the ability of landlords to raise rents on stabilized units or remove them from the rent stabilization program.

For example, units are no longer removed from the RS program when rents reach a decontrol threshold (\$2,744 per month when eliminated). Vacated units no longer get a 20% bump in rent and, like units with high-income tenants, are no longer subject to decontrol. As we've seen, this has significantly reduced incentive landlords might have had to evict or harass RS tenants. (They will just be replaced by another RS tenant at the same rent.)

For more information, The NYC Rent Guidelines Board provides guidance on the regulations for rent stabilized units: [Rent Stabilization FAQs – Rent Guidelines Board](#). All NYC renters can learn more about their rights through [HPD's Housing Resource Portal](#), the [ABCs of Housing](#), or attending HPD sponsored [tenant resource fairs or classes](#).

The MSMX proposal will not change the rules of rent stabilization. The proposed rezoning will increase the number of rent stabilized units in the area as Mandatory Inclusionary Housing units are both income-restricted and permanently rent stabilized.

Community Outreach and Support

- **How much funding is allocated for the Certificate of No Harassment program that protects residents from harassment and discrimination and is it sufficient?**
- **Can TSU, part of the Mayor's Public Engagement Unit (PEU), conduct outreach efforts in the rezoning area to inform tenants about their rights and connect them with resources like emergency repairs and free legal assistance from HRA? What role can TSU play in helping tenants who may be at risk of displacement or harassment in the rezoning area?**
- **Can we request the City or HPD fund local community organizations to conduct proactive outreach in the rezoning area, informing tenants of their rights and connecting them with available resources? If we offer the right to counsel here, would that reduce the supply of counsel elsewhere in the city?**

Questions and comments noted. These items go beyond the zoning resolution's purview and are out of scope for the MSMX Plan. However, the City offers robust tenant outreach and training services and welcomes local requests for them. This includes NYC Housing Preservation and Development's 'Rights of Tenants in NYC' class as well as neighborhood canvassing by the Mayor's Public Engagement Unit.

Right to Counsel is currently available in all zip codes for tenants facing eviction in housing court or NYCHA administrative proceedings. To increase capacity for tenant legal services, the City of Yes points of agreement included \$7.6M to restore the Anti-Harassment Tenant Protection (AHTP) program.

Economic Development

Previous Initiatives and Rezoning: Special Garment Center District (SGCD)

- **What has the Garment Center Steering Committee accomplished since the passage of the 2018 SGCD zoning text? What are the Steering Committee’s opinions on MSMX?**

The GDSC was organized primarily to develop recommendations during the 2018 Garment Center rezoning and provide a formalized venue for garment industry firms, designers, and other stakeholders to give feedback and surface ideas for supporting the fashion ecosystem. The GDSC has not been active for many years.

- **Before the 2018 SGCD rezoning, 180,000 square feet of manufacturing space was considered “preserved” under the pre-2018 zoning, though EDC, DCP, and DOB never verified its actual use. During the 2018 rezoning, it was acknowledged that this space was not truly preserved for manufacturing. During the 2018 ULURP, EDC stated that agreements had been made with four building owners to preserve 300,000 square feet of manufacturing space. Is that space still intact? Will it be preserved after MSMX? Can EDC secure additional manufacturing space across all four quadrants?**

As part of the 2018 SGCD rezoning, NYCIDA, in partnership with NYCEDC, created the NYCIDA Garment Center Program, which offers tax incentives to property owners in the Garment Center Business Improvement District (BID) in exchange for providing affordable, long-term leases to qualifying fashion manufacturing businesses. From 2018-2019 the NYCIDA authorized up to 240,000 SF of fashion manufacturing space to be preserved across three properties in the Garment Center. Since receiving NYCIDA Board authorization and in spite of NYCIDA's attempts to work with each property owner to meet their needs and reduce any barriers they may have faced, none of the three properties and/or landlords have moved to transact with the NYCIDA and receive the Program's tax abatement. Neither NYCIDA/NYCEDC, nor NYCDGP, have access to current tenant/business information for these three buildings and therefore cannot confirm how much fashion manufacturing space may exist within each property today.

- **During the 2018 ULURP process for SGCD rezoning, many non-zoning promises were made. What has EDC & NYCIDA accomplished since the last SGCD rezoning for garment/fashion industries and businesses in the Garment Center? What progress has been made on garment**

manufacturing labor education and training, as promised in the 2018 rezoning? How will MSMX impact the fulfillment of these promises and agreements?

NYCIDA Program: See answer to the previous question for a status update on the NYCIDA Garment Center Program which provides Garment Center property owners with tax abatements in exchange for providing long term and affordable leases to their fashion manufacturing tenants.

Building Acquisition: NYCEDC released a Garment Center Building Acquisition Request for Expression of Interest (RFEI) in October 2018 for which the City made up to \$20 Million of City Capital available to fund a portion of the acquisition cost of a building in the Garment Center. This RFEI was extended multiple times until February 2021. However, no viable responses were received to advance this project. Fashion Manufacturing Initiative (FMI): This partnership between NYCEDC and the Council of Fashion Designers of America (CFDA) commenced in 2013 and expanded further in 2018. Since 2013, the program has invested over \$6 million across New York City's garment manufacturing network and impacted the work of 2,042 employees to use and access new technologies, advanced manufacturing tools and machines. With the new machinery, garment manufacturing owners were given training and technical assistance tools for workers to learn how to upgrade their skills and learn about the new machines and technology.

During the pandemic, FMI provided disruption grants and support on the safe re-opening of garment manufacturers including workforce resources and support totaling over \$500,000 which affected over 1,200 employees.

Use and Use Restrictions – MSMX proposed rezoning

- **Clarification of Allowed and Restricted Uses:** What specific additional uses will be permitted under the proposal? Will any uses be restricted, such as amusement park rides or other high-impact activities? Are there new uses being considered within the rezoning quadrants that are currently prohibited?
- **Retail Uses:** Will as-of-right ground-floor local retail spaces less than 10,000 sq. ft. under Use Group 6 be allowed to support neighborhood character? Will retail spaces exceeding 10,000 sq. ft. require a special permit to ensure community input and safeguard small businesses?
- **Hotel Uses:** Hotels may be an appropriate use for some of the smaller footprint mid-block sites. However, since a Special Permit will still be required for hotel use, we can expect that no hotels will be developed under the new program.
- **Office/Commercial Uses:** What incentives will MSMX have to maintain a certain minimum amount of Class B or Class C office space? Class B and Class C are needed for non-profits, new start-ups, small businesses, and social service providers for the homeless which will always congregate near transit hubs. Midtown South is changing but we should be looking to add to the

existing economic ecosystem and not wanting to destroy completely the office market that developed in Midtown South after the manufacturing sector mostly moved away from the area.

- **Eating and Drinking Establishments:** Will there be size limits for eating and drinking establishments, such as requiring a special permit for spaces above 5,000 sq. ft. or with seating capacities above 200? Will special permits be required for commercial rooftop or outdoor eating and drinking, clubs, meeting halls, and event spaces to mitigate noise and disruption? Will eating and drinking establishments or other high-impact retail uses above the second floor be prohibited to protect residents from noise and traffic impacts?
- **Mixed-Use Buildings:** Will new developments or conversions that mix commercial and residential uses on the same floor be prohibited? Will commercial uses above existing residential units within a building be disallowed to protect residential quality of life?
- **Special Permits for Large-Scale Uses:** Will special permits be required for large-scale commercial or high-impact uses, such as retail and event spaces, to promote community engagement, foster a more diverse mix of business activities, contribute to a vibrant urban fabric, and mitigate potential negative impacts on small businesses and residents?

The above several questions are noted. The proposal does not change use provisions as they apply to the proposed zoning districts. Many of the uses and the regulations surrounding them have been previously clarified through the City of Yes for Economic Opportunity proposal. As was described in our presentation to the board, MSMX proposes to lift square footage limits on retail. These uses are already permitted in Midtown and Midtown South outside the MSMX Plan Area, and the proposal would bring the four Plan Areas into alignment with surrounding areas where large retail establishments provide valuable retail opportunities as part of a vibrant mix of retailers.

Existing Industries and Businesses

- **How will the rezoning ensure a balance between adding housing and preserving commercial activity to maintain Midtown South as an economic hub?**

The MSMX plan proposes mixed-use zoning districts that would pair manufacturing and residential districts at roughly equivalent high densities to support a wide range of co-existing uses. The existing M1-6 zoning permits non-residential manufacturing and commercial uses at 10-12 FAR and the MSMX plan would increase this non-residential density to 15 FAR in the densest portions of the plan area and maintain the existing 12 FAR in the lower density areas. Areas surrounding the MSMX plan area that already permit residential and commercial uses have a healthy mix of uses with robust commercial activity. The introduction of residential use will create conditions that support 24/7 activity in Midtown South and make Midtown South an even more vibrant and active area with services and street life that will benefit local businesses and make the area an even more attractive area for commercial activity.

- **Using zoning or non-zoning means, how does the proposal plan to support and retain legacy industries like fashion, wholesale, flowers/plants, and other historically significant trades? What previous attempts to support these industries have been made? Have they been successful? What examples from city history exist of the city successfully protecting legacy industries? How successful were these efforts and what trade-offs were involved?**

Of the four quadrants that are part of the MSMX plan, only the NW Plan Area has had zoning measures that were intended to address specific economic sectors. Prior to 2018, the NW Plan Area had various zoning provisions over several decades that preferentially treated manufacturing uses. Even with these zoning provisions in place, the local garment industry experienced dramatic changes in manufacturing, technology, and retailing that resulted in a significant decrease in sector activity in the NW Area. At the same time, restrictive zoning had unintended consequences, including increased vacancies and non-conformances as manufacturing declined without the allowance for other permitted uses. The 2018 Garment District rezoning recognized the effect of these broad market forces and allowed a wider range of permitted uses in the area, including limited residential use as well as office and other commercial uses. What has been clear in the long history of this area is that zoning is not the appropriate tool to support specific economic sectors. The City has a robust program outside of zoning to support the garment and fashion sector in Midtown South and across the city and city agencies will continue to explore non-zoning opportunities to expand that support as the MSMX plan advances through public review.

- **Are there any circumstances when/where manufacturing use would be required in MSMX? Will the City set a minimum threshold for manufacturing square footage in the district that cannot be converted to another use?**

Manufacturing uses are important to the City and DCP, and we're continuously studying and planning for the future of industry in New York City. DCP's recent City of Yes Zoning for Economic Opportunity expanded the range of permitted manufacturing uses and maker-spaces that are allowed in commercial and manufacturing districts in Manhattan.

Zoning describes which uses are permitted and does not prescribe required uses. The MSMX Plan's proposed zoning framework continues to allow manufacturing in Midtown South and even increases its permitted density above current maximum FARs. As noted in the previous answer, prior to 2018, the NW Plan Area had various zoning provisions that preferentially treated manufacturing uses, but these could not prevent the local garment industry from experiencing dramatic changes in manufacturing, technology, and retailing, which resulted in a significant decrease in sector activity. Moreover, and as previously noted, restrictive zoning had unintended consequences, including increased vacancies and non-conformances as manufacturing declined without the allowance for other permitted uses.

- **Can the city provide incentives to encourage landlords to offer affordable lease renewals to small businesses in the rezoning area?**

The NYC Department of Small Business Services offers free legal assistance for commercial lease issues through the [Commercial Lease Assistance Program](#). Additionally, businesses can access free assistance to apply to available loan and grant resources, including federal, state, local, and private funds through the [NYC Funds Finder](#).

- **New York City needs more than just chain stores, which is why the City Council introduced the Small Business Jobs Survival Act. Enacting this legislation—or a similar measure—would protect small businesses, empower them in lease negotiations with landlords, and help revitalize our retail landscape in the face of growing online competition. Can the City look follow up on this initiative?**

Comment noted. This legislation is out of scope for the MSMX Plan, however the plan reflects comments heard during public and stakeholder engagement expressing a desire for more active street life, including local services, retailing, and eating and drinking establishments that can come from introducing housing and creating robust mixed-use districts.

New Businesses Initiatives

- **Are there incentives or provisions to encourage live/work spaces for creative industries, freelancers, and small businesses?**
- **Are there plans to attract innovation hubs, such as expanding Silicon Alley, as part of the rezoning strategy?**

City of Yes clarified and liberalized rules that allow people to use their homes for businesses purposes provided they are not a nuisance for the surrounding area. There are no specific city incentives to encourage live/work, other than some federal tax advantages. Services provided by SBS that are available to storefront businesses are also available to home-based and creative businesses, including support with licensing and permitting, obtaining city MWBE certification, connecting to free resources, hiring assistance, and more.

MSMX provides for a wide range of uses, and DCP believes that zoning is a critical tool in setting the stage for the growth and bolstering of emerging sectors, including the innovation economy. Our research indicates that tech and creative sectors have been particularly emergent in the MSMX Plan Area, and are likely to see continued growth given its locational advantages, and the plethora of more affordable Class B and Class C office spaces.

Zoning

Discretionary Bonuses – Transit

- Will the Transit Bonus be a Special Permit with Community Board review and recommendation or will it be awarded automatically after CPC Chair reviews and certifies that the applicant meets certain findings?
- What amount of money, what kinds of projects, or what kinds of groups of projects would be deemed appropriate for granting a bonus of 5, 10, 15, or 20% bonus-FAR for transit improvements?
- How will the Transit Bonus work if only two subway stations are directly within the boundaries of the proposed rezoning area?
 - 6 of the top 15 most-used subway stations are located near the MSMX district. Almost all need elevators. For example, the elevator on the South-bound local platform at 34th and 8th has been out for over 9 months. This outage caused elevator-users to go down to 14th transfer to the Uptown side and take a uptown train back to 34th St. The elevator on the express platform at 34th St/8th Ave has also been out for over 5 months. These stations need redundancies because of the volumes of commuters: 42nd/6th (2 elevators to the mezzanine, but platform access doesn't exist), 42nd/7th (all lines/platforms need redundancies), 34th/6th, 34th/7th, and 34th/8th.
 - And, the following stations in & near MSMX have yet to have any elevator access: 28th/Bway, 28th/7th, 23rd/Bway, 23rd/6th, 23rd/7th, and 23rd/8th.
- Can the Transit Bonus only go to NYCTA-owned sites and not to sites owned by other transit agencies like the Port Authority's PABT, Port Authority's PATH 33rd or 23rd St stations, or Amtrak's Penn Station–New York?
- The draft plan offers bonus floor area for "improved or increased accessibility and facilities at area transit stations." Can you provide examples of specific improvements that might be made in Midtown South?
- MBP Levine, CM Bottcher and CM Powers recommended continuous bus lanes where they don't exist, improvements on 34th St (which we learned are starting this year) and protected bike lanes.
 - Would a bus lane constitute a transit improvement? How many blocks of a bus lane would equal one subway elevator?
 - Would a protected bike lane constitute a transit improvement? How many blocks of a protected bike lane would equal one subway elevator?

The transit bonus referred to in the above questions is a zoning authorization made pursuant to ZR Section 66-511, and is already applicable to sites within the MSMX Plan Area that are located within

a 500' radius of transit infrastructure. For the NW Area, which is currently part of the Special Garment Center District, this radius is 1,500'.

MSMX would include the proposed Special MSX District as one of several areas, within which the 500' radius is increased to 1,500'. This means that there are far more than two stations that could be eligible to receive transit improvements, including the six above-referenced stations along W. 34th and W. 42nd Streets.

Applications for the transit bonus zoning authorization are referred to the Community Board and approved by the City Planning Commission. The Commission has the discretion as to determine whether a requested bonus is commensurate with the proposed improvements. Improvements are identified in consultation with the MTA and undertaken by the developer seeking the bonus. ADA accessibility is prioritized for stations that are not fully ADA-accessible. Surface road-bed improvements such as bus lanes and bike lanes are not eligible transit improvements.

Eligibility is not strictly limited to NYCT/MTA infrastructure. Eligible transit infrastructure must be subway or rail, meaning that PABT cannot qualify, but PATH stations can. These provisions were purposefully written so as to extend the same allowances to all stations regardless of the operator.

- **Midtown South has excellent transit due to its central location. Besides physical improvements to transit facilities in the neighborhood, would it be possible to establish a "transit improvement fund" for projects citywide in exchange for additional floor area (e.g., contributions to the MTA)? This approach is sometimes used for affordable housing, where developers contribute to a fund that supports affordable housing outside of their project. Improving transit citywide would help reduce congestion in Midtown South.**

While an interesting concept, establishment of a transit improvement fund is outside the scope of the MSMX. Pursuant to the ZR Section 66-511 bonus, developers would undertake the construction of transit improvements that are identified in conjunction with MTA. The resulting development may not use any bonus floor area granted from the provision of these improvements until they are complete and usable to the public.

POPS

- **Will POPS, whether open-air or enclosed, be allowed or incentivized as a part of a new residential development in MSMX?**
- **How can we enhance the POPS program in Midtown to encourage the inclusion of public spaces within residential buildings? With 66% of the city's built area dedicated to housing, new residential developments should have opportunities to generate open space. Currently, over 100 of the 600 POPS in NYC are located in residential developments.**

- Are there any barriers to developing residential POPS in this new district, including covered spaces like the indoor atrium at 590 Madison, which provides year-round public access to nature?
- Can POPS be required for large residential developments over a certain size such as buildings over 12.0 Residential FAR?
- Additionally, can POPS integrate sustainability and resiliency features—such as urban greening and bioswales—to mitigate the urban heat island effect and improve stormwater management during extreme weather events?
- Our community board has been on record asking DCP to require bathroom access for bathrooms over 10,000 sf, in alignment with the current zoning resolution, which mandates that public plazas of this size associated with a commercial building must include a food service as one of the three additional required amenities; and given that food service is a required amenity, bathroom access should also be provided as a matter of public health. current regulations require that food service establishments with 20 or more seats, opened after 1977, must provide a restroom for their customers.
- Because of the serious lack of green or open space in the district and because the rezoning will allow for easier permitting of additional FAR, can the public plaza, POPS, and Covered Pedestrian Space regulations for the MSMX district be changed for more public access and more living plants (not “preserved”/taxidermied plants and trees)?
- ZR 37-727 - Can the hours of public access to public plazas, POPS, and Covered Pedestrian Spaces be 5am-10pm daily, year-around in the MSMX district? (Not the current: 7am-8pm during the winter months, and 7am-10pm the rest of the year.) This district is a transportation hub and hopefully it will be a very desirable neighborhood to live. Currently, we already see the need for more access to our limited public areas. With additional residents the need will increase even more. We have service workers commuting through Penn Station at all hours of the day. Penn Station is closed from roughly 1am-4am. And, 7 hours of closure for a POPS is usually enough time for all general cleaning and most deep-cleaning projects.
- ZR 37-742 - Can the minimum number of trees be increased to a minimum of 5 trees for all public plazas; an additional 4 caliper inches of tree for plazas over 4,000 sf; and an additional 4 caliper inches for every 800 sf greater than 4,000 sf? (Not the current: 4 trees minimum; with an additional 4 caliper inches of tree after 6,000 sf; and an additional 4 caliper inches of tree for every 1,000 sf greater than 6,000 sf). We need more green space and POPS are going to be the likeliest way for getting trees planted in the district. Overly spaced living trees are not comparable to a park and make for an extremely poor substitute. Developers even see the need for more aesthetically pleasing “green” by wanting to use fake green walls or “preserved”/taxidermied trees (851 Ave of the Americas existing POPS & proposed POPS at 515 7th Ave).

The above questions and comments are duly noted and we appreciate learning the Board’s perspective on POPS design regulations. Amending the POPS regulations and design standards of ZR Section 37-

70 is out of scope for the MSMX Plan. However, by allowing the Covered Pedestrian Space special permit of ZR Section 74-85 to apply within the MSMX Plan Area, DCP is encouraging the provision of an indoor POPS typology that permits a wide range of amenities and can be incorporated within a primarily residential development. The CPS bonus must be approved through a full ULURP process, including Community Board review. The atrium at 590 Madison Avenue is a Covered Pedestrian Space, and one of many successful examples of one throughout Manhattan. Most POPS are by default required to be open 24/7 unless the City Planning Commission approves a separate application for a nighttime closure. Requiring public spaces on new developments would be out of scope for the MSMX Plan and would likely serve to hinder the provision of affordable housing through redevelopment.

Discretionary Bonuses – Covered Pedestrian Spaces

- **What role will Community Boards have on the design and location of Covered Pedestrian Spaces?**
- **At which points in the permitting process will the Community Board give recommendations on Covered Pedestrian Spaces?**
- **In order to obtain a Special Permit for a Covered Pedestrian Space and its FAR bonus, what findings must be met?**
- **Is one of the findings a positive, or at least not negative, recommendation from the Community through the Community Board?**
- **What are the objective differences in the design, use, or size of a 5%, 10%, 15%, and 20% bonus-FAR Covered Pedestrian Spaces?**

The Covered Pedestrian Space bonus is granted via a zoning special permit and must go through a full ULURP process. The Community Board has the opportunity for input and recommendation as it would for any other ULURP project. The findings for the special permit can be found in ZR Section 74-85. The amount of bonus generated by a given pedestrian space generally correlates to the square footage provided, as there is a specified bonus ratio in the zoning text. The City Planning Commission has the discretionary authority to grant the bonus based on the quality of the space itself and whether it meets specified design criteria as laid out in the findings in ZR Sections 74-852 and 74-853.

- **Mid-block Pedestrians Circulation between 7th & 8th Avenues - What can be done through zoning to incentivize any new developments or conversions that are located mid-block between 7th and 8th Avenues (375-425 feet from 7th Ave) and that are also through-block lots to have a street-level, through-block POPS (plazas, atriums, or lobbies) that can be used as pedestrian circulation (similar to the current 6½ Ave in the West 50's), beyond the currently proposed Covered Pedestrian Space 20% Bonus? How can the Bonus be made more useful for the public and not incentivize enclosed pedestrian paths on or near the avenues? If a covered pedestrian space is created on 7th or 8th Ave (the only avenues in the MSMX district), it doesn't really widen the sidewalk because the streetwall is maintained, the doors to the covered pedestrian space**

would be an additional obstacle to a pedestrian, and the building would just in effect have a larger avenue-facing lobby entrance.

- A 7½ Ave would be especially helpful for circulating through the 800 foot blocks in the NW quadrant and could alleviate some of the pedestrian demand for sidewalk space on 7th and 8th Avenues. A 7½ Ave could also be potentially helpful in the SW quadrant: for FIT students or for when Penn Station is finally redeveloped.
- Could a similar mid-block public pedestrian circulation path (5½ Ave) be incentivized through zoning for the NE quadrant (435-485 feet from 5th Ave)? The blocks between 5th and 6th are 920 feet, the longest blocks in Manhattan. DCP's Jan 2025 slide presentation (Slide 29) shows most of the potential development will be mid-block in the NE quadrant

The above comments are noted. Specific requirements mandating midblock pedestrian connections area outside the scope of the MSMX Plan, however, as noted above, the Covered Pedestrian Space bonus is a special permit and includes Community Board review, where design and circulation input can be provided to the applicant and the City Planning Commission.

Signage

- Flashing signs are proposed to be prohibited in GCD A-2: Will the ZR 121-20 sign regulations for Subdistrict A-1 remain in place for the expanded MSMX district?
- Will the flashing sign prohibition in Subdistrict A-2 be extended to the entire MSMX district, as CB5 originally proposed in 2018?

As per the language in the referred zoning text, all signs in the MSMX Plan Area are subject to the regulations applicable in C6-4 Districts (as set forth in ZR Section 32-60). Flashing signs shall not be permitted anywhere in the MSMX Plan Area, consistent with the feedback we received from the Community Board and wider community during our public engagement process.

CEQR Impacts & Potential Mitigation/Other Capital Commitments

Open Space

- The EIS found a significant adverse indirect impact on total, and active open space in the residential study area. According to the open space profiles by NY4P, our district has only 2% of its area designated as City Parks, compared to the NYC average of 7%. Additionally, there are just 0.4 acres of City Parks per 1,000 residents, significantly lower than the citywide average of 1.8 acres. Please refer to the NY4P chart below for further details.

- **With 16,000 new residents expected in the area and no additional parks planned, we are asking DCP to explore innovative ways to provide access to much-needed public green space. For example, could DCP consider requiring public open space access for buildings with a residential FAR of 12 or higher? This could take the form of a covered or indoor POPS (Privately Owned Public Space) to maintain the street wall character.**
- **There is a lack of dedicated open space addressed in the plan. DCP took the position that there is no city-owned land in the district therefore there will be no new public space.**
- **Fund expansion of current DDC Broadway Vision improvements plan from 38th-40th Sts to include the entire MSMX zone, at least from 26th St to 38th St, along with proposed improvements to Greeley and Herald Squares. Restrict loading docks in these improved areas.**
- **Identify Project or Potential Development Sites that could be converted to publicly owned pocket parks by transferring all the available development rights to reduce site acquisition cost. Focus initially on MSMX areas not within a Walk to a Park Service Area (Figure 5-2 in Chapter 5: Open Space)**
- **Could Tax Increment Financing (TIF) be used for Open Space and Pedestrian Safety costs similar to Hudson Blvd?**

Mitigation measures for the significant adverse indirect open space impacts are being explored between DCP and Parks ahead of the FEIS. The CPS bonus introduced by the Proposed Actions would encourage the creation of passive use public spaces. However, as mentioned in the DEIS, though these potential mitigation measures may increase publicly accessible passive open space in the residential ½-mile Study Area, opportunities to create new open space in sufficient amounts to fully mitigate an indirect impact to total open space (approximately seven acres) is limited.

The City is continuing to explore non-zoning tools to expand the public realm and improve the pedestrian experience. NYC DOT and DDC are already planning to undertake the capital construction of portions of DOT's Broadway Vision, which will provide shared streets and pedestrian plazas for blocks of Broadway south of Herald Square, as well as the above-referenced blocks between 38th and 40th Streets. Converting private property to dedicated parks is not contemplated as part of the MSMX plan and outside the scope of zoning.

Shadows

- **DEIS Chapter 6, Table 6-4 (pages 6-12 to 6-14): Bryant Park will lose 2 hours and 19 minutes to 3 hours and 28 minutes of direct sunlight per day, year-round. However, in the mitigation sections, only the POPS at a hotel at 1185 Broadway and four church buildings were identified as potentially requiring mitigation.**

The DEIS “Shadows” chapter analyzed the potential for incremental shadows impacts based on CEQR methodology. According to the CEQR Technical Manual, incremental shadows that “significantly alter the public’s use and enjoyment of the resource or threaten the viability of vegetation or other resources” could constitute a significant adverse impact. Incremental shadow *duration* considered on its own does not necessarily constitute a significant adverse impact, as the context of the study area and the characteristics of the resources present also inform the CEQR assessment. In the case of Bryant Park, in coordination with NYC Parks, DCP concluded that “the open space would continue to receive direct sunlight during the morning and early afternoon hours during the growing season” and “the incremental shadows would not significantly alter the public’s use of the open space or threaten the viability of vegetation or other resources”.

- **What mitigation efforts will be implemented for Bryant Park, and how will they be funded? If the Bryant Park Corporation is responsible for the costs, this would necessitate additional private events and commercial promotions, thereby reducing the square footage and/or hours available for passive recreation in the public park.**

Since the DEIS CEQR analysis determined that there are no significant adverse shadows impacts on Bryant Park, no mitigation is proposed for the open space resource.

- **DCP’s Jan 2025 slideshow depicts potential developments of 18 FAR (at up to 345’ in height) that could potentially cast shadows on Bryant Park. What is the shadow effect on Bryant Park if half of the soft sites in the northern half of the NE quadrant were at 21.6 FAR with the allowable mechanical voids?**

The DEIS shadows analysis was conducted according to CEQR Technical Manual methodology. The incremental shadows modeled for the Bryant Park open space resource represented a reasonable worst case development scenario and used the maximum shadow radius generated by the site’s maximum zoning envelope. The Conceptual Analysis chapter of the DEIS considers the potential effects of a scenario in which certain projected sites utilize the discretionary bonus mechanisms available to them. For example, one conceptual analysis site was identified in the NE Plan Area, near Bryant Park. The Conceptual Analysis as a whole found there to be no significant adverse impacts, including with respect to light-sensitive resources. The grossing factors utilized in the RWCDs modeling account for allowable mechanical floors in their massings. Additionally, since discretionary actions would need to be pursued for a developer to achieve the Covered Pedestrian Space and Additional Floor Area for Transit Station Improvements bonuses, further analysis of relevant CEQR categories would be required at the time of the application.

- **CB5 Board issued a letter last month about the financial status of Bellevue Hospital, the only remaining safety net hospital in Manhattan after the projected closure of Beth Israel. In their 4/30/24 letter, MBP Levine, CM Bottcher and CM Powers requested that “at least \$1MM” be provided to expand Bellevue’s emergency room. However, the EIS labelled this issue No Significant Adverse Impacts and further study not warranted.**

Comment noted. The Proposed Actions wouldn't displace or alter existing healthcare services within the study area. As mentioned in the DEIS, the Affected Area is a developed area with an existing and well-established community that is served by existing police, fire, and health care services, and the Proposed Actions would not create a neighborhood where none existed before. Therefore, according to CEQR methodology, no detailed analysis was warranted for healthcare facilities was warranted.

- **8th Avenue between 34th St and 42nd St is an extremely high crime area and an open air drug market. The EIS also makes no recommendations for much needed enhancements in police presence in this area to provide a safe, livable environment for the thousands of projected new residents.**

Comment noted. See the response above, also applicable to police services.

Libraries

- **Given the significant increase in residential units within 1,000 feet of both the Muhlenberg Library (1,761 new DUs) and the Stavros Niarchos Foundation Library (763 new DUs) under both the MSMX rezoning and No Build scenarios, how does the DEIS justify the determination that no mitigation is needed for these libraries? Muhlenberg Library is identified as requiring mitigation under CEQR, yet the DEIS dismisses this need by citing electronic research, e-book borrowing, and the availability of Jefferson Market Library—14 blocks (.7 miles) away from the most southern point of the MSMX district—as an alternative.**

Comment noted. The holdings per resident for the Muhlenberg Library catchment area would decrease by more than five percent. However, as noted by CB5, the “trend toward increased electronic research, the SimplyE mobile application, and the interlibrary loan system” coupled with the proximity of Jefferson Market Library (within the MSMX catchment area of $\frac{3}{4}$ miles) were factors that informed the impact determination for Muhlenberg Library, made by DCP in coordination with NYPL. As noted in the DEIS, Jefferson Market Library, located within the $\frac{3}{4}$ -mile CEQR catchment area, “did not have any projected population increase as a result of the Proposed Actions”, making it a feasible alternative for residents generated by the Proposed Actions. Since these factors alleviate any noticeable change in library services due to the introduced study area population, no mitigation would be necessary.

- **With 1,279 new DUs projected within 1,000 feet of Muhlenberg alone, what measures, if any, are being considered to ensure these libraries can adequately serve the growing residential population? Shouldn't these libraries receive mitigation relief, particularly Muhlenberg, given its proximity to the densest clusters of new development?**

Comment noted. See the response above.

- **If a lot merger were to take place with the Muhlenberg NYPL branch (outside of MSMX) with a lot on W24th St (inside MSMX), what provisions would be required for the new library? Would it be something like the requirements that were in place for the new Inwood NYPL branch? Or would we have something similar to how the old Donnell Library was demolished and replaced by the much smaller 53rd St branch?**

Comment noted. As indicated, the Muhlenberg NYPL branch is outside of the MSMX Plan Area and is separated from MSMX by an avenue and several buildings, meaning that a zoning lot merger with a parcel within MSMX is not possible.

Congestion Pricing

- **Did EIS measures for traffic and air quality account for congestion pricing (or its potential repeal)?**

The DEIS does not include any quantitative assessment of congestion pricing effects on its transportation analysis because of the potential for uncertainty around the policy.

The current federal administration has recently expressed a desire to halt congestion pricing, which has introduced a layer of uncertainty about the program's impact on New York City's transportation landscape. Additionally, the program's early effects on pedestrian and transit networks, as well as its long term effects on traffic in Manhattan's CBD, are unknown at this time. Therefore, the FEIS will not quantitatively assess congestion pricing's affect on the MSMX study area transportation networks, but it will qualitatively address the program.

- **How can DCP ensure (through zoning or non-zoning actions) DOT's commitments to harden and expand pedestrian circulation space are prioritized and are able to evolve as facts on ground respond to this monumental policy change?**

Question noted. DCP is working with its partner agencies, including DOT, to identify non-zoning approaches to enhance the public realm and improve pedestrian circulation in the MSMX Plan Area.

Resiliency and Sustainability

- **Resiliency – Do MIH buildings need to adhere to HPD design guidelines? If the affordable housing units are in a separate building, are the non-affordable housing units still required to comply with HPD design guidelines? HPD's Design Guidelines include numerous requirements to enhance sustainability and resiliency, such as compliance with the city's Climate Resiliency Design Guidelines. Buildings account for 68% of NYC's emissions, with 66% of the city's built area dedicated to housing. Given this significant impact, private housing developments must play a role in strengthening the city's resiliency—not just publicly funded capital projects. We ask**

that DCP, in this rezoning, ensure that these resiliency-related guidelines apply not only to City Capital projects but also to all new housing developments over 25,000 square feet in this district. New buildings and conversions are designed to last 100 to 200 years and we can't wait for another round of new buildings to be built before asking them to address resiliency measures. See below for resiliency measures to tackle in our district:

- **Stormwater Flooding Mitigation** – While we may not experience stormwater flooding directly in our district, we contribute to runoff during major storms. We see the overwhelming of the city's drainage system during emergency events, which is unable to handle the current capacity. New buildings in the city must do their part by incorporating stormwater mitigation strategies—such as retention, detention systems, as well as softscapes—to prevent further strain on the city's infrastructure.
- **Water conservation** - Buildings that address water conservation also ensures the long-term sustainability of the city's water infrastructure and requirements for water conservation and reuse should also not be required for our city capital projects. Water conservation is critical for New York City, where the demand for water continues to rise as the population grows and climate change presents increasing challenges. “The New York City fire department has responded to 229 brush fires from October 29 to Nov. 12, a record for any two-week period.” The city's water infrastructure, while robust, is under strain from aging systems.
- **Heat Mitigation Strategies** - While the heat vulnerability index in our district is not severe compared to other neighborhoods in our city, we must ensure that our new buildings do their part during emergency events to avoid overwhelming the electric grid. Our buildings are designed to rely almost entirely on air conditioning for cooling, which already places significant strain on the grid. With the implementation of LL97, we face severe risk of not having enough supply from our electric grid, especially during extreme heat events. Additionally, with 80% of our grid currently powered by fossil fuels, fully electric buildings will continue to contribute to emissions until we are able to clean the grid. Therefore, it's essential to incorporate other strategies to reduce our carbon footprint.
- **Passive Strategies** - The city needs to promote passive strategies to reduce the demand for air conditioning, such as passive house envelopes, sunshades, ceiling fans, and other solutions that reduce reliance on mechanical systems. We must also incorporate urban greening and biodiversity to help lower temperatures in both indoor and outdoor spaces, allowing people to comfortably enjoy outdoor areas during the summer, instead of being limited to air-conditioned rooms. The POPS program can play a significant role in enhancing livability and climate resilience in our district, offering a refuge during heat events where people can find relief in lush, cool spaces instead of being limited to air-conditioned rooms.
- **Renewables and Clean Energy** – In addition to passive strategies, the integration of renewable energy is crucial for achieving long-term sustainability. Our projects should incorporate a variety of renewable energy systems, such as geothermal heating and cooling, solar panels, and energy-efficient technologies that harness natural resources. This will reduce our dependency on fossil

fuels and help create a more resilient energy grid. However, addressing climate change cannot fall solely on the shoulders of public sector initiatives or city capital projects; private developments must also take responsibility. By integrating renewable energy systems and clean technologies into their designs, private developers can make significant contributions to reducing carbon footprints and fostering a sustainable future for the entire community.

The above comments are noted. These items go beyond the zoning resolution's purview and are already regulated through the Construction Codes or other city and state law. The City of Yes for Carbon Neutrality text amendment (approved in 2023) made major strides in addressing zoning barriers to decarbonization efforts.

- **Street Trees - The district has some street trees. More are in the southern two quadrants (with the very notable lack on W 30th St) and a lot less in the northern two quadrants. Can there be a zoning requirement for both new developments (of any use) and existing buildings converting to residential use to have at least 1 street tree for every 40 feet of street frontage? Currently, tree pits are voluntary. Again, this district has very little “green”. We need to use all of our resources to make this a very successful and desirable neighborhood to work and live.**

Commend noted. ZR Section 23-611 requires street tree plantings for both new development as well as conversions of more than 20 percent of the floor area of a building to residential use. The standard is 1 tree per 25 feet of frontage.

Urban Design: TDR, Air Rights, Zoning Lot Mergers

- **Many residents from the southeast quadrant showed up to voice their concerns of this area. The MSMX area is characterized by four distinct quadrants, each with its own unique context. Applying an FAR of 18 to the southeast quadrant raises concerns, given that the average building height here is lower than the other three quadrants and the area includes the Madison Square North and Ladies’ Mile Historic Districts. New developments at this scale risk being severely out of context with their surroundings. Please see chart below for the average building height that we calculated for each quadrant:**

Quadrant	Avg Height
Northwest	168
Northeast	148
Southwest	120
Southeast	115

- **Will new developments use air rights and demolish existing buildings?**
- **How will TDRs be integrated into the rezoning plan?**

- Will TDRs be allowed to be transferred from other areas to the MSMX district?
- Will TDRs be restricted from going to sites that are already overbuilt for the new zoning, to prevent the creation of super-tall buildings with very high FARs?
- How will the potential for TDRs to incentivize development without sacrificing affordable housing be balanced? Can TDR projects be required to provide affordable housing?
- How will the use of air rights affect existing and new buildings, particularly in relation to their FAR?
- Does DCP expect developers to merge zoning lots to assemble development rights beyond their development site? Can DCP provide assumptions for site assemblages? Why doesn't the EIS include zoning lot mergers especially with the number of zoning lot mergers previously in our district?

The above questions and comments are noted. Sites within MSMX will be subject to MIH, so projects will not be able to substitute landmark TDRs for affordable housing. A prohibition on currently existing landmark transfer mechanisms (such as ZR Section 75-20) is not considered as part of the MSMX plan and is out of scope. Regarding zoning lot mergers, please refer to earlier responses regarding RWCDs assumptions.

- ***Comment:*** While we heard from DCP on 1/26 that the landmark TDR program has a 12 FAR cap, the potential for TDR transfers and zoning lot mergers could still result in buildings that are disproportionately large. We support development in this neighborhood, as well as the use of TDRs to help landmark buildings generate revenue, but we also want to maintain a well-designed neighborhood without out-of-scale buildings.

The above comment appears to be a misunderstanding. State law continue to restrict residential use within a historic district is limited to 12 FAR (effectively, the pre-existing cap remains in place).

- ***Comment:*** We urge DCP to implement measures such as capping zoning lot mergers, establishing a height limit, or considering a lower-density alternative for this quadrant to ensure that future buildings remain appropriately scaled. It appears that the new rezoning results in an excess of FAR, leaving some of it unused. This, in turn, limits the opportunity for transit bonuses and POPS bonuses to be leveraged for much-needed amenities in our district.

Comment noted. The Reasonable Worst Case Development Scenario developed for the MSMX plan depicts potential buildings that utilize the full permitted FAR appurtenant to their sites. This includes assemblages of multiple individual tax lots. With the urban design controls proposed together with the influence of MIH's affordable housing requirements, it is reasonable to assume that new development would be of the size and scale depicted in the RWCDs.

- ***Comment:*** DCP took the position that they don't expect much demolition to occur in the new MSMX districts as older buildings will be redeveloped into housing. Given the number of constraints of what makes a good conversion opportunity, I would expect a very high rate of demolition of buildings that aren't good conversion candidates. The August 2023 Gupta NBER study demonstrated that only 30% of Manhattan office buildings are candidates for conversion. DCP should be realistic about what the impact of a higher level of demolition could be on the streetscape. One issue that needs to be studied is whether TDRs should be restricted from going to sites that are already overbuilt for the new zoning, this otherwise could create super-tall buildings with very high FAR's.

Comment noted. Please see comments above related to assumptions related to redevelopment and conversions.

RWCDS Massings

- In DCP's Jan 2025 slide presentation, slides were shown of each quadrant with a "helicopter" point of view. Those slides showed potential developments in yellow models at 18 FAR maximum.
- Could we please see those same slides with the 18 FAR in yellow and the additional 20% Transit Bonus FAR in a different color than yellow or grey for us to see what 21.6 FAR would look like in CB5? Can the visuals also note heights as was done in the Jan 2025 slides (both 18 FAR & 21.6 FAR heights)?
- And, can we see the same modeling (yellow plus another color for the Transit Bonus) for the 15 FAR (yellow) models in the SW quadrant with the additional amount bringing them up to 18 FAR in another color (consistent with what was used for the other three quadrants) to visualize the Transit Bonus and again noting the two heights?
- Can we see at least one visual model for each quadrant using one of the potential soft sites that DCP has identified and using the same color of yellow for the maximum base FAR, a 20% Transit Bonus in its color, a third color to show a 150,000 sf school, and a fourth color for all allowable mechanical voids in a residential building in a mixed-use district?

It would not be a reasonable development scenario assumption to envision or depict all projected development sites—most of them under 10,000 sf—taking advantage of the 20% transit bonus. However, using the same massing assumptions, the additional FAR generated from the bonus would generally result in what DCP has shown for Site #53 (Conceptual Analysis Site #2) in the Conceptual Analysis in the DEIS, with a building 8-9 stories taller than what would have been without a bonus.

The School Construction Authority (SCA) has its own set of criteria for selecting suitable school sites—including lot size, number of floors, etc. Applying these criteria to assess the soft sites identified by DCP within the study area, only one site—Site #40 in the SE quadrant—could satisfy the requirements.

DCP's RWCDs massing already demonstrates the inclusion of space occupied by a 5-story elementary school (450 seats) integrated into the building's base, with an outdoor play area. With this additional square footage dedicated to a public school, the development site is 475 feet tall.

Regarding concerns over excessive mechanical "voids", the RWCDs and its massings account for and reflect grossing factors consistent with mechanical needs of similar residential development.

Streetwall Regulations

- **Comment: maximum 8 feet allowance from the street line proposed for Ground Floor**
- **What will happen for new developments at midblock sites on blocks where the sidewalk is 10-12 feet wide?**
- **How will the proposed setback regulations addressed the altered context on blocks that have seen significant new hotel construction in recent decades? For example, could an argument be made that the 9 hotels on West 28th Street between 6th & 7th have set a "new" street line?**
- **Why not have a minimum percentage of around 10-25% of the building facade at the street line to actually maintain the street line and provide design flexibility? How is 0% required at the street line maintaining the street line?**
- **Commercial buildings on avenues are required to have no more than 50% of their facade to be entrances to their lobby. Can at least 40% of facades in MSMX be within 3 feet of the street wall in order to have the whole facade as a "lobby entrance" setback? This way there will be some flexibility with design "texture" without incentivizing the gap-tooth street line DCP has said they have heard complaints about from the community.**
- **Comment: DCP proposes 70% within 8' from Street Line for 2nd Floor up to Minimum Base. Why 70%?**
- **Why allow additional setbacks starting at the 2nd Floor? The street wall appearance and "feeling" are more than just the Ground Floor.**
- **What is wrong with encouraging 100% of the base to be within 8' of the street line?**
- **Why not continue with the Ground Floor straight up to the base minimum height? Isn't that how over 90% of the buildings in the MSMX district are designed? Why would DCP incentivize changing the neighborhood's character?**
- **Again, why is DCP encouraging FAR to be stacked for greater height?**

The existing M1-6 zoning does not require buildings to be located at the sidewalk line and can encourage building forms that are at odds with the character of many parts of Midtown South. DCP believes that the "missing teeth" streetscape, exemplified by recent hotel developments that pull back

from the sidewalk line, impacts the pedestrian condition by interrupting the consistent urban design character of many streets and creating privatized spaces with no clear public benefit, which is consistent with community feedback received. The MSMX plan would implement strong urban design controls that prohibit this type of “missing tooth” architecture while allowing for appropriate architectural character and variation that reflects the varied loftlike conditions of Midtown South. Under the proposed MSMX street wall rules, new development would be required to be located within 8 feet of the street line for 100% of the ground floor. This 8-foot dimension is consistent with how street walls are defined across the city and are meant to allow some limited flexibility to accommodate architectural expression and unique site constraints. Given the relatively narrow projected development sites and the constraints that a street setback would likely create for residential developments, we do not anticipate this limited flexibility playing a meaningful role in improving sidewalk circulation.

Regarding the street wall above the ground floor, 70% must be located within 8 feet of the street line, which is also consistent with how street walls are defined in many areas across the city. The intent here is to provide flexibility to allow for architectural expression and the ability to respond to a varied existing building context while still ensuring a strong street wall is maintained. The impact on overall building height resulting from these minor setbacks—or even whether base heights are aligned to the minimum or maximum height—is minimal.

- **What metric will be used to determine what is the minimum base height for a new development if it is located between two buildings with dramatically different base heights (example 70’ and 140’, both are of equal width)?**

While the proposed rules maximize street wall height flexibility by allowing matching of neighboring buildings, it is not required. In this case, the minimum base height for the new development will still be 60 feet, with a maximum of 155 feet.

Other

- **There is one block that is currently "M" zoned that is not included in the MSMX plan. That is Block 780 (30th/31st Sts between 7th/8th Aves) which is earmarked for demolition for the Penn Station Expansion and was addressed in the State GGP. CB5 continues to push for a non-demolition Penn Expansion plan, but maybe part of that answer is to push for 780 to be included in MSMX.**

Comment noted. Inclusion of Block 780 within the MSMX plan is out of scope for this proposal.

- **Enforcement of Loading Berth Requirements: How will the city enforce loading berth requirements based on total selling space, including basements, to reduce noise, pollution, and congestion caused by frequent deliveries and trash pickups?**

Loading berth requirements are clearly articulated in the City’s Zoning Resolution. Approval of loading berths (and enforcement) is regulated by the Department of Buildings.

- **Quality of Life for Current and Future Residents: How does the plan address quality-of-life concerns for existing and future residents, especially given the projected 13% increase in residential use? Will measures like soundproofing, traffic management, and sanitation improvements be required as part of the rezoning?**

The MSMX plan is premised on the idea that introduction of housing, together with the continued allowance of the wide range of uses permitted today, will create conditions that enhance quality of life for existing and future residents. This includes the greater level of 24/7 activity on streets and sidewalks that comes with allowing housing, as well as the services and other uses that would locate in the area with the introduction of nearly 10,000 new homes.

The EIS analyzes the effects of the MSMX population increase (based on a RWCDs) in the noise, transportation, and solid waste and sanitation services according to CEQR methodology.

Noise - the analysis concluded that the traffic generated by the Proposed Actions would not have the potential to produce significant increases to noise levels at any sensitive receptors among the 68 projected and potential development sites within the Affected Area. The window/wall attenuation levels required under the (E) designation (E-830) would avoid the potential for significant adverse noise impacts due to the Proposed Actions. DCPs model for projected residential conversion area is not site specific. Therefore, the CEQR analysis cannot preclude the potential for significant adverse impacts in the modeled residential conversion area.

Transportation – As the lead agency, DCP, in coordination with DOT, concluded that there would be significant adverse impacts for traffic and pedestrians. In terms of “traffic management”, transportation impacts (related to traffic and pedestrians) would be mitigated to the extent practicable at a number of lane groups, intersections, sidewalks, crosswalks and corners through the modification of existing traffic signal phasing and timing, the elimination of on-street parking at approximately two spaces, the relocation/removal of impediments to sidewalk and corner flow, and the widening of crosswalks. These proposed mitigation measures are currently being finalized in coordination with DOT. If DOT determines that any of these mitigation measures are infeasible, alternative measures will be explored. Absent the identification and implementation of additional feasible mitigation measures, the Proposed Actions would result in unmitigated significant adverse and for pedestrians and traffic in the study area at certain locations. See DEIS “Chapter 13: Transportation” and “Chapter 21: Mitigation” for further details.

Solid Waste and Sanitation Services – the analysis concludes that the new residential and community facility uses generated by the Proposed Actions will not overburden DSNY’s solid waste handling services. The impact determination was made by DCP in coordination with DSNY.

- **Environmental Impact Statement (DEIS) Analysis: DEIS Chapter 3, page 3-6 (middle of page), last paragraph of Section B: *"the perception of the garment industry, not the presence of any one individual business, is relevant to the industry."* This exact statement is reiterated again in DEIS Chapter 3, page 3-63 (last page). Can DCP clarify its repeated statement? It seems to suggest: 1. maintaining a few symbolic garment businesses in the district is sufficient to preserve the district's name, 2. zoning only needs to maintain the appearance of the historical importance the industry once had, and 3. although the city will take pride in its place in fashion, the real estate market is much more important. This interpretation raises concerns that the Garment District could become a namesake without an actual industry presence—similar to how the Meatpacking District no longer has butchers while Hunts Point serves as the city's meat distribution hub. Please explain how this interpretation may be incorrect.**

Comment noted. The DEIS provides a detailed assessment of adverse impacts to specific industries related to the garment and fashion industries pursuant to the guidance of the 2021 CEQR Technical Manual. A range of factors is considered to make an impact determination related to this topic, including the number of area businesses, current and long-term economic trends, availability of relocation options, and whether the MSMX proposal would introduce, alter, or eliminate zoning provisions related to the garment industry. The MSMX plan, through the introduction of new manufacturing zoning districts, would continue to permit existing garment and fashion-related uses, including manufacturing, wholesale, and retail. As noted in the DEIS, the City recognizes the significance of the fashion ecosystem in the plan area, and the City will continue to explore measures outside of zoning to support the industry in this area and throughout New York City.

- **Are any sites in the plan area being considered for additional public bike parking or Citi Bike stations? Is there a way for developers to partner with the city to improve bike infrastructure, including bike parking and Citi Bike stations?**

Siting Citi Bike stations is beyond the purview of zoning and is out of scope for the MSMX Plan.

- **Could DCP please share a copy of its existing Quality of Life Study?**

DCP is unfamiliar with the requested study.