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Mark Levine, Borough President

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Recommendation on Non- ULURP Application No. N 240010 ZRY– City of Yes for Economic Opportunity and No. N 240011 ZRY – City of Yes for Economic Opportunity – M-Districts

By NYC Department of City Planning

PROPOSED ACTIONS

The Department of City Planning (DCP) proposes to make a series of amendments to the New York City Zoning Resolution (ZR) that would update and streamline zoning regulations that further the City’s goals to foster the growth and expansion of businesses in our city. The text amendments, City of Yes for Economic Opportunity (COYEO) include 18 new proposals:

1. Remove time limits on reactivating vacant storefronts with grandfathered uses

Currently, a use that is not allowed by zoning but was an existing use prior to zoning regulation is grandfathered. However, if the space is vacant for more than two years, it is no longer grandfathered in historic districts and some residential districts. COYEO would allow legalization of the re-tenanting of nonconforming vacant storefronts in all residential and historic districts.

2. Simplify types of businesses allowed in commercial districts

Current zoning regulations prohibit local service uses across similar districts, such as C1 and C2 districts. COYEO would eliminate unnecessary limitations placed on similar commercial streets to allow for more local service businesses by allowing the same uses in C1 and C2 districts and in C4, C5, and C6 districts. This proposal would also lift restrictions in Special Purpose Districts and C4 and C5 districts that require certain uses to be located 50 feet from the street wall.

3. Expand locations for small-scale clean production facilities

Existing commercial districts restrict production activities that are appropriate or complimentary in those districts. COYEO would allow light production uses, which include ice cream shops, bakeries, brewpubs, pottery stores, woodworking shops, 3-D printers, and apparel:

- In C1 and C2 districts: up to 5,000 SF on the ground floor
- In C4-C7 districts: up to 10,000 SF on the ground floor; unlimited SF on upper floors

Users would still have to comply with emissions standards and if they need exhaust, they would have to vent above any adjacent buildings.

4. Lessen loading berth requirements for use changes in commercial buildings

Current zoning mandates that when a building changes use, requirements to provide additional loading berths, based on the new use, may apply. COYEO would allow properties to change building uses or tenants without having to provide additional loading berths. The proposal would also increase loading berth requirements to accommodate more modern trucks.

5. Allow commercial uses on the second story of mixed-use buildings in low-density districts

Current zoning only allows commercial uses on the second floor in high-density commercial districts, the floodplain, and in some special districts. COYEO would allow C1, C2, and C3 overlays in low-density districts to have commercial uses on the second floor of mixed-use buildings, including on the same floor as residential. The proposal would require separate entrances for residential and non-residential uses and mitigations for any noise generating uses.

6. Update, simplify, and modernize use group categories for businesses

Current zoning includes outdated uses and does not include newer ones. COYEO would eliminate uses that are not consistent with current land use needs, create modern uses, reorganize groups, and update terms for clarity.

7. Allow indoor agriculture and clarify enclosure requirements

Current zoning is ambiguous about whether plant-related businesses are allowed to have outdoor components. Zoning also requires agricultural uses to be *only* outdoors. COYEO would allow indoor agriculture in all commercial districts and allow outdoor components for uses including florists and lawn and garden retailers.

8. Clarify and update laboratory uses

The current definition of Use Group 9A laboratory is outdated and narrow. COYEO would update the definition of laboratory to align with modern uses and clarify where laboratories can locate and update the scientific research and development facility special permit to apply to all commercial districts as well as community facility campuses.

9. Clarify and reorganize drinking and eating establishments

Current regulations have confusing and arbitrary restrictions for eating and drinking establishments that differ based on the types of entertainment they offer and whether they have cover charges and showtimes. Dancing is effectively banned in areas that allow other similar uses. COYEO would use capacity as the threshold for categories of eating and drinking establishments and clarify that eating and drinking establishments with scheduled entertainment would form one use group, with capacity limited to 200 people in C1-C3 districts. C5 districts would be allowed venues with capacity over 200 people.

10. Expand opportunities for amusement uses

Current zoning categorizes amusement uses according to indoor/outdoor location and other arbitrary factors like number of bowling lanes. The list of amusement uses is outdated and lacks clarity about newer types of uses. COYEO would update terms for amusement and recreation uses and allow these uses in more zoning districts throughout the city:

- Amusement recreation facility would replace other outdated uses and be allowed in C1 and C2 districts up to 10,000 SF, and in C1-C6 would be required to be indoors unless a Board of Standards and Appeals (BSA) special permit is granted
- Outdoor amusement parks would be established as a new use and would be limited to 10,000 square feet in C7, C8, and all M districts

11. Modernize rules to facilitate more home-based businesses

Current zoning allows home offices but restricts them to 500 square feet or 25% of the floor area (whichever is less), one employee, and arbitrarily restricts the kinds of businesses that are allowed. COYEO would allow home businesses to occupy up to 49% of an apartment's floor area, include up to three employees, and would eliminate the list of non-permitted businesses. The proposal would keep existing regulations that limit impact to neighbors such as noise, dust, particulate matter, and odors.

12. Update streetscape requirements

Current streetscape regulations are decentralized, existing in both use group regulations as well as special zoning districts. This has resulted in a patchwork aesthetic in some areas. COYEO would create a tiered streetscape regulation system for commercial districts, as well as consistent ground floor requirements:

- Tier A – outside of the Transit Zone: would require parking lots to be in the rear or side of a buildings, no drive-throughs, screening for in-building parking
- Tier B - in Transit Zone: same rules as Tier A, plus requirements for transparency at grade, 50-foot limit for lobbies, enclosed parking, and limits on curb cuts
- Tier C – Special purpose districts and C4 through C6 districts with R9, R10 equivalents: Tier A and B rules would apply, with additional regulations for lobby areas

This proposal would keep the unique rules in special districts such as ones limiting ground floor uses and size. Additionally, a BSA special permit would allow modifications to these regulations.

13. Update motor vehicle repair uses/categorization

Current zoning classifies some motor vehicle repair establishments as Use Group 16B, which is restricted to C8 and M districts, while classifying other repair uses to Use Group 7, which are allowed in more commercial districts but nonetheless present similar issues regarding pedestrian conflicts. COYEO would redefine auto servicing uses into two categories:

- Light motor vehicle repair: not required to register with DMV, can be located in most commercial districts with a BSA special permit
- Heavy motor vehicle repair: required to register with DMV, can be located in C8 and M districts only

14. Allow micro distribution facilities

The Zoning Resolution does not currently have a use group for micro distribution facilities. COYEO would establish a micro distribution facility use and allow it:

- In C1 and C2 districts – up to 2,500 SF
- In C4-C7 districts: up to 5,000 SF on the ground floor and 10,000 SF above the ground floor

A BSA special permit would allow these spaces to increase by twofold, while a CPC special permit would allow any increase beyond that. Streetscape transparency rules would apply to micro distribution facilities.

15. Allow residential campuses to include commercial space

Today, residential campuses would have to go through a rezoning to build any new commercial facilities or repurpose existing spaces for commercial use. COYEO would allow CPC to approve larger-scale commercial uses (up to 15,000 SF) on some residential campuses. Applications would be subject to environmental review and community board review.

16. Allow corner stores in residential areas

Outside of areas of the city that are on the coastline, the City does not have a process for permitting local service establishments in residential areas. COYEO would allow CPC to authorize retail, service, or office uses on the ground floor – with a size limit of up to 2,500 square feet as long as the new use is within 100 feet of an intersection.

17. Streamline waiver processes

Current waivers for businesses that want to expand or grow are decentralized, relying in some cases on the zoning district (which may limit the size of uses) and in others allowing changes via BSA special permits, each of which range in term lengths (3, 5, and 10-year renewals). COYEO would create new BSA special permits and CPC approvals to facilitate business growth for retail/service, amusement, and production uses. Waivers would establish clearer processes for modifications to size, bulk, enclosures, and other requirements.

18. Create new manufacturing districts

This proposal would create new manufacturing districts and one new commercial district, which would have to be mapped via future rezoning actions. These districts would be in four categories:

- M3A Core districts: FARs between 2 and 3, which would restrict non-industrial uses;
- M2A Transition districts: FARs between 2 and 5 (higher for industrial uses); expected to encourage redevelopment;
- M1A Growth districts: FARs between 2 and 15, would reflect the current landscape of our M1 districts and allow businesses to expand; and
- C7 districts: FARs between 2 and 15, would permit all commercial uses except Use Group 16, and permit community facility uses without sleeping accommodation

This proposal would also introduce new discretionary approvals allowing greater space for production uses, eating and drinking establishments, and recreation/entertainment uses.

COMMUNITY BOARD RESOLUTIONS

Ten of Manhattan’s 12 community boards held full board votes on this application. Most of those boards voted on each of the 18 proposals and the votes were overall favorable on many of the proposals, with many conditioned on proposed modifications. While the remaining community boards have not held full board votes, they have all discussed the proposal in their respective committees.

BOROUGH BOARD RESOLUTION

On January 18, 2024, the Manhattan Borough Board voted to recommend:

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Approval of the following proposal:

- Proposal 2: Simplify types of businesses allowed in commercial districts

Approval of the following proposals, with conditions:

- Proposal 1: Remove time limits on reactivating vacant storefronts with grandfathered uses
- Proposal 6: Update, simplify, and modernize use group categories for businesses
- Proposal 10: Expand opportunities for amusement uses
- Proposal 13: Update motor vehicle repair uses/categorization
- Proposal 15: Allow residential campuses to include commercial space
- Proposal 18: Create new manufacturing districts

Disapproval of the following proposals, unless certain conditions were met:

- Proposal 4: Lessen loading berth requirements for use changes in commercial buildings
- Proposal 7: Allow indoor agriculture and clarify enclosure requirements
- Proposal 9: Clarify and reorganize drinking and eating establishments
- Proposal 11: Modernize rules to facilitate more home-based businesses
- Proposal 12: Update streetscape requirements
- Proposal 17: Streamline waiver processes

The Borough Board did not take any action on the following proposals:

- Proposal 3: Expand locations for small-scale clean production facilities
- Proposal 5: Allow commercial uses on the second story of mixed-use buildings in low-density districts
- Proposal 8: Clarify and update laboratory uses
- Proposal 14: Allow micro distribution facilities
- Proposal 16: Allow corner stores in residential areas

BOROUGH PRESIDENT COMMENTS

At its core, the City of Yes for Economic Opportunity proposal is about giving our zoning regulations a much-needed update and ensuring that we eliminate any provisions that stifle the growth and innovation of our small businesses. While I generally support this application, I believe some modifications are needed to strengthen these proposals. A common thread runs through many of my recommendations, as well as those from community boards: enforcement. Along with granting flexibility for businesses, the City must ensure that any conflicts or issues that arise be addressed in a swift and efficient manner. Ensuring that we have the infrastructure to do that not only promotes safety and enjoyment of our neighborhoods, but also helps make this initiative an all-around success.

Proposal 1: Remove time limits on reactivating vacant storefronts with grandfathered uses
Manhattan has roughly 82 historic districts, and most of the borough is zoned for residential use. Within these districts are a range of businesses that serve their local communities but are also considered non-conforming, such as corner stores and bodegas. The current regulations, which prohibit the re-tenanting of non-conforming uses within these districts if the use has been closed for more than two years, are too inflexible. The past few years have dealt significant blows to the brick-and-mortar retail sector, leading to vacancies that affect quality of life for residents,

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especially in Manhattan, which has had the highest storefront vacancy rate in recent years. This proposal is an important step toward making our retail corridors safe, thriving parts of our communities.

Proposal 2: Simplify types of businesses allowed in commercial districts

Today's Zoning Resolution restricts businesses from occupying commercial space across similar zoning districts. Adding a broader range of commercial uses would provide businesses with flexibility and create more opportunities for them to locate in more parts of the city.

Proposal 3: Expand locations for small-scale clean production facilities

Clean, small-scale production businesses such as micro-breweries and coffee roasters and maker-businesses like 3D print shops can currently operate in Special Mixed Use districts, which include Hudson Square and West Harlem. This proposal would expand opportunities for these businesses while requiring them to meet stringent environmental requirements so that they do not cause nuisances to neighboring businesses and residents and include size limitations, providing a more diverse commercial experience for residents and visitors. In low-density commercial districts, this proposal should include a requirement for an accessory retail component in order to ensure that these small-scale production businesses serve their local communities and are accessible attractions to the public.

Proposal 4: Lessen loading berth requirements for use changes in commercial buildings

Our zoning regulations should be flexible and applicable to different business needs as technology and industries evolve. By removing the requirement for unnecessary loading berths, this proposal would provide more diverse business throughout Manhattan. Additionally, by updating loading berth size requirements to accommodate more modern trucks this proposal would reduce congestion on our streets and sidewalks.

Proposal 5: Allow commercial uses on the second story of mixed-use buildings in low-density districts

Some of our city's most vibrant neighborhoods are "24/7 neighborhoods" with a mix of commercial and residential uses. This proposal would make it easier to foster that vibrancy by allowing more businesses to locate close to where New Yorkers live. While owners of existing buildings are unlikely to seek this provision, I believe DCP should make a modification that limits this proposal to new construction to protect our current housing stock.

Proposal 6: Update, simplify, and modernize use group categories for businesses

Advancements in business and technology have resulted in a range of commercial uses that could not have been envisioned by the authors of the 1961 Zoning Resolution but are important contributors to our economy today. I support updating regulations to reflect these changes and clarify requirements for new industries.

Proposal 7: Allow indoor agriculture and clarify enclosure requirements

This proposal would create flexibility for businesses that have agricultural components to their operations and formally allow agriculture uses in commercial and residential districts. While it would bring much-needed adjustments in the regulations, Manhattan residents have raised the

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possibility that this provision could open the door for cannabis growth operations. For this reason, I believe the proposal should exclude the cultivation of controlled substances.

Proposal 8: Clarify and update laboratory uses

The New York City Metro region is the nation's leader in life sciences jobs and funding. In order to maintain this position and continue to foster innovation, we need to expand opportunities in the life sciences industry by clarifying and expanding the number of spaces in which these businesses can locate. However, it is important to ensure strong biosafety levels and standards so that these businesses can operate safely.

Proposal 9: Clarify and reorganize drinking and eating establishments

While the City has taken strides toward correcting unnecessary and discriminatory regulations on dancing, including the elimination of the Cabaret Law, this proposal does more to advance a more inclusive future that provides greater opportunities for self-expression.

Proposal 10: Expand opportunities for amusement uses

Allowing a wider range of indoor amusements (and outdoor only via special permit) in more neighborhoods would allow New Yorkers to have social and recreational spaces closer to where they live and work. This proposal would reflect today's amusement uses, eliminate outdated ones, and differentiate between indoor and outdoor amusements. I believe the proposed CPC special permit for some indoor facilities in C4-C8 and M1 districts would ensure proper siting.

Proposal 11: Modernize rules to facilitate more home-based businesses

Our City should play a vital role in making it easier for small business owners and entrepreneurs to operate. The proposed changes would streamline current regulations and introduce new flexibilities on the size and functions of home-based businesses. However, the success of this proposal would depend on appropriate enforcement, and I urge the City to ensure there is a structure in place to deal with any issues that arise from home businesses. I also believe stricter limits on square footage allotments would balance this flexibility with housing protection needs.

Proposal 12: Update streetscape requirements

Today's commercial streetscapes are regulated in a piecemeal fashion, including blank walls and uninviting facades. This proposal draws from existing special district regulations to ensure that new buildings contribute to active commercial streets. While ground-floor residential uses are not allowed in the street-facing facades, residential lobbies are allowed, as are residential uses in the rest of the ground-floor areas and on floors above, encouraging mixed-use communities with active and inviting streetscapes.

Proposal 13: Update motor vehicle repair uses/categorization

The streets and sidewalks of the city should be prioritized for pedestrians, not cars. This proposal would decrease conflicts between auto servicing and pedestrians, ensuring walkable streets and streamlining requirements for the auto service industry. The distinction between light and heavy uses and the special permit process would ensure that these uses are properly sited.

Proposal 14: Allow micro distribution facilities

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The presence of delivery vehicles on our streets has become a new normal in our city. Right now, zoning does not have a way to accommodate the new kinds of delivery facilities that are needed to address this issue. Micro distribution is a way to encourage alternative options for local deliveries that are more environmentally conscious. These facilities would be subject to streetscape requirements, ensuring transparency and active streets. It will be important for the Department of Transportation and other involved agencies to create comprehensive plans so that the facilities themselves do not place a strain in certain areas. Additionally, loading operations need to mitigate traffic, congestion, and disruption on local streets.

Proposal 15: Allow residential campuses to include commercial space

Residential campuses are a critical part of the landscape across the city. The lack of commercial uses on these campuses means that residents have a harder time accessing goods and services, as well as maker spaces that could give them the opportunity to work and create. Environmental review, community board review, CPC authorization, and review from residents would help ensure that proposed commercial uses are appropriate for the space.

Proposal 16: Allowing corner stores in residential areas

In Manhattan, most residential districts have nearby commercial areas or overlays. However, there are some areas in Manhattan where there are stretches of residential areas where a small business would need a full rezoning to open, meaning residents lose out on the opportunity to have goods and services closer to their homes. This proposal allows businesses that serve residents, like corner stores to locate and operate in these areas. The provision would require community board and CPC review and applies to sites that are at or near intersections, preserving residential neighborhoods while allowing more neighborhood businesses.

Proposal 17: Streamline waiver processes

Businesses that want to expand their current use face barriers to doing so. This proposal would provide clearer, more streamlined processes through BSA and CPC special permits, allowing for review processes but also helping businesses grow and thrive more easily.

Proposal 18: Create new manufacturing districts

Manufacturing is a key component of our city's economy, and the jobs in that sector strengthen our workforce. Having new options for manufacturing districts that can be mapped in the future, through rezonings and a full ULURP process, are important to meet modern manufacturing needs. It is important that while new manufacturing districts encourage mixed-use development, they also provide ways to both preserve and bolster the industrial sector and reduce conflicts with other businesses, pedestrians, and vehicles.

BOROUGH PRESIDENTS RECOMMENDATION

I therefore recommend the following on each of the 18 proposals:

Proposal 1: Remove time limits on reactivating vacant storefronts with grandfathered uses
– *Recommend approval*

Proposal 2: Simplify types of businesses allowed in commercial districts – *Recommend approval*

Proposal 3: Expand locations for small-scale clean production facilities – *Recommend approval with the following modification:*

- Include a requirement for an accessory retail component in low-density districts

Proposal 4: Lessen loading berth requirements for use changes in commercial buildings – *Recommend approval*

Proposal 5: Allow commercial uses on the second story of mixed-use buildings in low-density districts – *Recommend approval with the following modification:*

- Apply this provision only to new developments

Proposal 6: Update, simplify, and modernize use group categories for businesses – *Recommend approval*

Proposal 7: Allow indoor agriculture and clarify enclosure requirements – *Recommend approval with the following modification:*

- Exclude the growth of agricultural products that are controlled substances

Proposal 8: Clarify and update laboratory uses – *Recommend approval with the following modification:*

- Require biosafety safeguards for all establishments

Proposal 9: Clarify and reorganize drinking and eating establishments – *Recommend approval*

Proposal 10: Expand opportunities for amusement uses – *Recommend approval*

Proposal 11: Modernize rules to facilitate more home-based businesses – *Recommend approval with the following modifications:*

- The City should establish a system similar to the Mediating Establishment and Neighborhood Disputes (MEND) initiative to resolve issues between neighbors
- The square footage of the home occupation should be capped at 500 square feet or 49% of the apartment, whichever is smaller

Proposal 12: Update streetscape requirements – *Recommend approval*

Proposal 13: Update motor vehicle repair uses/categorization – *Recommend approval*

Proposal 14: Allow micro distribution facilities – *Recommend approval with the following modification:*

- Facilities should be required to allocate a portion of their square footage for loading operations to prevent congestion on streets and sidewalks.

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Proposal 15: Allow residential campuses to include commercial space – *Recommend approval with the following modification:*

- In addition to community board and CPC review, campus commercial proposals on New York City Housing Authority (NYCHA) campuses should be reviewed by residents

Proposal 16: Allowing corner stores in residential areas – *Recommend approval*

Proposal 17: Streamline waiver processes – *Recommend approval*

Proposal 18: Create new manufacturing districts – *Recommend approval with the following modification:*

- Buildings should be required to set aside ground-floor area for manufacturing uses to ensure access to loading docks for manufacturing tenants



Mark Levine
Manhattan Borough President