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Citywide Zoning Text Amendment Application

CITY OF YES FOR ECONOMIC OPPORTUNITY – M-DISTRICTS – N240011ZRY

IN THE MATTER OF an application submitted by the NYC Department of City Planning to propose a citywide zoning text amendment to add new Manufacturing (M) district options to the City's Zoning Resolution. These new zoning tools remove impediments to business location and growth within M Districts by providing a wider range of available densities than the current M districts allow, updated bulk regulations that enabling more loft-like physical typologies, and right-sizing parking/loading regs. See companion ZR amendment in 2023Y0405.

CITYWIDE TEXT AMENDMENT

RECOMMENDATION

☐ APPROVE
☐ APPROVE WITH MODIFICATIONS/CONDITIONS
☐ DISAPPROVE
☒ DISAPPROVE WITH MODIFICATIONS/CONDITIONS

RECOMMENDATION FOR: CITY OF YES FOR ECONOMIC OPPORTUNITY – M-DISTRICTS – N240011ZRY

The Department of City Planning (DCP) is proposing sweeping changes to the Zoning Resolution (ZR), with the intent of supporting small businesses, strengthening commercial corridors, and providing flexibility for entrepreneurs to start businesses in the city. The zoning regulations that govern where business can locate have remained nearly unchanged since 1961, and this text amendment also intends to update the definitions and types of uses that are outlined in the ZR. The M-Districts proposal specifically introduces new zoning tools to allow for the development of a variety of new mixed-use, loft-like manufacturing buildings. These districts are not proposed to be mapped.

The Borough President held a public hearing on this item on December 18, 2023. Five members of the public testified during the hearing, and two additional members of the public submitted written testimony.

Community Board Position

Community Board actions related to this application are documented in the Borough President's recommendation for City of Yes for Economic Opportunity (2023Y0405).

Approval Rationale

This recommendation addresses Proposal 18 of City of Yes for Economic Opportunity: Create new kinds of zoning districts for future job hubs. Comments and approval actions for the text amendment's first 17 proposals can be found in the Borough President's recommendation for City of Yes for Economic Opportunity (2023Y0405)

Goal 4: Create new opportunities for local businesses to open

18. New loft-style zoning districts *(Disapprove with conditions)*

The Borough President's Office is unaware of a precedent wherein DCP proposed new districts on this scale with no associated mapping action. This is not common practice because it is essential to map districts in order to understand their potential conflicts and impacts. In this instance, each of the proposed districts (Core, Transition, Growth) is named in a way that denotes location, implying that DCP has already analyzed where each district would be appropriate. Yet the agency has not shared this analysis with the public, making all comments on this proposal based entirely on speculation.

As a result, this proposal leaves the future of our city's industrial zones in question. What happens if a developer proposes a growth district in an existing core industrial area, for example? Would DCP consider this proposal appropriate for certification, and if so upon what criteria would the agency base this decision? Many existing core industrial businesses are dependent upon waterfront and/or rail access, which the Borough President wants to encourage in order to address impacts of truck traffic on our communities. It is critical that we retain core industrial space for these uses, as well facilities that may have environmental or safety impacts or loading requirements that would impact their neighbors. (This is the rationale upon which the concept of zoning was developed.)

Further, the Borough President wishes to highlight the connection between incentive programs and land use. Other sectors, such as residential development, have enjoyed easier-to-access tax incentive and abatement programs at all scales of development, from 420-c to 421-a to exemption programs for existing homeowners. Relevant incentive programs for manufacturers in New York City are mostly limited to Industrial and Commercial Abatement Program (ICAP) grants and NYC Industrial Development Agency (IDA) tax incentives. There are drawbacks and challenges to both of these programs, including the need for legal assistance and a dedicated staff member or consultant to assist through the application process.

The IDA program is complicated and expensive and is not designed for multi-tenanted buildings. The Borough President expresses additional concerns that, because the IDA program is not designed for multi-tenanted buildings, very few new buildings developed under these proposed zoning districts will be able to take advantage of it since the proposed new districts seek to facilitate these types of loft-style buildings.

ICAP is similarly difficult during the application stage, and because applications must be submitted during construction, there is no guarantee of receiving the benefit. Manufacturers must take on steep financial risk to participate in these programs, which is prohibitive for many small firms. The Borough President recommends that the Manufacturing and Industrial Innovation Council through the Mayor's Office of Talent and Workforce Development function as a central hub to assist businesses through the application process for these programs to lower the burden for smaller businesses.

The Borough President is also concerned about the timing of this proposal in relation to Local Law 172 of 2023, which requires DCP, along with the Department of Small Business Services and the Economic Development Corporation, to develop a citywide industrial development strategic plan by

the end of 2025. The research and data required to be analyzed in this plan should inform future land use choices, not the other way around.

In lieu of spatial analysis from DCP, the Borough President's Office has undertaken a mapping exercise to roughly estimate impacts on the borough's Industrial Business Zones (IBZs) and neighboring manufacturing areas. Although DCP includes limited spatial guidance within City of Yes for Economic Opportunity, DCP's 2019 North Brooklyn Industry and Innovation Plan included a land use framework with areas marked as core, transition, and growth. Given the overlap in goals and verbiage, we consider this plan to be a precursor to the new M-Zones proposal. As a result, North Brooklyn already has a rough picture of where DCP envisions these new districts could be mapped. As a matter of fairness, DCP owes it to the other IBZs to provide a similar level of analysis for these new M-Districts citywide.

To better estimate the spatial distribution of the new districts, the Borough President's Office mapped the districts based on the criteria outlined in the North Brooklyn Industry and Innovation Plan:

M3A "Core"
- Heavier manufacturing zoning (M3, M2)
- Non-residential land uses (land use categories 5-12)
- Large lot size (> 10,000 sf)
- Low rise buildings (< 2 floors)
- Under-built FAR
- Further from transit (> ¼ mile)
- Adjacent to maritime and freight rail rights of way

M2A "Transition"
- Medium manufacturing zoning (M2, M1)
- Non-residential land uses (Land Use Categories 5-12)
- Large lot size (> 10,000 sf)
- Low rise buildings (< 2 floors)
- Under-built FAR
- Further from transit (> ¼ mile)

M1A "Growth"
- Light manufacturing and mixed-use zoning (M1, MX, M1-D)
- Mix of land uses (Land Use Categories 1-12)
- Smaller lot size (< 10,000 sf)
- Medium and high rise buildings (> 2 floors)
- Over-built FAR
- Near transit (< ¼ mile)

While DCP is not pursuing a wholesale re-mapping, this exercise allows an estimation of where future re-mapping actions might be pursued or encouraged by DCP. The Borough President's Office welcomes DCP to supplement or correct any of these assumptions by publishing their own spatial analysis. Further, while no actual districts are being mapped, these new tools do establish a core-periphery paradigm that understands manufacturing areas in terms of their spatial relationship to an anchoring core industrial area.

Even when not being mapped, this paradigm will inform land use rationale across manufacturing areas of the whole city. For example, framing the M2A as "Transition" suggests that higher density, medium-performance-standard manufacturing uses are not appropriate in their own right, but only as a function of their proximity to neighboring industrial core. As elaborated in IBZ-specific analysis below, there are many areas where this core-periphery paradigm does not apply so neatly.

This mapping exercise yielded the following area-specific observations and concerns:

Flatlands-Fairfield
The Flatlands-Fairfield IBZ straddles a three-mile stretch of the Bay Ridge Branch, a rail line currently used for freight and the proposed right of way for the MTA's Interborough Express (IBX). If planned responsibly, this dual-purpose freight and passenger rail line will be a unique asset and opportunity for the IBZ.

However as currently proposed, these new M-districts give mixed signals about how the Department of City Planning envisions the future of this corridor. The new M3A Core district emphasizes freight rail, but the M1A Growth district emphasizes proximity to transit. This dichotomy may make sense in places like North Brooklyn, where rail lines are exclusively freight or transit and maritime access is, for the most part, far away from the subway. This framework is less clear in Flatlands-Fairfield. At the time of this recommendation, the MTA is tentatively proposing IBX stations at Utica Avenue, Remsen Avenue, and Linden Boulevard. Designating a ¼ mile buffer of M1A Growth around each station would substantially disrupt the continuity of the industrial core in this IBZ. While there are other criteria listed in the North Brooklyn Industry and Innovation Plan, access to transit is particularly influential. These overlapping frameworks create an ambiguity where individual ULURP applications could argue a land use rationale for either M3A Core or M1A Growth districts on the very same lot and lead to a poorly planned patchwork of industrial and non-industrial uses over time. DCP's proposal to only provide zoning district options without executing any re-mapping is especially insufficient for cases like these.

The unique dual freight/passenger corridor deserves specific study under the citywide industrial development strategic plan legally mandated by LL 127 of 2023. It may be that these districts could be combined in a compatible fashion, but this area is large and important enough that it deserves deliberate attention. In his Comprehensive Plan for Brooklyn, Borough President Reynoso outlined frameworks for growth in both housing and manufacturing densities, largely with the Flatlands-Fairfield IBZ in mind. Proposing new tools before refining an industrial strategy for this IBZ is putting the cart before the horse.

Southwest Brooklyn
Due to its proximity to the waterfront, large lot sizes, underbuilt FAR, and heavier manufacturing and utilities zoning, the waterfront spine of the Southwest Brooklyn IBZ fits DCP's criteria for the new M3A Core district. But areas further inland surrounding the southern portion of Gowanus Canal and inland parcels closer to 3rd Avenue and Sunset Park are less clear. This ambiguity further informs the Borough President's concerns that the proposed M1A Growth district is redundant with the existing condition.

Much of southern Gowanus fits the criteria for M1A Growth: smaller lot sizes, multi-story buildings, higher levels of built out FAR, and proximity to transit at the Smith-9th Street station. The Gowanus Neighborhood Plan, approved in 2021, mapped a Special Mixed-Use District with similar goals as the proposed M1A Growth district, promoting mixed industrial and non-industrial uses with no requirement for manufacturing. It is plausible to imagine either DCP or private applicants citing this precedent to argue for mapping a new M1A Growth district further south along the canal. If the name "Transition" is to have any meaning, it should apply to areas such as the southern stretch of the Gowanus Canal, which sits in between a growth-oriented rezoning to the north and the core waterfront industrial to the south and west. The M1A Growth district is redundant in this area – its goals were already achieved in the Gowanus Neighborhood Plan in 2021.

Sunset Park presents a similar situation: the waterfront aligns with the new M3A Core district, but the M1-2D district already mapped along 3rd Avenue sets a precedent for mixed non-industrial uses. Without an adequately developed industrial strategy, future ULURP applications following DCP's criteria and guidance might create a patchwork of M1A Growth districts directly adjacent to M3A Core districts, with little M2A Transition.

East New York:
The East New York IBZ presents similar issues as discussed under Flatlands-Fairfield. In this case, the co-location of freight and passenger rail is already a reality, as the MTA's L Train runs parallel to the Bay Ridge Branch. As outlined in the Comprehensive Plan for Brooklyn, Borough President Reynoso supports the expansion of both freight and transit throughput along this line. Retaining and increasing freight rail access will be essential to getting more trucks off the road. The East New York IBZ is an even narrower corridor than Flatlands-Fairfield. Striking the balance between increased housing and manufacturing density and retaining access to critical infrastructure requires area-specific attention. The new proposed manufacturing districts are not sufficient to this task and the M1A Growth district opens the door to future ULURP applications eroding the industrial character of the IBZ.

Greenpoint-Williamsburg:
There are no remaining areas near the Greenpoint-Williamsburg IBZ that lend themselves to the new M3A Core district: all the waterfront heavy industrial districts near Bushwick Inlet have been re-mapped over time. With overbuilt FAR, multi-story buildings, and smaller lots, much of the area today fits the criteria for the M1A Growth district, and the neighboring MX-8 districts mapped in 2005 set a precedent for replacing industrial uses with commercial, retail, and residential development. With no remaining core heavy industrial area, the land use rationale for mapping future M2A Transition districts is especially murky. The Borough President is concerned that this new manufacturing district framework would encourage the proliferation of M1A Growth districts across the entirety of the IBZ and further erosion of the remaining Greenpoint-Williamsburg industrial areas.

Brooklyn Navy Yard:
Like Southwest Brooklyn, the Brooklyn Navy Yard is anchored by heavy industrial zoning along the waterfront, lending itself to the new M3A Core designation. The light industrial neighborhoods of DUMBO and Vinegar Hill to the west are outside of the IBZ boundary but host significant manufacturing and utility infrastructure. The Consolidated Edison site in Vinegar Hill is set to become one of the city's "clean energy hubs" where offshore wind energy will linked to the electrical grid. Yet neighboring areas of DUMBO have been rezoned to a variety MX districts more aligned with the proposed M1A Growth district.

Southeast of the Navy Yard, Wallabout is a district of old loft-style manufacturing buildings that this proposal looks to encourage. These loft-style buildings are surrounded by a growing residential neighborhood and commercial corridors along Flushing and Myrtle Avenues that exert pressure on the existing manufacturing businesses. As with the other IBZs, the M1A Growth district seems redundant to outcomes already achieved by DCP's MX rezonings in DUMBO, and many of the areas physically in between these Growth-oriented districts and the Core industrial areas align with the land use rationale for the Growth district as well. A stronger, more deliberate strategy is needed to assert a meaningful Transition area should look like near the Brooklyn Navy Yard. The Borough President urges DCP to develop an industrial strategy that protects manufacturing in Vinegar Hill and Wallabout, both through the citywide industrial strategy and DCP's CBDG-DR funded study of Wallabout Bay.

Proposed M-Districts

In considering the proposed M-Districts in this text amendment, the Borough President has centered his review on how the City can effectively and equitably transition to a green economy and guarantee greatest public benefit. The Borough President believes that we must zone as part of a larger plan, not zone to unleash development of any kind. The pandemic further clarified that the ability to manufacture goods locally is essential, and the Borough President is concerned that the City has not adequately studied the consequences of losing manufacturing space. What does this loss mean in the context of our abilities to justly transition to a green economy? What does this loss mean for job access for those without advanced degrees or who do not speak English as a first language? How do we quantify the potential for jobs that we have lost and continue to lose as manufacturing land is rezoned to allow for other uses? Further, it is difficult to analyze mixed-use manufacturing districts

absent studies on the IBIA program and existing MX districts. The Borough President requests that DCP study the outcomes of all projects mapped through these tools and assess their associated manufacturing square footages and job counts. The Borough President also hopes to reframe the conversation as not only meeting minimum requirements for job-intensive uses, but maximizing areas for these uses.

Core Industrial Districts (M3A):

The Borough President believes that Core Districts should protect industrial against all other uses. Manufacturing businesses have few as-of-right options where they can locate, and face challenges with nearby non-compatible uses that make their business operations difficult and drive up land costs. In order to achieve the goals of introducing as few non-industrial uses in this district as possible, the Borough President requests the following changes to the Core Districts:

1. Instate a cap of 10,000 square feet per zoning lot of non-industrial use instead of the proposed 1 FAR cap on everything not defined as a qualifying use.
2. Require that a portion of the ground floor be dedicated to industrial space qualifying uses with access to freight elevators and loading docks.
3. The Borough President wishes to expand opportunities for multi-story, multi-tenant manufacturing space across the Borough. To that end, he recommends that DCP create additional M3A districts that provide higher FAR for qualifying uses—an M3-3A District which would allow 4.0 FAR of qualifying uses, and an M3-4A District with 5.0 FAR for qualifying uses.
4. The Borough President recommends that no additional nightlife be introduced in the Core. While existing uses may be grandfathered in, sites mapped with Core Districts after the text amendment adoption date should not be permitted to include nightlife, entertainment, or amusement uses.
5. Sites that have access to freight and rail must preserve this access for current or future manufacturing uses.

Transition Districts (M2A):

Absent requirements for qualifying uses, the Transition Districts could function as other existing non-manufacturing districts. DCP describes the Use Regulations in Section 42-36 as a proposal which "would allow a wider range of uses in the M1A and M2A districts as compared to other Manufacturing Districts. This would include additional forms of retail, amusement and community facility uses. Retail and service uses, which typically are restricted or limited to a maximum size, would be permitted without restriction in the new districts. In addition, entertainment uses and all community facilities without sleeping accommodations would be permitted."

The Borough President recommends that the Transition Districts consider the original intentions of IBZ ombudsman areas, which, as cited in a 2021 report from the State, were "created as transitional mixed-use zones where industrial uses could coexist with other use types." Transition Districts should be mapped as such and managed by the city's Industrial Business Service Providers, who could provide services to manufacturing businesses in these areas and can help monitor new development to ensure minimum industrial requirements are met.

The Borough President recommends the following changes to the Transition Districts:

1. That no commercial floor area, including that dedicated to Use Groups 3B, 6, and 8, shall be permitted in Transition Districts without a minimum requirement for qualifying uses. The Borough President recommends seeking feedback from Industrial Business Service

Providers to understand the minimum meaningful square footage requirements for manufacturing use to determine this requirement. For example, if businesses require at least 5,000 square feet to sufficiently perform their operations, a minimum could be set as the lesser of 1 FAR or 5,000 square feet dedicated to qualifying uses.

2. Additional requirements to the ground floor, including that half of the ground floor be dedicated to qualifying uses and that these qualifying uses have access to freight elevators and loading docks.
3. Section 42-361(a)(1) must instate a 10,000 square foot size limitation on all Use Group 6 uses in M2A Districts.
4. In Section 43-132, decrease the maximum permitted FAR for other uses of 1.5 and 2.5 to 1 FAR and 2 FAR.

Growth Districts (M1A):

The Borough President recommends eliminating the proposed Growth Districts. As stated previously, the Borough President believes all manufacturing districts should have a minimum square footage requirement for qualifying uses. The Borough President believes the proposed Transition Districts and existing M Districts provide sufficient flexibility for introducing non-manufacturing uses in manufacturing districts—manufacturers who want to expand their businesses face challenges with insufficient floor area and burdensome parking requirements, not with limitations on permitted uses. Additionally, the Borough President hesitates on introducing another district with no size limitations on non-manufacturing uses, which feels particularly aggressive in the current retail and commercial real estate market.

Given the proliferation of MX districts and non-conforming uses in existing M-zones, the Borough President believes this district is unnecessary to achieve DCP's stated goals. The Borough President is currently reviewing a ULURP application for 41 Richards Street, which proposes to add additional light manufacturing density in a loft-style building envelope. Both the applicant and DCP have stated that this project is in alignment with the goals of the City of Yes for Economic Opportunity. The applicant and DCP also stated that if these proposed new M-districts were available to be mapped, the M1A-4 "Growth" district would be the most appropriate district for their proposal, but with that said, the already-existing M1-5 district being sought by the applicant provides more building envelope flexibility than the new proposed district. According to the applicant, a significant restraint of the existing M1-1 zoning is the excessive parking requirement. Adding a new, un-mapped "Growth" district does not address this deficiency of current M1-1 districts. Borough President Reynoso recommends that DCP repurpose the capacity and time spent on developing a new, unmapped non-manufacturing district on amending deficiencies in the already-mapped zoning districts identified by already-existing manufacturing businesses in the city.

Recommendation

Be it resolved that the Brooklyn Borough President, pursuant to Sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission and City Council disapprove this application with the above-mentioned conditions and modifications.

January 24, 2024

BROOKLYN BOROUGH PRESIDENT

DATE