APPENDIX H:
RESPONSE TO COMMENTS ON THE DRAFT SCOPE OF WORK

Midtown South Mixed-Use (MSMX) Plan

CEQR NO. 24DCP094M

Response to Comments on the Draft Scope of Work for a Draft Environmental Impact Statement

A. INTRODUCTION

This document summarizes and responds to public comments regarding the issues to be addressed in the Draft Environmental Impact Statement (DEIS) as described in the Draft Scope of Work (DSOW), issued on March 19, 2024, for the Midtown South Mixed-Use (MSMX) Plan (the "Proposed Actions"). Oral and written comments were received during the public scoping meeting held by the New York City Department of City Planning (DCP) on behalf of the New York City Planning Commission (CPC) on April 18, 2024. Written comments were accepted through the close of the public comment period, until 5:00 PM on April 29, 2024. **Appendix I** contains the written comments received with respect to the DSOW and a transcript of the public scoping hearing. The Final Scope of Work (FSOW), issued on January 17, 2025, has been modified to incorporate and address substantive public comments on the DSOW where relevant and appropriate.

Section B below lists the elected officials, organizations, and individuals that provided comments on the DSOW. Section C contains a summary of the relevant and substantive comments received by the lead agency and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the structure of the DSOW. Comments unrelated to the effects of the Proposed Actions on the quality of the environment are included under Section D, "Miscellaneous." The organization and/or individual that commented is identified after each comment. Where more than one commenter expressed a similar view, the comments have been grouped and addressed together.

B. LIST OF ELECTED OFFICIALS, COMMUNITY BOARD MEMBERS, ORGANIZATIONS, AND INDIVIDUALS THAT COMMENTED ON THE DRAFT SCOPE OF WORK

Elected Officials

1. Mark Levine, Manhattan Borough President; written comments submitted 4/30/2024 (email, shared letter with Council Member Erik Bottcher [District 3] and Council Member Keith Powers [District 4])

2. Erik Bottcher, New York City Council Member for the 3rd District; written comments submitted 4/30/2024 (email, shared letter with Manhattan Borough President Mark Levine and Council Member Keith Powers [District 4])

3. Keith Powers, New York City Council Member for the 4th District; written comments submitted 4/30/2024 (email, shared letter with Manhattan Borough President Mark Levine and Council Member Erik Bottcher [District 3])

Community Board Members

4. Jessica Chait, Chair of Manhattan Community Board 4; written comments submitted 4/26/2024.

5. Paul Devlin, Member of Manhattan Community Board 4; oral statement at public scoping meeting.

Organizations and Interested Public

6. Grace O'Meara, Open New York; oral statement at public scoping meeting.

7. Ali Begazo, Director of Economic Development at the Flatiron Partnership; oral statement at public scoping meeting and written comments submitted 4/26/2024.

8. Maddie DeCerbo, Real Estate Board of New York (REBNY); oral statement at public scoping meeting and written comments submitted 4/18/2024.

9. Layla Law-Gisiko, Resident; oral statement at public scoping meeting.

10. James Francois-Pijuan, Local business owner; oral statement at public scoping meeting.

11. Paolo Ribeiro, Resident; oral statement at public scoping meeting and written comments submitted 4/18/2024.

12. Richard Bass AICP, PP, Senior Planning and Development Consultant at Akerman LLP; written comments submitted 4/29/2024.

13. Steve Boxer, Local business owner; written comments submitted 4/17/2024.

C. COMMENTS AND RESPONSES ON THE DRAFT SCOPE OF WORK

1. Project Description/Development Scenario Comments

Comment 1.1: Overall, we are in favor of the idea of converting commercial space to residential use to create a mixed-use neighborhood. We have a long history of advocating for new and creative ways of increasing housing stock, notably for permanently affordable housing, and this is a great step forward to achieving those goals. (Devlin-01, DeCerbo-01, O'Meara-01, Francois-Pijuan-01, Levine-01, Bottcher-01, Powers-01, Chait-01)

Response 1.1: Comment noted. For analysis purposes, the Proposed Actions are expected to facilitate the conversion of approximately 1,093,808 gross square feet (gsf) of commercial office space to approximately 781 dwelling units (DUs), of which approximately 156 to 234 would be permanently affordable. On the 61 identified projected development sites, the reasonable worst-case development scenario (RWCDS) for the Proposed Actions would result in the creation of an additional 8,895 dwelling units (DU), of which approximately 1,784 to 2,656 would be permanently affordable.

Comment 1.2: The Community Board asks that DCP make its development objectives clear and provide adequate guardrails to protect the neighborhood from overdevelopment as it transitions from manufacturing lofts to a balanced, viable, and livable mixed-use commercial and residential community. We will be asking that the proposed zoning text address these matters without compromising fire, safety, and light, and ventilation requirements for residential apartments. (Devlin-06)

Response 1.2: Comment noted. The DEIS will include a discussion of the Proposed Actions' purpose and need and a detailed discussion of the proposed zoning text amendment.

Comment 1.3: We ask that you study other ideas for generating a floor area bonus, such as making a nearby subway station ADA-accessible. (Devlin-08)

Response 1.3: Comment noted.

Comment 1.4: The introduction of multiple incentives will push developers to demolish large existing buildings. This plan should stimulate the conversion of existing buildings, including those that are overbuilt, instead of incentivizing demolition of existing buildings. (Devlin-09, Law-Gisiko-02, Levine-09, Bottcher-09, Powers-09)

Response 1.4: Comment noted. Refer to Response 1.1.

Comment 1.5: As to the worst-case development scenario: we have concerns that the examination of proposed and projected development sites didn't take into account available transferred

development rights if parcels are combined. We ask that a study provides assurances that the newly available FAR under the rezoning is not transferable to adjacent underbuilt sites creating unnecessary and excessive height. (Devlin-10)

Response 1.5: Comment noted. The RWCDS accounts for the potential for transfer of development rights for zoning lots merged prior to the development of the reasonable worst-case development scenario.

Comment 1.6: New York City is facing a housing crisis with production significantly lagging job growth. Outdated zoning regulations impede housing construction and undercut the City's housing goals. (DeCerbo-02, O'Meara-03)

Response 1.6: Comment noted.

Comment 1.7: The MSMX Plan will serve as a catalyst for housing production by permitting residential use in a neighborhood with great transit access and proximity to jobs. (DeCerbo-03, O'Meara-03, Boxer-03)

Comment 1.7: Comment noted.

Comment 1.8: The Project Area will allow for the highest permitted residential density and will foster office to residential conversions contingent on the passage of City of Yes for Housing Opportunity. City of Yes for Housing Opportunity is the last of the three citywide zoning text amendments proposed by the Department of City Planning under Mayor Adam's City of Yes initiative. Once passed, the zoning resolution will permit the conversion of office to residential use for buildings constructed prior to 1990 in areas of the city that permit residential use. This is an important change to the Zoning Resolution, which currently only permits buildings up to 1961, or 1977 south of Murray Street in Lower Manhattan, to convert their floor area to residential use. (DeCerbo-04).

Response 1.8: Comment noted. Refer to Response 1.1.

Comment 1.9: The City of Yes for Housing Opportunity will also introduce two new districts R11 and R12, into the Zoning Resolution which will permit up to 15 and 18 FAR, respectively, above the existing 12 FAR cap. While the ability to implement a residential FAR higher than the 12 FAR cap will ultimately depend on action from the State, the Department should include in the MSMX Scope to plan these proposed new residential districts as potential options for the rezoning. The City's affordability crisis will persist without tools that allow supply to match demand. (DeCerbo-05)

Response 1.9: Comment noted. Since issuance of the Draft Scope of Work, the residential floor area ratio (FAR) cap of 12.0 was eliminated as part of the Fiscal Year (FY) 2025 State Budget enacted by the New York State Legislature. Lifting the cap is intended to promote the production of housing in the city. The state legislation aligns with zoning changes proposed by the city as part of the "City of Yes for Housing Opportunity" zoning text amendment. The proposed zoning text amendment

creates two new residential zoning districts, R11 and R12, which would permit a maximum of 15 and 18 FAR for residential uses, respectively. To account for these new residential districts. The RWCDS was revised to maximize the potential for new housing construction in the Project Area. Refer to Response 1.1.

Comment 1.10: I urge the Department to consider contextual zoning, neighborhood character, and historic preservation for a successful rezoning. The Ladies' Mile rezoning that was enacted in 2005 should serve as your model. (Law-Gisiko-01)

Response 1.10: Comment noted. As described in the FSOW, the DEIS will include analyses of Land Use, Zoning, and Public Policy, Historic and Cultural Resources, and Neighborhood Character.

Comment 1.11: The area delineated by the proposal covers four quadrants that have the unique characters. The major absence is Penn Station and its surroundings. Penn Station sits in the middle of the four quadrants and should be considered. The area is in dire need of comprehensive planning. While the existing General Project Plan (GPP), a State Plan would override the underlying City zoning, the City zoning still coexists. It is imperative that the area be taken into account, otherwise we take the risk of the area being frozen in time for the worse. The GPP is disastrous. For examples, it precludes housing on many sites around Penn Station as a permitted use. It is in a time of housing crisis this is atrocious. The City must include the Penn Station area in its scope of work in this particular proposal. (Law-Gisiko-03)

Response 1.11: As noted in the comment, the Penn Station GPP is implemented by the State of New York and therefore supersedes City zoning. The Penn Station GPP, if fully implemented, would create a transit-oriented mixed-use district with approximately 18 million gross square feet of office, retail, community facility, and hotel space as well as 1,798 DUs across eight sites.

Comment 1.12: The environmental impact must assess the cumulative impact in the worst-case development scenario. It is reasonable to assume that Beth-Israel Hospital will close, and that the NYCHA Campus Chelsea campuses will be redeveloped. Therefore, your scope of work and your data must be based on these assumptions, including the need for mitigation. It is critical that we are able to retain or provide sufficient hospital beds, school seats, and parkland for a population that could grow by 20 percent. (Law-Gisiko-04)

Response 1.12: The DEIS will consider all known projects under construction, planned, or proposed within the primary study area (Project Area) and a secondary study area by the 2034 Build Year. As described in Task 2, "Land Use, Zoning, and Public Policy," the analysis will consider the potential for impacts to the Project Area and the area within a 1/4-mile radius (secondary study area). As described in the Scope of Work, the Proposed Actions would not directly change the number of hospital beds available in the Project Area. Refer to Response 4.1.

The DEIS will include an analysis of potential direct and indirect effects on open space as a result of the Proposed Actions and associated population growth. Refer to Task 5, "Open Space."

Comment 1.13: Don't let South Midtown become a hospital desert, a park desert, a school desert. The CEQR environmental formula may not capture the full, comprehensive picture. So, use the CEQR formula as a floor and go beyond that. I am urging the Department to take the reality into account beyond what CEQR tells you to do to fully evaluate the reality of the impact of this proposal. (Law-Gisiko-05)

Response 1.13: Comment noted. The DEIS will be prepared in accordance with the guidance of the 2021 *CEQR Technical Manual* and will include analyses of open space and community facilities and services.

Comment 1.14: The 3% blanket conversion rate for office-to-residential conversions referenced in the Draft Environmental Impact Statement Scoping Document, while based on 2010-2020 rates of conversion, appears low considering the changing nature of our office environment. As of April 2024, the Southeastern Quadrant alone had an office availability rate of about 18 percent and more than 700,000 sf of vacant office space. Given the changing commercial office/workers landscape, there are many more opportunities to explore commercial to residential conversions in the MSMX study area. While we do not expect nor encourage the conversion of all office space to residential uses, the area is already a desirable location for housing, and we expect additional office-to-residential conversions to bring residents to the neighborhood. The draft DEIS should identify specific sites where potential housing units could be created through conversion. (Begazo-06)

Response 1.14: Outside of the projected and potential development sites, it is assumed that approximately 1,093,808 gsf of existing non-residential floor area across the Project Area is likely to convert to residential use over the next decade – an estimate informed by DCP's understanding of historical conversion patterns from 2010 to 2020 and the potential for conversions in the Project Area under the RWCDS With-Action Condition. For RWCDS analysis purposes, three percent of floor area is anticipated to be converted to residential use.

Comment 1.15: In DCP's final proposal, I hope they include options to build or convert denser residential buildings than what is currently discussed in the Draft Scope of Work. As DCP's scoping documents show, the Midtown South area already has very dense buildings. For example, buildings in the northwest part of Midtown South have FARs up to 30. It is totally reasonable for the city to include options for denser and higher housing in this area. It would be contextual with what already exists. (O'Meara-02)

Response 1.15: Comment noted. Refer to Response 1.9.

Comment 1.16: We encourage DCP to study how the recent lifting of the NY State 12 residential FAR cap may encourage the production of housing units in the study area, particularly with respect to commercial-to-residential conversions. (Levine-04, Bottcher-04, Powers-04)

Response 1.16: Comment noted. Refer to Response 1.9.

Comment 1.17: Compared to its surrounding neighborhood, the Project Area is a housing desert – home to only 2,300 apartments compared to the 74,000 housing units that are within the nearest 1/2-mile radius. Even more concerning is that only 317 of these units are affordable. In an area that is well served by public transit lines, including 15 subway lines and other regional transit options, it's imperative to provide more housing, including affordable housing. As this plan is studied and refined, we urge you to implement the zoning and policies that will maximize residential development. (Levine-05, Bottcher-05, Powers-05)

Response 1.17: Comment noted. The Proposed Actions are intended to expand housing opportunities and requiring new income-restricted housing through Mandatory Inclusionary Housing (MIH) to be included in new development.

Comment 1.18: A rezoning of this area must allow for both businesses and housing opportunities to flourish. To that end, we recommend that the DCP consider additional mechanisms to maintain the diverse manufacturing and commercial uses that make the area economically unique and valuable. For example, to encourage a diversity of uses within or among new buildings, the DCP could study an M2-9A district that offers 1 additional FAR for manufacturing uses, or application of tools similar to FRESH (for example, exempting some garment manufacturing space from FAR, paired with a financial incentive) or the "Gowanus Mix" (for example, reserving floor area just for garment manufacturing). (Levine-08, Bottcher-08, Powers-08)

Response 1.18: Comment noted. DCP has recently created a suite of new zoning tools that address different industrial situations. The M1-A tool which is proposed for use in this plan was created to allow for maximum flexibility of use program, including allowing for manufacturing districts to be paired with residence districts to allow a fully mixed-use industrial/commercial/retail/residential reuse. These districts are intended for places closest to transit and where the widest range of uses is the policy goal.

Comment 1.19: The Development Scenario Parameters section of the Draft Scope of Work lists floor heights for ground, commercial, and residential floors. However, there is no mention of mechanical voids. In 2019, the City Council adopted the Residential Tower Mechanical Voids Zoning Text Amendment. Mechanical voids taller than 25 feet count as zoning floor area, and mechanical voids spaces located within 75 feet of each other count as zoning floor area. Please clarify what is the plan to restrict excessive height by the utilization of mechanical voids. (Chait-05)

Response 1.19: Comment noted. Future development within the Project Area would adhere to all aspects of the Zoning Resolution, including the Residential Tower Mechanical Void zoning text.

Comment 1.20: Projected and potential development sites focus on small 1-6 story buildings. However, considering the large, proposed increase in zoning to a potential maximum 15 FAR, the range of development sites may include existing loft buildings under 15 FAR. The currently scoping does not incorporate the availability of development rights from adjacent properties. Therefore, there are many potential development sites adjacent to buildings underbuilt within the proposed new FAR limits. Please study zoning mechanisms to include limiting aggregating of FAR from underbuilt sites to prohibit the development in the style of West 57th Street (Billionaires' Row). Such development will have a major impact on the visual resources of the surrounding Times Square, Garment Center, and Penn Station areas. (Chait-06)

Response 1.20: Development of the RWCDS was done based on the guidance of the 2021 *CEQR Technical Manual.* Please refer to the Development Site Criteria section of the FSOW for more detailed information. As discussed in the Final Scope of Work, since issuance of the Draft Scope of Work, the residential floor area ratio (FAR) cap of 12.0 was eliminated as part of the Fiscal Year (FY) 2025 State Budget enacted by the New York State Legislature. Lifting the cap is intended to promote the production of housing in the city. The state legislation aligns with zoning changes proposed by the city as part of the "City of Yes for Housing Opportunity" zoning text amendment. The proposed zoning text amendment creates two new residential zoning districts, R11 and R12, which would permit a maximum of 15 and 18 FAR for residential uses, respectively. To account for these new residential districts the Reasonable Worst-Case Development Scenario ("RWCDS") was revised to maximize the potential for new housing construction in the Rezoning and Affected Areas. The number of development sites (projected and potential) was revised to account for changes in the residential FAR cap.

Comment 1.21: While the MSMX plan will help address the housing crisis in New York City and directly responds to the City of Yes for Housing Opportunity proposal to permit conversions citywide, it's important to scope all possible outcomes such as a residential density above 12 FAR. (DeCerbo-09)

Response 1.21: Comment noted. Refer to Response 1.1 and 1.9.

Comment 1.22: Maintaining the conversion prohibition in M1-6M zoning districts in the Special Garment Center District for buildings greater than 70K square feet makes no planning or economic sense. There are only approximately 7 buildings greater than 70K square feet and their preservation for Class C office space is not market reality driven. One of the buildings I represent already was partially converted to residential use by variance and the remainder of the building is currently vacant because it cannot attractive an as of right use. As-of-right conversion to residential use should be permitted. (Bass-01)

Response 1.22: **Subdistrict A-2 of the Special Garment Center District prohibits the conversion of non-residential floor area to residential use in buildings over 70,000 square feet in C6-4M zoning districts. As such, the Proposed Actions have been amended to include a text amendment that would eliminate the prohibition on conversions of non-residential floor area in buildings over 70,000 square feet in the C6-4M portion of the Special Garment Center District, Subdistrict A-2.**

Comment 1.23: There may be an inconsistency between proposed Midtown South Mixed-Use Plan (the "Plan") and the City of Yes Housing Plan, in that one permits as of right conversion for existing building in M1-6D zoning districts and the other prohibits such conversion. See Comment Z-4 for ZR 15-012 in City of Yes for Housing Opportunity. (Bass-02)

Response 1.23: **Refer to Response 1.22.**

Comment 1.24: In C6-4M zoning districts in the Special Garment District, as well as elsewhere in the Plan, conversion of existing buildings to community facility use, especially for supportive housing, is not covered under Article 1 Chapter 5 type conversions. For example, the building referenced above in my previous comments (Comment 1.21) could be converted to supportive housing as of right today, but because of the required 20' rear yard, the rear façade would have to be relocated, an expensive undertaking. All conversions, regardless of use, should recognize existing built conditions. (Bass-03)

Response 1.24: **Comment noted.**

Comment 1.25: Rear yard requirements indicated in 23-342(a) can be clarified. The proposed zoning text reads: "In the districts indicated, for #buildings# or portions thereof at or below a height of 75 feet, a #rear yard# with a depth of not less than 20 feet shall be provided, and for portions above 75 feet, where permitted, a #rear yard# with a depth of 30 feet shall be provided above adjoining grade shall be provided at every #rear lot line# on any #zoning lot# except as otherwise provided pursuant to the provisions of Section 23-34, inclusive." Is "for portions above 75 feet" intended to apply to buildings that are above 75', or portions of buildings above 75'? If the latter, does the language "a rear yard with a depth of 30 feet shall be provided above adjoining grade" need to be modified to require the 30' depth only at 75' above grade and higher? Or is the text intended to require a 30' rear yard starting at grade for any building exceeding 75' in height? In any event it appears that "shall be provided" is repeated unnecessarily. (Bass-04)

Response 1.25: **The proposed zoning text referenced in this comment was part of the City of Yes for Housing Opportunity text amendment, which is a separate proposal that was referred into public review on April 29, 2024, and is therefore out of scope for the Midtown South Mixed-Use Plan.**

Comment 1.26: Corridor termination requirements listed in 23-232(a) can be clarified. Part (2) reads "the corridor is served by a stairwell where the enclosing walls contain transparent materials;" Are there any size requirements for the quantity of transparent materials between the corridor and the stair and/or between the stair and exterior? Part (4) reads: "the corridor

contains a window with a clear, non-tinted, glazed area of at least 20 square feet." Are there any requirements for the space into which the window opens? (Bass-05)

Response 1.26: Refer to Response 1.25.

Comment 1.27: 24-111(c) states that certain buildings must comply with 24-11. This seems circular. (Bass-06)

Response 1.27: Refer to Response 1.25.

2. Land Use, Zoning, and Public Policy

Comment 2.1: The primary issue is the threat of demolition. We would stress that language needs to be included to ensure that the zoning advocates for conversion, while ensuring the demolition, is not something enticing to developers. (Devlin-03, Chait-04)

Response 2.1: **Comment noted. The proposed zoning map and text amendments will allow for commercial floor area in the Project Area to be converted to residential use. Refer to Response 1.1. For conservative analysis purposes, the RWCDS analyzes the demolition and construction of 61 projected development sites. As detailed in Task 2 "Land Use, Zoning and Public Policy," the DEIS will include assessment of the proposed zoning map and text amendments and their potential for significant adverse impacts.**

Comment 2.2: There are some areas that already have high density without excessive height. For example, the majority of buildings on the west side of Eighth Avenue between West 35th and West 39th Streets are currently well overbuilt above 12 FAR. To achieve the goal of converting those buildings to housing. There is no further need for such a major upzoning. We propose a more modest increase to map the same density that immediately to the west, with a 13 FAR, and as part of the scoping would request a study of such a lower FAR. This would match the midblocks rezoned as part of the 2005 Hudson Yards Rezoning which permit 12 FAR of residential and 1 FAR of commercial. (Devlin-04, Chait-10)

Response 2.2: Comment noted. The proposed zoning map and text amendments will allow for commercial floor area in the Project Area to be converted to residential use. Refer to Response 1.1. For conservative analysis purposes, the RWCDS analyzes the demolition and construction of 61 projected development sites. As detailed in Task 2 "Land Use, Zoning and Public Policy," the DEIS will include assessment of the proposed zoning map and text amendments and their potential for significant adverse impacts.

Comment 2.3: We also ask that you assess the impact of eliminating the dwelling unit factor (DUF). Community Board 4 requests language in the proposed zoning text amendment will ensure development of smaller apartments. If the DUF is removed, and not larger units, certain development sites within the northwest area could be allowed and would be allowed to apply for covered pedestrian space bonus for a floor area increase of up to 20 percent. (Devlin-07, Chait-02)

Response 2.3: Comment noted. As detailed in Task 2 "Land Use, Zoning and Public Policy," the DEIS will include assessment of the proposed zoning map and text amendments and their potential for significant adverse impacts.

Comment 2.4: DCP's proposed scope includes an analysis of the potential impact that multiple public policy initiatives might have on the study area. These initiatives include Housing New York, Housing our Neighbors, Vision Zero, Where We Live NYC, FRESH, BIDs, and OneNYC. We recommend that the scope also include the potential impacts of City of Yes for Carbon Neutrality, which was approved in December 2023, City of Yes for Economic Opportunity, and City of Yes for Housing Opportunity, which are both currently undergoing public review. In particular, we would like an in-depth analysis of the new manufacturing districts including in the City of Yes for Economic Opportunity zoning text amendment, which are contemplated as part of this proposal. (Levine-02, Bottcher-02, Powers-02)

Response 2.4: Comment noted. Task 2, "Land Use, Zoning, and Public Policy," in the FSOW has been updated to include City of Yes for Carbon Neutrality, City of Yes for Economic Opportunity, and City of Yes for Housing Opportunity. The DEIS will include an assessment of the Proposed Actions' consistency with these public policies.

Comment 2.5: We are pleased to see that this proposal seeks to incentivize public realm and transit improvements. However, by incentivizing these improvements via floor area bonuses, the proposal may force these goals to compete with the goal of boosting housing production. We encourage DCP to undertake a careful analysis of how these bonus programs would impact housing production, including a study of which sites would be best suited to provide covered pedestrian spaces, and which ones would be suited to provide transit improvements so we can better understand how they might be used. Moreover, we seek to better understand how these bonuses might be layered, including with other programs such as the Universal Affordability Preference that is part of the City of Yes for Housing Opportunity proposal. (Levine-03, Bottcher-03, Powers-03).

Response 2.5: Comment noted. The DEIS will include an assessment of the proposed zoning text amendments' consistency with other applicable public policies.

Comment 2.6: Under this proposal, certain development sites within the Northwest Area would be allowed to apply for the Covered Pedestrian Space Bonus for a floor area increase of up to 20%. The built context of the Northwest area has no relation to covered pedestrian

spaces. The midblock building typology is typically bulkier, loft-style buildings. The avenues have higher street walls.

The current public plaza bonus has been an abject failure in front of multiple budget hotels and during the day has functioned as a waiting area for hotel guests. In the evening and night hours, those poorly designed public spaces have created a haven for illegal activity. The hotels have responded by partially blocking them off, creating a lack of compliance for public space. Covered pedestrian spaces are an indoor version of the multiple non-functioning public plazas.

Privately-owned open space (POPS), whether a covered outdoor plaza or an indoor arcade, are not appropriate in an area continuing to have serious public safety challenges.

Providing options for density bonuses will only create the easiest bonus and not serve the need to create affordable housing, a central part of this proposal. In the Special Clinton District in 1973, both an affordable housing bonus and a public plaza bonus were introduced. From 1973 to the early 1990s, three plazas were built and no affordable housing. When the public plaza bonus was eliminated, affordable housing through inclusionary bonus came to be built. Developers will always choose producing indoor or outdoor space over affordable housing. Please study having the covered pedestrian space bonus eliminated as well as the public plaza bonus. (Chait-03)

Response 2.6: **Comment noted. The proposed covered pedestrian space bonus will be analyzed for compatibility with other public policies. Refer to Response 2.5. The public plaza bonus is not subject to the Proposed Actions and therefore, a study of it is outside the scope of this proposal.**

Comment 2.7: The Proposed Actions would define the Project Area as a Central Business District (CBD), making all sites within the Project Area qualifying transit improvement sites. This would allow all sites within the Project Area to receive a 20 percent density bonus for improving an adjacent subway station. This zoning text amendment was not disclosed during the March 13th, 2024, presentation from DCP to the Clinton/Hell's Kitchen Land Use Committee (CHKLU). Designating the MSMX Project Area as a CBD expands the CBD further south and west and encourages major demolition of building stock that should be converted to residential. The introduction of multiple incentives will push developers to demolish large existing buildings. This plan should stimulate the conversion of existing buildings, including those that are underbuilt, instead of incentivizing demolition of existing buildings. The identification of potential conversion sites combined with the designation of a CBD is a backhanded attempt to bring excessive density to this area, which already has been accomplished in Hudson Yards. The transit bonus should not be used over the entire area but should have a direct nexus to subway entrances. The study should look at maintaining the current applicability of transit bonus of sites within 500-feet of a subway entrance. (Chait-04)

Response 2.7: **Comment noted.**

Comment 2.8: The Proposed Actions would rezone four areas currently zoned M1-6 (maximum 10 FAR, with a bonus up to 12 FAR). The two northern quadrants would be rezoned to M1-9A/R10 which permit a maximum FAR of 15 and a maximum residential FAR of 12. The two southern quadrants would be rezoned to M1-8A/R10 which permit a maximum FAR of 12 and a maximum residential FAR of 12.

DCP's rationale is that parts of the surrounding blocks area are a C5-3 high-density zone, with a maximum 15 FAR (maximum 12 FAR residential). However, that high density zone is mapped along wide Midtown avenues and the southern portion of Times Square, not in the midblocks, on narrow 60-foot-wide streets. Please study the need for such density and the potential unintended consequences. (Chait-07)

Response 2.8: As described in Task 2, "Land Use, Zoning, and Public Policy," of the FSOW, the DEIS will describe the Proposed Actions and provide an assessment of the compatibility and impacts of the Proposed Actions and resultant RWCDS (With-Action condition) on land use and land use trends, zoning, and public policy.

3. Socioeconomic Conditions

Comment 3.1: When examining potential business displacement, we recommend that DCP investigate appropriate and flexible protections and incentives specifically for longstanding industries and for their employees. (Begazo-07)

Response 3.1: Comment noted. As indicated in Task 3, "Socioeconomic Conditions," of the FSOW, pursuant to the *CEQR Technical Manual*, the DEIS will analyze the Proposed Actions' effects on socioeconomic conditions, including direct and indirect business displacement.

Comment 3.2: I am a florist on 28th Street between Sixth and Seventh Avenues. I am speaking for florist businesses and artists who work in the area. We are struggling to retain our businesses here due to on-going development, specifically hotels. A lot of these businesses have been in the area for several generations, some since the 1930s. We are trying to survive here similar to the fashion industry. We hope our businesses can be retained and incentives can be provided for the landlords to keep us in the area. (Francois-Pijuan-02, Levine-08, Bottcher-08, Powers-08)

Response 3.2: Refer to Response 3.1.

Comment 3.3: While prioritizing housing production, we must also protect the remaining businesses still operating in the Project Area. Once a major hub of activity, the fashion industry in the area has declined significantly in the past decades. Garment manufacturing jobs declined as much as 75 percent between 1987 and 2016, and today the Project Area is home to only 3 percent of the jobs in New York City. Still, the area's impact on our

fashion industry is significant, with almost 25 percent of fashion manufacturing and wholesale jobs concentrated in the area, and nearby Broadway productions relying on its services. A successful proposal for the area will accurately reflect and accommodate the current, more constrained needs of the industry. It is also critical to pay special attention to the businesses of the Flower District, as they frequently extend beyond the ground floor, forming a unique commercial ecosystem that requires careful consideration. (Levine-06, Bottcher-06, Powers-06)

Response 3.3: Refer to Response 3.1.

Comment 3.4: Notably, the tech sector has surged in the southeastern portion of the Project Area, where it's grown by 73 percent in the last decade. We appreciate DCP's nuanced analysis that looks at the micro economies in each of the four subsections of the Project Area and we encourage you to look at strategies for ensuring that this vibrant part of the area can remain a hub for startups. (Levine-07, Bottcher-07, Powers-07)

Response 3.4: Comment noted.

4. Community Facilities and Services

Comment 4.1: The fourth task, community facilities and services, which states that the threshold is not reached, and thus no study is needed. We ask that you clarify what that trigger is that would necessitate this analysis, because our experience is that the development of Hudson Yards, with no corresponding expansion of emergency services, has overwhelmed the NYPD in the area. Adding residential density in the project area will further overwhelm emergency services and we urge you to study the impact on the need for those emergency services. (Devlin-10, Levine-12, Bottcher-12, Powers-12, Chait-12).

Response 4.1: As discussed in the FSOW, further analysis of public schools (elementary, intermediate, and high schools), early childhood programs, and libraries is warranted and will be provided in the DEIS. Further analysis of police/fire protection and healthcare facilities is not warranted. In accordance with *CEQR Technical Manual* guidance, an assessment of potential indirect impacts to police/fire services and health care facilities is warranted when a proposed project would create a sizeable new neighborhood where none existed before. As this is not the case for the Proposed Actions, a detailed indirect impact analysis is not warranted in accordance with CEQR.

Refer to Attachment B, "Additional Technical Information for EAS," of the EAS.

Comment 4.2: The scoping documents note that the Proposed Actions would not result in the displacement or alteration of any hospitals or clinics. However, we'd like to put this proposal within a broader context. Bellevue Hospital, a public hospital located less than

one-mile outside of the Project Area, is already at approximately 90 percent capacity. The closure of local hospitals, coupled with the expected 6,639 residents that this rezoning could bring, will mean that Bellevue will need to be expanded to meet increased needs. The prospective closure of Mount Sinai Beth Israel alone will mean that Bellevue is expected to get approximately 14,000 more emergency room ambulance visits per year. We know that the hospital will need at least $1 million to undertake an expansion. Given this startling reality, we ask that DCP evaluate the impact that this rezoning would have on the need for services and propose mitigations for any increase in demand for services. (Levine-11, Bottcher-11, Powers-11).

Response 4.2: **Comment noted. Refer to Response 4.1.**

Comment 4.3: We request studies to confirm that public school seats are in compliance with the new NYS Education Law 211-D. (Chait 14)

Response 4.3: **As discussed in Task 4, "Community Facilities and Services," of the FSOW, the public schools analysis will assess the potential for significant adverse impacts to elementary and intermediate schools, defined in the *CEQR Technical Manual* as (1) a utilization rate of the elementary and/or intermediate schools in the sub-district study area that is equal to or greater than 100 percent in the With--Action condition; and (2) 100 or more new students generated from the Proposed Actions past the 100 percent utilization rate. A study of compliance with NYS Education Law 211-D is outside the scope of CEQR.**

5. Open Space

Comment 5.1: The genuine creation of the Midtown South neighborhood requires additional open and green spaces. In the Project Area south of 32nd Street there are currently only three open spaces and four privately owned public spaces. To right size the amount of open space with a more residential future in mind, it is imperative to prioritize the creation of passive and recreational public spaces. (Begazo-02)

Response 5.1: **As described in Task 5, "Open Space," the DEIS will assess the potential for indirect and direct impacts to open space as a result of the Proposed Actions and associated population growth. If impacts to open space are identified, potential mitigation measures will be identified in consultation with the lead agency and the Department of Parks and Recreation.**

6. Shadows

No comments addressing this technical area were made.

7. Historic Resources

Comment 7.1: We request that in tandem with this rezoning proposal, the DCP evaluate properties that have historic or cultural significance and work with the Landmarks and Preservation Committee to ensure that these properties are calendared so that they may be protected from any future demolition. (Levine-13, Bottcher-13, Powers-13)

Response 7.1: **As noted in the DSOW, in consultation with NYCLPC, known and eligible architectural resources in the 400-foot historic resources study area will be identified, mapped, and described. According to the *CEQR Technical Manual*, historic resources can be considered significant if they meet the criteria for listing on the S/NR, established by the U.S. Secretary of the Interior, or criteria for local designation set forth in the New York City Landmarks Law. The S/NR criteria address both historic and architectural significance: a property may be associated with significant events or persons or may be a notable representation of a particular architectural style or the work of an important architect or builder. Similarly, the criteria of the New York City Landmarks Law include historical, architectural, aesthetic, and cultural value. It is outside the scope of this DEIS to list or designate historic resources.**

8. Urban Design and Visual Resources

Comment 8.1: Overall, the theme of our concerns is that the noted architectural character and quality of the built blocks is maintained, and that unnecessarily overly tall buildings don't impede the quality-of-life issues in our neighborhood and create uncharacteristically tall glass pencils. (Devlin-02).

Response 8.1: **As indicated in Task 8 "Urban Design and Visual Resources" of the FSOW, the DEIS will include an analysis of expected changes in urban design and visual character of the study area in accordance with guidance from the CEQR Technical Manual. The DEIS will include three-dimensional representations of the future With-Action condition streetscapes within the project area as part of the preliminary analysis. The CEQR Technical Manual states that the purpose of the preliminary assessment is to determine whether any physical changes proposed by**

the project or action may have the potential to affect elements of urban design significantly and adversely. A detailed analysis will be required if the project changes urban design features so that the context of a natural or built visual resource is altered. The DEIS' Urban Design and Visual Resources chapter will analyze these changes with drawings, maps, renderings, photographs, and photographic montages taken from pedestrian eye level.

Comment 8.2: We have experience that height limits, coupled with high density, does in fact work. Height limits will not hinder development but will reinforce the neighborhood character of the existing Garment Center's early twentieth century loft buildings. (Devlin-05, Chait-11)

Response 8.2: Comment noted.

Comment 8.3: Flatiron and NoMad are pedestrian first neighborhoods that seek further public realm enhancements and infrastructure. DCP should use this rezoning as an opportunity for streetscape enhancements that will positively impact a new residential and pedestrian demographic. We urge the city agencies to prioritize through the reimagination of Sixth Avenue to better balance modes of transportation and safety for residents, visitors, commuters, and workers. (Begazo-03)

Response 8.3: Comment noted. Refer to Response 8.1.

Comment 8.4: DCP acknowledges that the Proposed Actions would "affect a pedestrian's experience of public space." In the Garment District, street walls are a defining architectural characteristic. We ask that you explore implementing height caps in this portion of the Project Area – without compromising on density – to ensure that the built character of this area is maintained. (Levine-10, Bottcher-10, Powers-10)

Response 8.4: Comment noted. Refer to Response 8.1.

Comment 8.5: A maximum of 15 FAR will lead to the demolition of buildings underbuilt to 15 FAR. To address this issue, before proceeding with this proposed rezoning, MCB4 request that DCP produce maps of the existing bulk and density of buildings within the Project Area to illustrate which buildings are underbuilt and overbuilt, both to current and proposed zoning. Therefore, the consequences of the Proposed Actions can be evaluated and understood in the upcoming public review process. (Chait-09)

Response 8.5: Comment noted. Maps of the existing building height and FAR within the Project Area and secondary study area will be included in the DEIS.

Comment 8.6: Under the current proposal, the main concerns regarding Task 8: Urban Design and Visual Resources pertain to view corridors, wind conditions, and building characteristics such as setbacks and streetwall height. A pedestrian's experience of public space contains much more than the elements outlined in the draft scope. Utilizing this rezoning as an

opportunity for streetscape enhancements that will positively impact a new residential demographic is imperative. (Begazo-08)

Response 8.6: Comment noted. In accordance with *CEQR Technical Manual* methodology, the DEIS will assess the potential impacts of the Proposed Actions on the pedestrian experience at street level. Streetscape elements, in addition to a building's street walls are components of the urban design of an area; as such, the impact of the Proposed Actions on these elements that contribute to the vibrancy of the pedestrian realm, will be assessed as part of Task 8, "Urban Design and Visual Resources." If significant impacts are identified, mitigation will be identified, pursuant to FSOW, Task 20 "Mitigation."

9. Hazardous Materials

No comment addressing this technical area were made.

10. Water and Sewer Infrastructure

No comments addressing this technical area were made.

11. Solid Waste and Sanitation Services

No comments addressing this technical area were made.

12. Energy

No comments addressing this technical area were made.

13. Transportation

Comment 13.1: Traffic patterns in the area are worsening. (Ribeiro-03)

Response 13.1: As indicated in Task 13, "Transportation," of the FSOW, the DEIS will identify the potential for significant adverse impacts to traffic as a result of the Proposed Actions. If significant impacts are identified, mitigation will be identified, pursuant to FSOW, Task 20 "Mitigation."

Comment 13.2: The Project Area includes extensive surface level transit infrastructure that makes it well suited for increased residential development. However, with the expected 6,639 residents that this rezoning could bring, more can be done to make public transit reliable, and bike travel safer. We ask that DCP evaluate the need for continuous bus lanes on avenues

where they do not exist, improving bus service east and west on 34th Street, and create - two-way east-west protected bike lanes across the Project Area (Levine-11, Bottcher-11, Powers-11).

Response 13.2: Comment noted. As part of the DEIS, the transportation analysis will incorporate all transportation improvements under construction or planned in the Project Area.

14. Air Quality

Comment 14.1: The area around 36th Street is one of the areas where there is just too much pollution of any kind. (Riberiro-02)

Response 14.1: As indicated in Task 14, "Air Quality," of the FSOW, the DEIS will identify the potential for significant adverse impacts from mobile source (i.e., emissions from vehicles) and stationary sources (i.e., emissions from buildings/industrial sources). If significant impacts are identified, mitigation will be identified, pursuant to FSOW, Task 20 "Mitigation."

15. Greenhouse Gas Emissions and Climate Change

No comments addressing this technical area were made.

16. Noise

Comment 16.1: One issue that I think of critical importance for consideration for the development of this area is the traffic and associated noise with traffic. The amount of traffic and noise associated with that is staggering. (Ribeiro-01)

Response 16.1: As indicated in the FSOW Task 16 "Noise", the DEIS will include an analysis of mobile-source noise (i.e., noise from additional vehicle trips associated with the Proposed Actions). If significant impacts are identified, mitigation will be identified, pursuant to FSOW, Task 20 "Mitigation".

Comment 16.2: I'm writing to express my concern about the lack of concern (or at least a lack of visibility) around noise pollution in the target area for MSMX. Noise is a "silent killer" linked to several concerning negative health impacts. Noise in the Midtown area is pervasive and grossly overlooked by NYC's health and environmental authorities. It's often dismissed. (Ribeiro-04)

Response 16.2: Comment noted. Refer to Response 16.1.

Comment 16.3: The Department of City Planning should seriously investigate the noise problem in the area and propose enforceable mitigation measures that will make the area more attractive

as a residential neighborhood. The primary source of noise in this neighborhood is traffic. Emergency vehicles' sirens also contribute to this issue. (Ribeiro-05)

Response 16.3: Comment noted. As discussed in Task 16, "Noise," of the FSOW, the noise analysis will determine the level of building attenuation necessary to satisfy CEQR requirements (a function of the exterior noise levels) based on the highest L10 noise level estimated at each development site. The building attenuation requirements will be enforced via (E) designations that will be placed on the blocks and lots requiring specific levels of attenuation pursuant to Section 11-15 of the New York City Zoning Resolution and the (E) Rules. The DEIS will include (E) designation language, if necessary, describing the requirements for each of the blocks and lots to which they would apply. Pursuant to Section 123-32 of the New York City Zoning Resolution, new residential dwelling units in the Special Mixed-Use Districts shall be provided with a minimum 35 dBA of window-wall attenuation to maintain an interior noise level of 45 dBA or less with windows closed and an alternate means of ventilation provided.

Comment 16.4: As part of the noise mitigation measures, I suggest the Department of Transportation should consider eliminating parking along West 36th Street. (Ribeiro-06)

Response 16.4: Comment noted. If significant impacts are identified, mitigation will be identified, pursuant to FSOW, Task 20 "Mitigation."

17. Public Health

No comments addressing this technical area were made.

18. Neighborhood Character

No comments addressing this technical area were made.

19. Construction

No comments addressing this technical area were made.

20. Mitigation

No comments addressing this technical area were made.

21. Alternatives

No comments addressing this technical area were made.

D. MISCELLANEOUS

Comment D.1: It is important to keep in mind that regulatory reform is not enough with a tax incentive, and the tax incentive won't work if there's no place to use it. Given the cost constraints associated with converting the affordability requirements that come with MIH, a tax incentive is imperative. (DeCerbo-06)

Response D.1: Comment noted. This is outside the scope of environmental analyses warranted under CEQR.

Comment D.2: Conversions will not be realized, and housing development will not occur without a tax rule from the State to offset the cost constraints associated with developing housing in New York City. (DeCerbo-07, Begazo-05)

Response D.2: Comment noted. This is outside the scope of environmental analyses warranted under CEQR.

Comment D.3: The Flatiron NoMad Partnership generally supports DCP's proposal. (Begazo-01)

Response D.3: Comment noted.

Comment D.4: The Partnership recommends the creation of a public realm improvement fund, concept plan, and a governing body charged with the selection and allocation of funds towards pedestrian realm and transit network projects. (Begazo-04)

Response D.4: Comment noted. This is outside the scope of environmental analyses warranted under CEQR.

Comment D.5: DCP has noted that the majority of the buildings in the project areas were built prior to the 1961 Zoning Resolution with current bulk greater than 12 FAR. Therefore, those buildings will be prime candidates for residential conversion. It is standard NYC DOB practice to permit full conversion to residential use of manufacturing or commercial buildings built prior to 1977, even existing density exceeds an FAR of 12. Therefore, an existing commercial or manufacturing building, for example, built to 16 FAR, could be converted as of right to residential building. MCB4 supports that consequence and result. (Chait-08)

Response D.5: Comment noted.

Comment D.6 DCP noted in their March 13, 2024, presentation to the CHKLU committee that "social services are providing necessary resources, but more support is necessary." In fact, the area contains a significant concentration of existing social service facilities. For example, in a 3-block area between 7th and 9th Avenues, the following social service facilities are located:

- 311 West 35th Street – West Midtown Medical Group (Methadone clinic)
- 255 West 36th Street – ACI Outpatient Services (Substance abuse)
- 330 West 36th Street– Praxis Shelter/Transitional Housing, 100 beds at the Hotel Barbour

- 301 West 37th Street – Housing Works Positive Health Project (Harm reduction center/syringe distribution)
- 347 West 37th Street – Fountain House (Supportive Housing, 30 permanent beds and 12-bed shelter)

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

Please study how to avoid an overconcentration of social services within the Project Area. The City needs to ensure that existing social service facilities are dispersed and not concentrated within a portion of a neighborhood and that they provide quality services --especially in a neighborhood currently managing high drug and street crime activities. (It should be noted that in 2023 Midtown South Precinct (MTS) had 1,280 narcotic arrests, ranking in the top 3 out of New York's 77 police precincts. The majority of arrests have taken place in the 8th Avenue corridor from West 34th to West 45th Streets. (Chait-13)

Response D.6 **Comment noted. This is outside the scope of environmental analyses warranted under CEQR.**

Comment D.7: Whether a building is suitable to convert will depend on a variety of physical and financial considerations unique to each building, and a voluntary tax incentive will be an important part of the financial picture to make a mixed income rental viable. At the same time, since not every former office building will be a suitable conversion candidate, and with the potential for higher residential density, opportunities for new construction should be encouraged as well under MIH, and those new development projects will need a tax tool to complement the new construction. (DeCerbo-08)

Response D.7: **Comment noted. This is outside the scope of environmental analyses warranted under CEQR.**

Comment D.8: The new report from the Mayor's Office of Climate & Environmental Justice shows that a significant part of the MSMX area needs remedial equity and environmental justice actions. Those should be taken into consideration in the planning and permitting of infrastructure for the MSMX area. (Ribeiro-07)

Response D.8: **Comment noted. This is outside the scope of environmental analyses warranted under CEQR.**

Comment D.9 The Garment District today is struggling from the long-lasting impacts of the pandemic. Commercial vacancies, failing retail, and increased crime have diminished the quality of life in the neighborhood, making it difficult to find and retain quality employees. In 2022, I reluctantly moved my company out of the area to a safer, more active neighborhood. (Boxer-01)

Comment D.10: Comment noted.

Comment D.11: I support the MSMX rezoning because it is abundantly clear that the Garment District's reliance on commercial tenants is untenable. For a safer, more economically stable future, the district must be allowed to develop into a 24/7 community with mixed uses that can support each other and bring life to the streets. This can only be accomplished by allowing residential conversions and development to take place. (Boxer-02)

Response D.11: Comment noted.