

**BOROUGH PRESIDENT  
RECOMMENDATION**

**CITY PLANNING COMMISSION  
120 BROADWAY- 31<sup>ST</sup> FLOOR  
NEW YORK, NEW YORK 10271-0001**

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATION NO: N 240010 ZRY, N 240011 ZRY-CITY OF YES FOR ECONOMIC OPPORTUNITY**

**PLEASE SEE ATTACHMENTS**

**RECOMMENDATION**

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary)**

**PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION**

  
**BOROUGH PRESIDENT**

January 8, 2024  
**DATE**



**BRONX BOROUGH PRESIDENT VANESSA L. GIBSON**

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION  
CITY OF YES FOR ECONOMIC OPPORTUNITY  
APPLICATION NUMBERS:  
N 240010 ZRY  
N 240011 ZRY**

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION**

The City of New York's 1961 comprehensive revision to the original 1916 Zoning Resolution remains the cornerstone of our current zoning regulations. Over the past 63 years, our city's approach to addressing quality of life challenges has evolved, reshaping how we navigate life in one of the world's most densely populated and industrious cities. This shift is particularly evident in how we define commercial and manufacturing services and functions. While zoning's fundamental purpose is to separate uses for health and safety, not all uses are equally problematic, and some flexibility may be appropriate.

While I support maintaining the separation of uses where there are potential health concerns, overregulation has limited businesses' ability to expand or locate sensibly, often in ways unintended by the authors of the Zoning Resolution. Recognizing these disparities, the 'City of Yes for Economic Opportunity' now proposes one of the most comprehensive updates to our Zoning Resolution since the 1961 revision.

My overarching observation is that these proposed changes will cut unnecessary red tape, allowing commercial, retail, and manufacturing businesses to grow and adapt based on their needs. This will help reduce the cost of doing business in New York City and expand location options, consequently filling commercial vacancies. As a result, both the local community and larger business community stand to benefit, ultimately fostering the city's growth based on needs rather than stringent zoning regulations. This conclusion aligns with the four fundamental goals outlined in this proposal:

**Goal 1:** Make it easier for businesses to find space and grow by giving business owners more certainty on where they can locate and what they can do in their space.

**Goal 2:** Support growing industries by reducing obstacles for emerging business types.

**Goal 3:** Foster vibrant neighborhoods by ensuring businesses contribute to active, safe, and walkable streets.

**Goal 4:** Create new opportunities for local businesses to open by establishing new zoning tools to boost job growth and business expansion.

While I agree with these goals, I have some concerns and observations regarding the eighteen proposals presented for consideration. To streamline my feedback, I will not give my full thoughts on all the proposals that I generally support as proposed.

**Goal 1: Make it easier for businesses to find space and grow by giving business owners more certainty on where they can locate and what they can do in their space.**

*Proposal 1: Lift zoning barriers to reactivate vacant storefronts.* I have no objection and support this proposal.

*Proposal 2: Simplify rules for types of businesses allowed on commercial streets.* I have no objection and support this proposal.

*Proposal 3: Expand opportunities for small scale clean production.* I have no objection and support this proposal.

*Proposal 4: Modernize loading dock rules to allow buildings to adapt over time.* I have no objection and support this proposal.

*Proposal 5: Enable commercial activities on upper floors.*

I believe this proposal, as drafted, achieves its stated goal, but I have some concerns. My first concern was understanding how residential and commercial activities could co-locate on the same floor. Under the proposal, the zoning will still require a separation of uses because any residential and non-residential uses located on the same floor would be required to have a physical separation between them. In my opinion, this is similar to when a commercial building abuts a residential building, but, under the proposal, any non-residential use would have the added requirement of ensuring that noise is mitigated.

My second concern was how commercial uses may work when located above a residential use. The proposed zoning makes it clear that it will be a very high bar for existing residential buildings to comply with these regulations because any buildings that are not built to eliminate noise will not be able to meet the noise requirement. Additionally, there are requirements for separate elevators which will make it very difficult and expensive for most existing residential buildings to conform to the proposed regulations, making these buildings unable to convert.

However, I believe the more likely outcome of this proposal will be commercial buildings having the flexibility to add residential uses. This is a very positive outcome for the city, especially while we are in the midst of a housing crisis. Based on how commercial buildings are built, it is far more likely that an existing commercial building would be able to meet the noise mitigation requirements. This proposal has the added benefit of creating more opportunities for locating residential uses across the city. In addition to the ground floor, upper floors nearly always command a real estate premium, but commercial uses are generally not permitted on upper floors when there is residential in the building. This proposal will “unlock” the ability for commercial buildings to add residential uses that may not have been permitted in certain situations, for example, if there was a top floor restaurant.

While my first two concerns were addressed, my final concern is on-going, which is ensuring the public understands the requirements for where residential and non-residential uses may locate. Allowing commercial above and on the same level as residential does not mean residential buildings will be permitted to just add these uses without going to the Department of Buildings to get the proper approvals. Requiring that buildings meet these requirements to show compliance with noise mitigation and having separate elevators is a high bar for a reason. Building code rules would also have to be complied with, including showing that the building could handle any increased demand on its electrical systems, that it would meet FDNY capacity requirements, and that it obtained a new certificate of occupancy. The only way this proposal will work is if the city enforces these requirements. So, while I am in support of this proposal, I do so with the caveat that enforcement is paramount.

*Proposal 6: Simplify and modernize use terms that specify where businesses can locate.* I have no objection and support this proposal.

## **Goal 2: Support growing industries by reducing obstacles for emerging business types.**

*Proposal 7: Clarify indoor rules to enable urban agriculture.* I have no objection and support this proposal.

*Proposal 8: Give life science companies the certainty to grow.* I have no objection and support this proposal.

*Proposal 9: Support nightlife with common sense dancing and live entertainment rules.*

This proposal is finally addressing the discriminatory cabaret laws that were repealed while I was in the City Council but still exist in the zoning resolution. In addition, many of the regulations surrounding eating, drinking, music, live entertainment, and dancing are difficult to understand. This proposal will create a set of requirements based on capacity limits for the venue rather than for each of the different use types.

The ongoing concerns raised around nightlife are typically tied to noise and enforcement. While there are no easy solutions, the city needs to do a better job of enforcing noise complaints related to late night entertainment. I recommend that the Mayor's Office of Nightlife proactively identify businesses with noise-related issues and work with them through education, advising on building improvements that would reduce noise pollution, and by issuing violations more aggressively if those efforts fail.

*Proposal 10: Simplify rules so amusements and experiential businesses can flourish.* I have no objection and support this proposal.

*Proposal 11: Enable entrepreneurship for home occupations.*

I believe this proposal will be both well received and criticized depending on how it will impact that person. As technology continues to improve, with remote capabilities being more widespread and normalized, there is an ever-increasing range of businesses that make sense to permit as home-based businesses. Not directly regulating what businesses are permitted or not permitted, but rather

regulating how those businesses impact their neighbors addresses this concern effectively. These small businesses would have limitations on the amount of the home that can be used and would have to have a limited number of employees to avoid foot traffic, but most importantly, they would be required to maintain existing noise requirements.

This is the one proposal that gives me pause because I have some concerns about unintended consequences. While I believe most businesses will be “good actors”, my concerns are for the handful of “bad actors” that will inevitably occur. This proposal also has a low bar for entry because it doesn’t require a certificate of occupancy change for a building. Small businesses and entrepreneurs are incredibly important for our city, and we need to continue to find ways to support them. While I am not fully opposed to this proposal, I am also not in support. I believe there needs to be a limit to the number of people that can be in any home-business, so in addition to the proposed three-employee maximum, I propose there should be a five-person maximum capacity that may be permitted in a home-based business to reduce the amount of regular foot traffic that would occur. Home-based businesses should also identify their business type and register their home address when getting a business license or certificate as well as send an annual notarized letter to the landlord, building management, and tenant association, as applicable, so the building is aware that there is a home-based business operating in the building. This will help target noise complaints and identify any non-tenants in a building so issues can be addressed, as needed. Additionally, to ensure there are no fire safety issues, any business above a certain electrical need should be required to have an electrical inspection to ensure the existing wiring can handle the demand.

**Goal 3: Foster vibrant neighborhoods by ensuring businesses can contribute to active, safe and walkable streets.**

*Proposal 12: Introduce corridor design rules that ensure buildings contribute to surroundings.* I have no objection and support this proposal.

*Proposal 13: Reduce conflict between auto repair and pedestrians on commercial streets.* I have no objection and support this proposal.

*Proposal 14: Encourage more sustainable freight movement by allowing micro-distribution in commercial areas.* I have no objection and support this proposal.

**Goal 4: Create new opportunities for local businesses to open by establishing new zoning tools to boost job growth and business expansion.**

*Proposal 15: Facilitate local commercial space on residential campuses.*

When thinking of this proposal and who it may help, I focus on the residents living in NYCHA housing. Nearly 1 in 17 New Yorkers live in NYCHA supported housing, accounting for over 528,000 residents across 335 conventional public housing and PACT developments.

This proposal would provide a new option for up to 15,000 square feet of commercial use to be located in residential districts when located on a residential campus. While this does extend beyond NYCHA campuses, the proposal is not as-of-right and would require a level of oversight with a

City Planning Commission authorization which would require an environmental review and Community Board referral.

While I do not believe it is within scope, I recommend modifying the text to permit grocery stores upon the granting of a FRESH zoning approval, with the requirement that it is on a campus with affordable housing, regardless of the size of the grocery store. This is a trade-off that makes sense and would create an opportunity to provide fresh food to residents that are living in food deserts. This scope would be limited to FRESH grocery stores as there are specific requirements that would need to be met.

*Proposal 16: Create a process for allowing corner stores residential areas.*

This proposal would have a high bar for approval as it would require discretionary approval from the City Planning Commission through an authorization, an environmental review, and referral to the local Community Board. The commercial use would also be limited to 2,500-square-feet and within 100 feet of an intersection. I believe this is important to create a pathway for these corner commercial uses, such as local bodegas, as there are no options today besides a rezoning of a larger area. I have no objection and support this proposal.

*Proposal 17: Rationalize waiver process for business adaption and growth.*

Given the proposed oversight by the Planning Commission or the Board of Standards and Appeals, I have no objection and support this proposal.

*Proposal 18: Create new kinds of zoning districts for the future.*

This proposal would create new zoning districts that do not exist today for manufacturing uses. There has been a disconnect with the bulk regulations that exist in manufacturing districts today, and this text will add additional options for what may be needed. While none of the new districts will be immediately applicable because these zoning districts do not yet exist anywhere in the city, I am encouraged that the city is working to keep good paying manufacturing jobs here in New York by creating these new zoning options. In order for any of these zoning regulations to apply, they would need to go through a rezoning with a full ULURP. I have no objection and support this proposal.

In conclusion, I want to commend the Department of City Planning for their commitment to finding ways of streamlining the current zoning regulations while maintaining zoning's core intent to protect public health, safety, and general welfare. Urgently addressing outdated zoning ordinances is crucial to support local businesses that are vital to our city and neighborhoods.

I want to thank Mayor Adams and Department of City Planning Director Dan Garodnick for their leadership in supporting and advancing this important proposal and I recommend approving these applications, with my observations and modifications included.