

**MAS Comments to the NYC Planning Commission on the Gowanus Neighborhood Plan and Environmental Impact Statement—CEQR No. C210177 ZMK**

August 9, 2021

The Municipal Art Society of New York (MAS) has closely examined every neighborhood rezoning under the de Blasio administration. Through our advocacy we have learned that each one presents a unique set of circumstances and challenges. This is most certainly true with Gowanus. The proposed rezoning puts the Gowanus community at the doorstep of substantial changes that could transform the neighborhood. It is this potential transformation that requires the City to pay special attention to a host of conditions unique to Gowanus that should be addressed to ensure a successful project.

Calls for racial impact studies to accompany neighborhood rezonings began during the early stages of an anticipated rezoning of Southern Boulevard in the Bronx to address displacement risks and reckon with racial disparities through the use of data. Just last month, Public Advocate Williams' racial disparity report legislation passed with support from nearly every Councilmember but will not go into effect until mid-2022. In January 2021, Councilmember Lander committed to performing some version of a racial impact study for the Gowanus rezoning area prior to a decision. We commend Councilmember Lander for supporting this urgent measure and for looking at the rezoning proposal with consideration of other programmatic, policy, and investment strategies that can help advance neighborhood priorities.

The City has touted the Gowanus rezoning as an opportunity to introduce new affordable housing in a wealthier and whiter neighborhood. Increasing affordable housing is a critical goal. However, Mandatory Inclusionary Housing (MIH) is a blunt tool that increases the production of market rate *and* affordable housing units without bringing about real housing choice, which is essential in Gowanus. As a result, many New Yorkers continue to be excluded from neighborhoods throughout the city, and struggle to remain in their communities of choice.

Under the banner of affordability, the rezoning is poised to bring 8,000 new housing units and 20,000 new residents to Gowanus without assuring that the neighborhood has the infrastructural capacity to take on this level of growth. At this juncture, midway through the public review process, crucial tools remain missing from the proposal. Among these are a failure to demonstrate a cohesive and transparent level of coordination between the City and the EPA regarding the Gowanus Canal cleanup, lack of specificity regarding incentive strategies to achieve the Gowanus MIX, and no substantial school plan to prevent imminent elementary school overcrowding. Perhaps most worrisome, the proposal still omits NYCHA from the affordable housing strategy and the City has not yet committed to funding capital repairs on the campuses directly adjacent to the rezoning area.

There are many well-thought-out elements of the neighborhood plan that we support: an ambitious Waterfront Access Plan, the Gowanus MIX, a new public elementary school, and 100 percent affordable housing on a City-owned site. However, we find that the rezoning follows a familiar path other neighborhood rezonings have taken, exposing deficiencies in the City's environmental review process to adequately estimate future development and the likely impacts, and the ineffectiveness of using rezonings as a tool to implement and codify a carefully crafted neighborhood plan.

Without real commitments to address fundamental neighborhood planning issues and environmental constraints, and specific strategies to implement community planning goals, the proposal falls far short of what we see as sound planning. Sound planning can address systemic issues, from racial to environmental disparities, and increase access to opportunity for all residents regardless of income. Sound planning prepares communities for a more livable future by advancing housing choice, improving water and air quality, acknowledging and mitigating flood risk, and ultimately creating stable neighborhoods with access to quality jobs, great parks and schools, and varied transportation options. Although the Plan, if implemented to reflect community planning goals, may achieve a brighter future for Gowanus, the current rezoning proposal hasn't gotten it right yet.

### **Accuracy of Development Projections**

In our extensive coverage of city rezonings, MAS has demonstrated that CEQR development projections for large-scale neighborhood rezonings are often unreliable representations of future development. This is particularly true with potential development sites within rezoning areas, which due to unique site conditions or other development encumbrances, are assumed to be less likely to be developed than projected development sites within a project build period. Moreover, under CEQR, these sites are typically not evaluated for environmental impacts. Following this pattern, the reliability of the development projections identified in the Gowanus rezoning Draft Environmental Impact Statement (DEIS) are of great concern. The Reasonable Worst Case Development Scenario (RWCDs) scenario, the maximum development expected under the rezoning, has been modified since the release of the Draft Scope of Work (DSOW) to include a total of 63 projected and 70 potential development sites. The increase in allowable density under the rezoning would leave 90 percent of the lots on the potential development sites with more than 50 percent of their development rights unused. Not only would this make these sites riper for development, if development were to occur, its impacts would not be evaluated in the CEQR analysis. This would leave the Gowanus community to contend with the unintentional consequences of this development on school utilization, stormwater/wastewater infrastructure capacity, transit, open space, and other important planning considerations.

Our previous work has also shown potential sites and unidentified sites, including those within a rezoning area not identified for potential development at all under CEQR, often get developed due to zoning lot mergers, development right transfers and additional zoning waivers and variances. For

Gowanus, in addition to the potential development sites, 578 lots within the rezoning area are not identified for future development. This means that in total, 83 percent of the lots in the rezoning area do not factor into the environmental impact evaluation. Therefore, to provide the public with a more reliable forecast of future development and to avoid past miscalculations under neighborhood rezonings, we urge the City to include the full build-out analysis for all 70 potential development sites in the FEIS.

#### **Stormwater Management and Environmental Clean-up Coordination**

The Department of Environmental Protection's (DEP) recently issued Unified Stormwater Rule (USR), which updates on-site stormwater management requirements citywide, will go a long way to achieving Net Zero combined sewer overflow (CSO) into the Gowanus Canal. This is a huge benefit to the Gowanus area, which has historically been saddled with poor stormwater management infrastructure contributing to increased discharge of raw sewage and polluted run-off into the Canal. The USR increases the amount of stormwater required to be managed on-site and restricts the release rates for all new and redevelopment projects that require a DEP or site connection. The installation of detention tanks on required sites will slow discharges into the Canal. While we are encouraged by the USR, the rezoning must ensure that Net Zero CSO flow is maintained as the area becomes more developed and the impacts of climate change increase over time. Without the USR in place, CSO volumes are expected to increase by 3 million gallons per year, according to the DEIS.

Because the URS is not slated to go into effect until 2022, no site sewer connection permits should be issued in the rezoning area until that time. In addition to the benefits of the USR, we believe the City can do more in Gowanus to reduce present and future flows and improve stormwater quality by including permeable pavement, vegetative buffers, and encouraging the construction of green roofs in the rezoning area. We expect more details on how the rezoning would incorporate these approaches in the FEIS.

Starting with the DSOW, MAS has emphasized the need for the City to follow through on its responsibilities in transparent coordination with the EPA regarding the Gowanus Canal federal clean-up. We are encouraged by the progress the EPA has made in the process thus far with dredging activities. In terms of the City's responsibilities to improve stormwater infrastructure per the 2013 EPA Record of Decision, the recently released Administrative Order by the EPA, which sets a timetable for the City to complete the procurement of property and construction of two CSO storage tanks along the Canal, should help facilitate the process. However, it is incumbent on the City to fulfill the requirements of the Order. The Order should also help provide the public with certainty regarding the CSO sewer infrastructure construction schedule.

The FEIS should summarize how the City will meet the EPA's requirements with future development under the rezoning in mind. This information should include how the improvements will ensure developers comply with municipal stormwater regulations within the Gowanus area to prevent sewer volume from impairing the effectiveness of the new tanks, provide treatment for separated stormwater discharges, perform monitoring of sewer discharges to ensure protection during dredging, perform associated maintenance dredging if needed, and construct a bulkhead on City-owned property to prepare for the second phase of dredging.

### **School Capacity**

Despite new school capacity projects in the area in recent years, the influx of new residents in Gowanus would undeniably lead to new district-wide school overcrowding in the near future. The data and methodology used in the DEIS leave many baseline questions unanswered. The document reaches conclusions about future utilization rates without disclosing from where the numbers were derived. Without publishing subdistrict-level enrollment numbers, the DEIS predicts that in a future without the rezoning, enrollment and utilization will fall in all three local school subdistricts. It is unclear how these decreases in enrollment and utilization were calculated. Because of the decline in future enrollment projections lowers the baseline for calculating the incremental change under the rezoning in the CEQR evaluation, it is critical that the FEIS provides all pertinent information and figures down to the subdistrict level.

Additionally, there is a discrepancy in the DEIS regarding the capacity that the new elementary school for the Gowanus Green development would add. The DEIS notes this school would add 500 seats to its subdistrict's capacity, leading to a future surplus of a mere 16 seats and a capacity of 99.8 percent, just under full capacity. However, the DEIS states this school may add only 455, in which case future enrollment would exceed full capacity.<sup>1</sup> The FEIS must address the different enrollment figures used and clarify how the real capacity figure would impact the district utilization rates.

It is unclear how and to what degree the proposed strategy would meet future demand. The plan offers little in terms of concrete plans to alleviate future capacity demand on area schools. To avoid a repeat of the school overcrowding and segregation caused by the Fourth Avenue rezoning in 2003, the Gowanus rezoning proposal should include a proactive, integrated housing *and* school construction agenda that prioritizes equal opportunity.

The one school planned under the rezoning is the elementary school in the Gowanus Green development. Unfortunately, the plan does not come with commitments from the School Construction

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<sup>1</sup> *Gowanus Neighborhood Rezoning and Related Actions, Draft Environmental Impact Statement*  
CEQR # 19DCP157K: Chapter 4, Table 4-7, p. 4-10.

Authority (SCA) to construct the school, and no zoning or admissions plans are posted at this time. To ensure that the new school contributes to continued area-wide integration, we recommend that:

- DCP coordinate with the Department of Education (DOE) and other city agencies to achieve strategies that continue and expand upon diversity initiatives like DOE's Diversity in Admission program for a robust set-aside admission plan prioritizing ELL students and students from low-income households or in temporary housing, and
- DOE assesses the potential for the new elementary school to be unzoned. Unzoned schools are general education public schools where priority is not given to students in their school zone but are open to applications from the entire district.

### **Open Space**

MAS is pleased with the level of thought and consideration that has gone into the Waterfront Access Plan (WAP) for the Gowanus Canal. The WAP envisions a waterfront that is accessible, resilient, and includes a variety of active and passive recreational opportunities. However, the plan will not be enough to address Gowanus' severe shortage of public open space, which would worsen with the rezoning.

Currently, Gowanus has only 0.34 acres of public open space per 1,000 residents, less than 14 percent of the City goal of 2.5. The proposed rezoning would result in 5.46 acres of new publicly accessible open space including a 1.48-acre park at the Gowanus Green Site and 3.98 acres of publicly accessible waterfront open space. According to the DEIS, the combination of limited new open space and an influx of additional residents would cause the area's open space ratio to fall by an additional 1.45 percent, thereby creating a significant adverse impact. The area's active open space ratio would decrease even more, by 2.66 percent.

Moreover, the decline in these ratios may be more pronounced than the DEIS predicts. This is because the DEIS includes in its analysis future open space that appears to be located beyond the residential and non-residential study areas. Specifically, in the non-residential study area (the area within a quarter mile of the project area), the DEIS includes the eight-acre Pacific Park as open space when it appears to be completely beyond the study area. The park includes almost a third of the non-residential study area's open space acreage, leading to the conclusion that the area's open space ratio will rise and even exceed the City's goal with the rezoning. Further, Pacific Park is included in the analysis of the residential study area (the area within a half-mile of the project area), even though much of the park is outside this area. This has a similar effect in terms of raising total, active and passive open space ratios, thus minimizing the projected impact of the rezoning on the residential study area population.

Due to the current and future shortage of area open space and the importance of accurate analyses to the determination of significant adverse impacts, MAS requests the following:

- A revised proposal that includes significantly more open space within the study area and leads to a meaningful increase in the area's total and active open space ratios. The Gowanus Canal Conservancy has identified up to 5.7 acres of additional City-owned land where this new public open space could be accommodated. Their proposal must be strongly considered.
- A thorough explanation for determining that Pacific Park should be included in the residential and non-residential study areas. This should include a detailed open space plan for the Pacific Park development overlaid on the census tracts and study areas. Additionally, the numbers of residents and workers contributing to the residential and non-residential study areas by the Pacific Park development should be disclosed.
- A detailed plan for how the City will ensure that the private sector builds waterfront space that feels continuous and meets the ambitious requirements for recreational space. All too often we have seen waterfront spaces that are disjointed and poorly designed and maintained. This includes the crumbling Whole Foods esplanade along the Gowanus Canal itself.

### **Fair Housing**

While proponents assert that the proposal would ensure racial and economic integration, more coordination and sound planning is needed to meaningfully increase housing choice, affordable housing development, and to dismantle segregation. To do so, the City must increase housing choice options for all residents of Gowanus--extremely low-, low-, and middle, and high-income earners--rather than continue to emphasize MIH as the sole tool for advancing middle-income affordable housing units. At the same time, increasing housing choice options and the goals of fair housing require the City to address historic, systemic issues that have led to the current inequities of the Gowanus neighborhood. It can do this by taking proactive steps to expand the housing stock while making equitable investments to address historic discrimination, segregation, and concentrated poverty.

As stated in our previous testimony, we urge the City to expand the Gowanus rezoning boundary to include the three adjacent NYCHA campuses: Gowanus Houses, Wyckoff Gardens, and Warren Street Houses. The City cannot plan for new affordable housing in the area without comprehensively addressing the legacy of NYCHA neglect. The omission of all NYCHA residences from the study area further highlights the limits of rezonings to adequately assess, plan, and strategize for a more integrated neighborhood. Although this proposal touts bringing new affordable units to a higher-income, amenity-rich neighborhood, equal weight must be given to increase housing choice for the most vulnerable neighbors.

We agree with Councilmember Lander that the rezoning must also generate significant investment to meet the capital needs at the three nearby NYCHA campuses.<sup>2</sup> To that end, the City needs to commit

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<sup>2</sup> <https://council.nyc.gov/brad-lander/planning-for-infrastructure-in-gowanus/>

substantive funding, investments, and improvements to these facilities, and implement place-based and mobility strategies to improve access to opportunity, reduce disparities, and increase housing options, including the choice to stay within the neighborhood. The exclusion of the NYCHA campuses further discounts the district transfer of development rights model proposed by the Pratt Center for Community Development. This additional zoning tool would designate NYCHA sites as granting sites and allow for an added revenue source to fund needed improvements, independent of NextGen redevelopment and privatization programs such as PACT/RAD. If the City chooses not to include the NYCHA campuses in the rezoning plan, they must, at a minimum, disclose information concerning the choice not to pursue this additional funding approach for NYCHA improvements.

### **Southwest Brooklyn IBZ**

We are discouraged to see that the DEIS still excludes the Southwest Brooklyn Industrial Business Zone (IBZ) from the primary and secondary study areas, leaving potential impacts of the proposed land use actions on this vital employment center unevaluated and unmitigated. The DEIS should include a comprehensive study of the potential impacts of the proposed land use changes on the IBZ. In response to concerns and feedback from business owners in the IBZ and the Southwest Brooklyn Industrial Development Corporation (SBIDC) on the DSOW, DCP in May released the Gowanus Industrial Business Zone Vision Plan. Although the vision plan identifies and outlines opportunities for infrastructure improvements and workforce development, it is a guide that offers optional strategies, not a codified land use plan supported by explicit commitments from the City.

### **Public Engagement**

Effective public engagement is critical to any large-scale neighborhood rezoning. However, the pre-certification ULURP public meetings organized by the DCP in late 2020, offered little new information, and thus were an unfortunate missed opportunity to effectively engage with the community during the pandemic. Participants voiced frustration about the lack of details provided, especially regarding critical infrastructure needs magnified by the pandemic. DCP's facilitators denied requests for more insight into the DEIS, citing the document's ongoing development. Prior to these pre-certification meetings, we urged the City to encapsulate input from these meetings in a report in advance of the DEIS release and ULURP certification. This was not done. Without that report, it is difficult to determine the efficacy of the engagement effort and the degree to which the DEIS responds to critical community feedback. We urge the City to include a summary of the critical input from these meetings in an appendix in the DEIS.

### **Conclusion**

In our examination of rezonings under Mayor de Blasio, despite the neighborhood-to-neighborhood nuances, we continue to observe a pattern of missed planning opportunities, flawed environmental impact findings, and inadequate engagement. Over the last eight years, public criticism has focused on the concentration of rezonings in lower-income and communities of color, the administration's failure to

incorporate neighborhood planning strategies, and a lack of data around underlying community disparities and displacement risk.

As one of the last two neighborhood rezonings to be certified under the de Blasio administration, we recognize the substantial undertaking and complexities the Gowanus rezoning poses for the City. While there are many elements we find encouraging, the rezoning as proposed is not set up to achieve the most important planning goals for the Gowanus community.

Before we can support the proposal, MAS urges the City to commit to addressing the critical neighborhood planning issues we have outlined and adopt strategies to implement community-identified goals. This is the best approach to ensure that community planning efforts over the last decade are not overshadowed by the City's desire to meet MIH goals. We seek transparency in the coordination efforts by the City and the EPA regarding the ongoing environmental remediation process and stormwater infrastructure improvements. We respectfully request a substantial increase in the quality in development projections and evaluations in the FEIS so that the Gowanus community is not beset for generations with the unintended consequences of a flawed CEQR evaluation.

Thank you for the opportunity to comment on this critical neighborhood rezoning.