

February 7, 2024

## **MAS Comments on Green Fast Track for Housing**

As part of the effort to take on the housing crisis, the City seeks to expedite the approval of certain small- and medium-sized housing projects for private applicants by exempting them from City Environmental Quality Review (CEQR) through a rule change called Green Fast Track for Housing (“Green Fast Track”). The proposal is predicated on reducing unnecessary and costly review time for projects that would otherwise have little effect on the environment, resulting in the faster construction of much-needed housing citywide.

If Green Fast Track ultimately cuts wasteful red tape and leads to the construction of more housing without burdening our neighborhoods with undue adverse impacts on transit, schools, and other infrastructure, it is a rule change that MAS supports. However, as often is the case with well-intended proposals, Green Fast Track warrants a closer examination to ensure that unintended consequences can be avoided, and its goals effectively met.

### **The Rule-Making Proposal**

Green Fast Track would allow projects of up to 250 housing units in higher density residential zoning districts (R5 to R10) and up to 175 units in lower density residential districts (R1 to R4) that meet certain density-related and site-specific criteria to be newly categorized as Type II projects under CEQR. Type II projects are considered minor projects that do not carry the potential to result in environmental impacts or require further evaluation before advancing to the Uniform Land Use Review Procedure (ULURP), the City’s public land use review process. Green Fast Track would also exempt housing proposals of up to 250 units in manufacturing districts so long as they are part of a Board of Standards and Appeals (BSA) decision to authorize housing or an agreement with Department of Housing Preservation and Development (HPD).

To be eligible for exemption, projects must adhere to density-related criteria including maximum sizes for community facilities and commercial uses. It collectively limits these uses to no more than 30,000 gross square feet (GSF) in the higher density districts and no more than 20,000 GSF in the lower density districts. Green Fast Track also carries site-specific prerequisites. The project exemption applies to sites and projects that: will not use fossil fuels for heat and hot water, will not be located within a Special Coastal Risk District<sup>1</sup>, do not contain natural resources, and will not exceed 250 feet in height (50 feet if adjacent to a public park or sunlight-sensitive architectural resource).

Green Fast Track also comes with built-in protections to address impacts involving hazardous materials, noise, and air quality, which are typically evaluated during the CEQR process and regulated through zoning environmental controls called (E) designations that are placed on rezoned sites. If a site does not have an (E) designation for hazardous materials, a Phase I environmental site assessment must be performed to identify existing hazardous conditions, and either written approval from the CEQR lead

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<sup>1</sup> New York City has six designated Special Coastal Risk Districts. These include Broad Channel, Hamilton Beach, and Edgemere, Queens, specific buyout areas in Staten Island, and Gerritson Beach in Brooklyn.

agency, usually the Department of City Planning (DCP), that further review is not needed or that a hazardous materials mitigation plan has been accepted.

Agency signoffs will be required to address noise impacts for sites in proximity to elevated railways and airports. Applicants must provide the City with outdoor noise sampling showing compliance with applicable local and state regulations. In lieu of meeting these conditions, applicants can agree to the establishment of an (E) designation for noise pursuant to the City's Zoning Resolution.

To address air quality impacts, applicants for sites close to existing air emission sources (i.e., smokestacks) must provide documentation proving compliance with applicable state and federal emissions regulations. Green Fast Track would not exempt sites adjacent to arterial highways, tunnel vents, or those within 1,000 feet of an air emissions source with a state facility permit. Written determinations will also be required from the Landmarks Preservation Commission confirming that projects would not have impacts on historic properties and districts, or archeological resources.

### **Methodology**

Thresholds used in Green Fast Track were established based on a review of over 500 housing projects approved by DCP, BSA, and HPD from 2013 to 2023. Of this sample, 94 percent were determined by these agencies to not result in any significant impacts. The 250-housing unit threshold also finds precedent in criteria established under the State Environmental Quality Review Act (SEQRA), upon which CEQR is based.<sup>2</sup>

### **Recommendations and Questions**

Over the past several years, MAS has spearheaded advocacy efforts to strengthen CEQR estimates of future development and the disclosure of comprehensive impacts of land use decisions on city neighborhoods. From this viewpoint, we have the following recommendations to strengthen Green Fast Track.

#### *Conduct a Pilot Program*

Even with the rule changes, a significant amount of agency oversight is still needed. With this in mind, we request that the City pass the proposed rule changes with a built-in pilot program so that there is an opportunity to assess whether application review time is actually saved, and whether potential impacts of projects are avoided.

#### *Increase Floodplain Restrictions*

Exclude sites in the current and future flood plain (the year 2100) from Green Fast Track. The City should be encouraging development outside of these vulnerable areas. By only restricting projects within the six designated Special Coastal Risk Districts, the proposal does not go far enough to protect people and property from climate change risks.

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<sup>2</sup> Under SEQRA, one threshold for determining Type 1 actions, those that are likely to result in significant adverse impacts and require further evaluation, is an action that would result in 1,000 units in a city or town with a population of 1,000,000 or more persons. Depending upon the location of projects in proximity to historic resources, natural resources, and public parks, the 1,000-unit threshold is decreased to 25 percent, or 250 units.

### Require Type II Memos

Because Type II actions do not require further analysis, we are concerned that this may leave the public, community boards, and other interested parties with insufficient information about projects that affect their neighborhoods. This is particularly important because applicable Type II projects would still have to go through ULURP. We recommend the City provide Type II memos that include at least the rationale for its determinations that no impacts would occur and correspondence with involved agencies tasked with providing written determinations about hazardous materials, air quality, noise, and historic resources.

### Demonstrate Compliance with Local Law 97

Excluding projects that use fossil fuels supports the City's efforts to achieve carbon neutrality. It is a sensible requirement. However, we recommend the City go further and require projects subject to CEQR, regardless of whether they would be listed as Type II actions, to demonstrate how they would comply with Local Law 97 and include a life-cycle energy analysis that considers comprehensive energy demand for demolition and material costs of construction. In doing so, the City would also be disclosing the environmental benefits of a project.

### Remove Exemptions in Manufacturing Districts

MAS believes manufacturing districts are vital to the City's economy and need to be protected. Between 2007 and 2015, the City lost over 4,000 acres of manufacturing –zoned land due to rezonings.<sup>3</sup> We ask the City not to exempt residential development in manufacturing districts under the proposal.

### Evaluate Cumulative Impacts

How would the cumulative impacts of multiple projects occurring in the same area at the same relative time be evaluated if individually they would be listed as Type II actions under the new rules? This is particularly important when considering impacts on traffic, public school capacity, transit, and open space.

### Prevent Segmentation

Green Fast Track could create opportunities for applicants who own large sites to deliberately keep multiple housing projects under the 250-unit threshold or phase projects over a short time period to avoid or segment the CEQR process. Has the City identified mechanisms to prevent this from occurring?

From a larger CEQR perspective, one way to address cumulative impacts and avoid potential segmentation is for the City to use Generic Environmental Impact Statements or programmatic environmental reviews, which are done at the federal level under the National Environmental Policy Act (NEPA). A programmatic review can address the impacts of multiple ongoing, planned, or reasonably foreseeable projects occurring in the same area at the same relative time.

### **Conclusion**

Green Fast Track demonstrates the City's commitment to closing the current housing gap that burdens New Yorkers. As a leading advocate for CEQR reform, MAS recognizes the effort that DCP, the Office of Environmental Coordination (OEC), and others have undertaken to reduce wasteful review of projects that do not have the potential for impacts. Given that a fair amount of agency oversight is still needed

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<sup>3</sup> <https://citylimits.org/2018/04/03/with-de-blasio-rezonings-citys-scarce-industrial-land-becomes-scarcer/>

for housing projects that would be listed as Type II actions under the new rules, it remains to be seen if Green Fast Track will effectively reduce review time. Constructively, we hope our recommendations for improving the proposal are given ample consideration. We look forward to continuing the conversation on this important rule change.