

August 22, 2024

Municipal Art Society of New York Comments on the City of Yes for Housing Opportunity Zoning Text Amendment (ULURP No. N240290ZRY)

Introduction

The Municipal Art Society of New York (MAS) supports the overall goal of the City of Yes for Housing Opportunity zoning text amendment to increase housing opportunities through citywide incremental zoning changes. There are many promising aspects to COYHO that support housing production by distributing contextual residential density across the city and expanding it through different building types, particularly in underperforming, low-density residential neighborhoods. However, as profoundly unaffordable as New York has become, zoning reform alone will not solve our housing crisis. The challenge is finding the nexus of planning, incentives, and state and city funding that can put the city in the best position to grow and meet the needs of New Yorkers, particularly those most heavily burdened by escalating rents and other housing costs.

MAS is encouraged to see town center zoning, transit-oriented development, provisions for accessory dwelling units (ADUs) and universal affordability preference (UAP) included in the proposal. We also support zoning changes to spur office to residential conversions, the elimination of parking requirements, and the expansion of landmark development right transfers (TDRs). However, for COYHO to reach its goals, we would like to see a comprehensive planning approach to campus infill, additional funding for ADUs, and clarity on the full potential of office-to-residential conversions. These and other issues are addressed below in our comments and recommendations.

General Comments on COYHO

Restrictive and outdated zoning regulations have played a role in impeding housing production, contributing to the current housing crisis. In response, COYHO offers a host of incremental citywide zoning changes—collectively the most significant zoning amendments in over 50 years—designed to add “a little more housing in every neighborhood.” COYHO seeks to unlock the long-neglected “missing middle,” modest three to six-story buildings that are comparatively less expensive to build but have been prohibited by zoning since 1961. In low-density residential areas of the city, some of which were subject to downzoning under previous mayoral administrations, COYHO would also unlock moderate amounts of floor area, particularly near transit stops and in commercial corridors, which could add to the city’s housing supply.

Housing Production Under COYHO

Given the magnitude of the housing supply problem and the attention given to COYHO, the projections of 109,000 incremental units by 2039—7,300 per year—are rather modest.¹ The projections also show that only 20 percent, approximately 22,000 of the new housing units would be affordable. Other than the voluntary incentives provided under UAP and office conversions, there are no guarantees that

¹ City of Yes for Housing Opportunity – Draft Environmental Impact Statement, Appendix B: NYC Housing Market Study p. 7.

housing produced under the COYHO will be affordable. While the City does not purport that COYHO will solve the city's housing woes and we understand that it is not the only tool with which to generate housing, our recommendations below address ways the proposal can be improved and supplemented to maximize housing production.

Accessory Dwelling Units (ADUs)

Easing zoning barriers to allow property owners in low-density residential districts to add ADUs is a low-impact way to expand housing options to family members, seniors, young adults, and workers. ADU programs have been implemented in several states including California, Connecticut, Oregon, and Washington.² However, ADUs are expensive to construct, which could be a major obstacle. Costs in New York State range from \$30,000 to 324,000 depending on the type of ADU.³

We are encouraged by the recent announcement that the City will provide \$4 million in financial assistance and technical support for up to 20 homeowners to add ADUs through an extension of the Plus One Accessory Dwelling Unit Program (Plus One). The original Plus One program, which provided HPD grants of up to \$395,000 to 15 homeowners, attracted more than 2,800 applicants.⁴ It is clear more financial assistance will be needed for ADUs to be a viable way to add up to 40,000 dwelling units as projected.⁵

MAS urges the City to do the following:

- Publish the results of the expanded Plus One program, including type of construction, locations, and costs once the homeowners have completed their ADUs.
- Based on the results of Plus One, work with HPD and other funders to extend the benefits in a long-term program.
- Clarify how ADU construction will be regulated and enforced to ensure that homeowners are using the program to create new housing units and not just expanding their homes.

Transfer of Development Rights from Landmarks

MAS supports expanding the transfer of development rights (TDRs) from individual landmarks to low-density residential districts and historic districts, allowing transfers to zoning lots across a street or intersection from a landmark. Considering how infrequently the Landmark TDR Program has been used, the high cost of maintaining landmarked properties, and the continual development pressure involving landmarks, we believe this change is long overdue. However, we have the following recommendations about how landmark TDRs should be regulated:

- If a property owner receiving landmark development rights seeks bulk modifications to accommodate the additional floor area, a special permit should still be required for the following reasons:

² <https://www.governing.com/community/the-role-of-adus-in-easing-americas-housing-crisis#:~:text=In%20this%20environment%2C%20state%20policymakers,the%20forefront%20of%20these%20efforts.>

³ <https://www.gatheradu.com/adu-cost-calculator>

⁴ <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/adu-term-sheet.pdf>

⁵ <https://citylimits.org/2024/08/06/new-funding-for-accessory-apartments-touted-as-tool-for-housing-older-new-yorkers/>

- TDRs from landmarks could have a significant impact on neighborhoods in terms of urban design and shadows on open space and historic properties, especially in historic districts. Potential impacts should be evaluated.
- Elected officials, community boards, and community members in affected neighborhoods should be able to provide input as part of the full public review process that a special permit affords.
- If an owner of a site receiving landmark development rights does not seek bulk modifications, an authorization from CPC should be required so the local community board can provide input.

Office Conversions

MAS supports the zoning changes that would allow office-to-residential conversions of buildings constructed before 1991, expanding the geographic applicability for conversions citywide, and enabling conversions for a wider variety of housing types (i.e., shared living spaces). This is a sensible way to unlock space for housing, not only in Manhattan, but in underused or vacant office buildings in low-density areas citywide. However, it is unclear how much housing could be expected with the changes or how affordable it would be given the physical and financial challenges of conversions.

Housing Production from Conversions

According to the Manhattan Borough President’s Office,⁶ conversions under the COYHO could produce 6,000 units over the next 15 years. However, other than the two examples of conversions included in the DEIS (Prototypical Site 7-1 & 7-2), there is very little information in the DEIS or the included housing market study to support this projection. If the Manhattan Borough President’s projections are correct, 400 units a year produced through office conversions seems very low.

We have the following recommendations:

- The FEIS should include the methodology used and the projections for how many units could be produced through office-to-residential conversions and the findings from the citywide inventory of vacant and underutilized office buildings that could be converted.

Affordability

Over the years there have been several office-to-residential conversions completed in Manhattan’s Financial District, but most if not all have produced luxury housing units far out of reach for most New Yorkers. In addition, given the interest of developers in the City’s Office Conversion Accelerator Program, we can expect more high-priced units with conversions.⁷ As part of the housing deal passed in this year’s State budget, property owners who convert office space to residential would get a significant tax break so long as twenty-five percent of new units are set aside as affordable at a weighted average of 80 percent AMI. However, it is unlikely that enough developers will enter the program to make a dent in the affordable housing deficit. We urge the City to explore additional incentives (i.e., floor area bonuses) for developers to provide affordable housing with office conversions.

Campus Infill

Of all the COYHO proposals, allowing infill of campuses of 1.5 acres or more could be most impactful in terms of housing production, but it also poses a complex planning challenge. To allow infill, COYHO removes height factor regulations that produced the tower in the park development style which characterizes most NYCHA and other campuses such as Stuyvesant Town–Peter Cooper Village,

⁶ <https://www.manhattanbp.nyc.gov/wp-content/uploads/2024/07/COY-Housing-Report-V4.pdf>

⁷ <https://gothamist.com/news/64-office-buildings-in-nyc-could-become-new-housing>

throughout the city. COYHO also amends regulations to reduce the distance between buildings to 40 feet for buildings below 125 feet, 80 feet for buildings above 125 feet, and expand allowable building coverage to 50 percent of a lot.

Comprehensive Planning Approach Needed

NYCHA campuses, collectively, include over 2,400 acres of open space and comprise 75 percent of NYCHA land. However, studies have shown that 88 percent of the open space is inaccessible to NYCHA residents due to security issues, fencing, and poor maintenance.^{8 9} A few ways for the City to approach NYCHA campus infill is to draw upon the agency's previous urban design and open space planning efforts and community engagement as part of the NYCHA Connected Communities Initiative, particularly the Open Space Masterplan. These efforts involved a comprehensive reevaluation of open space with significant input from NYCHA residents to identify the community's open space needs and desired design outcomes in campus rehabilitation.¹⁰

MAS recommends the following:

- Formation of a task force that includes NYCHA officials and residents to oversee infill proposals based on the Connected Communities Initiative Guidebook.
- Draw upon the NYCHA Open Space Masterplan to conduct an independent infill feasibility study to assess existing open space for developability, preservation, improvements, and other factors.
- Use the results of the infill feasibility study to engage and inform NYCHA residents on design guidelines for new buildings and open space improvements, landscaping, stormwater management systems, and resiliency measures.
- Ensure that infill does not hinder the use of Federal and State Historic Tax Credits for listed properties on the National and State Register. These tax credits have proven to be a useful tool in securing funding for necessary property upgrades.
- Expand TDRs from NYCHA campuses – MAS supports the Regional Plan Association (RPA) recommendation to expand the scope of COYHO by allowing for the transfer of development rights from NYCHA campuses, similar to the expansion of TDRs from landmarks. RPA's research shows that an estimated 78 million square feet of unused development rights owned by NYCHA cannot be transferred outside NYCHA blocks due to zoning limitations. The revenue derived from an expanded TDR program could support capital improvements and produce additional housing.
- Affordability Requirements – Establish affordability requirements commensurate with Universal Affordability Preference for new infill housing and allow a certain percentage of NYCHA residents to move into new buildings.

Tower In the Park Building Form (Non-NYCHA Infill Development)

In terms of infill development on non-NYCHA property, the COYHO changes will significantly impact the intent and design of the tower in park building form. Tower in park design is prevalent in many New York City neighborhoods that house the city's lower middle-class and middle-class residents, such as Lefrak City in Corona, Queens, and Lafayette Estates in Soundview, Bronx. Residents in similar large-

⁸ <https://www.aiany.org/architecture/featured-projects/view/new-york-city-housing-authority-open-space-master-plan/>

⁹ <https://www.studio-ah.org/projects/nycha-open-space-study/>

¹⁰ In the Masterplan process, NYCHA residents cited open space as critical to creating a sense of community, strengthening trust and social ties, and improving safety. It also highlighted the need for better security, waste management, more outdoor events, and better ways to engage young and elderly residents.

scale residential developments deserve comprehensive and meaningful engagement with decision-makers on the design of future infill projects. Since many of these developments are designed with urban design goals that should be respected when infill proposals are considered, we urge the City to anticipate stakeholder concerns with more nuanced planning and resulting text changes.

Comments on the DEIS Analytical Framework

Analyzing the impacts of a citywide zoning text amendment as complicated as COYHO is a challenge. Creating future development scenarios for the analysis involves a significant amount of hypothesizing. We are comfortable with the use of development prototypes rather than a standard buildout analysis typically used for neighborhood rezonings or large-scale developments. However, as a disclosure document, the basic analytical framework in the DEIS is profoundly confusing.

Dividing the Reasonable Worst Case Development Scenario (RWCDs) tables into multiple prototypes would be less perplexing if the DEIS included a summary table showing a breakdown by building type of the amount of housing units produced with and without the zoning changes. Furthermore, unlike the individual environmental assessment chapters, the RWCDs tables in Chapter 2 do not include “totals” rows, forcing readers to do their own calculations. We expect these issues to be rectified in the FEIS.

We do find the annotated zoning text to be very helpful for such a complex proposal. We urge DCP to include similarly annotated zoning text amendment changes in environmental documents for all future zoning actions.

Conclusion

COYHO is a highly ambitious plan that alternately brings back zoning regulations from the past and introduces new ideas in the name of creating housing. As wide-ranging as COYHO is, MAS recognizes that producing housing through zoning is not the simple recipe to quell the urgent need for housing. In a deeply unaffordable city like New York, addressing the housing crisis also requires a comprehensive and multi-faceted approach that synthesizes a broad range of City and State incentives, funding tools, and above all, sound planning.

COYHO arrives at the same time as the lifting of the residential FAR cap and approval of 485-x, the State’s new real estate tax incentive program. How effectively the City addresses the housing crisis will largely depend on how deftly it uses these new tools. In any event, the City must approach these opportunities holistically, providing support for communities by ensuring that social and physical infrastructure meets neighborhood needs when density increases and best ensuring that the housing needs of all New Yorkers are considered.

Thank you for the opportunity to comment on this vitally important proposal.
Sincerely,



Elizabeth Goldstein

President

The Municipal Art Society of New York