

# 27

## Responses to Comments on the DEIS

This document summarizes and responds to comments on the Draft Environmental Impact Statement (DEIS) for the M1 Hotel Text Amendment project published on April 23, 2018.

City Environmental Quality Review (CEQR) requires a public hearing on the DEIS as part of the environmental review process. Oral and written comments were received during the public hearing held by the New York City Department of City Planning on July 25, 2018. Written comments were accepted from issuance of the DEIS through the close of the public comment period, which ended on August 6, 2018. **Appendix A.9** contains the written comments received on the DEIS.

Section 27.1 lists the elected officials, organizations, and individuals that provided relevant comments on the DEIS. Section 27.2 contains a summary of these relevant comments 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 chapter structure of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together.

## List of Elected Officials, Organizations, and Individuals who Commented on the DEIS

### Elected Officials

1. Bronx Borough President Ruben Diaz Jr., letter dated July 20, 2018.
2. Manhattan Borough President Gale A. Brewer, written statement dated July 2, 2018, and testimony dated July 25, 2018 (Brewer)
3. Manhattan Borough Board Recommendation dated July 2, 2018
4. Queens Borough Board Recommendation and Queens Borough President Melinda Katz, July 18, 2018 (Katz)
5. Steven Matteo, City Council Minority Leader, written statement dated July 25, 2018 and spoken testimony dated July 25, 2018 (read by Peter Spencer) (Matteo)

### Community Boards

6. Bronx Community Boards 2, 3, 5, 7, 8, 9 and 10.
7. Brooklyn Community Boards 1, 2, 8, 10, and 17.
8. Manhattan Community Boards 1, 2, 3, 4, 5, 10, 11, and 12.
9. Queens Community Boards 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, and 14.
10. Staten Island Community Boards 1, 2, and 3.

### Organizations and Interested Public

11. Armando Moritz-Chapelliquen, Association for Neighborhood Housing and Development, spoken testimony (read by Lucy Block) and written statement dated July 25, 2018 (ANHD)
12. Real Estate Board of New York, spoken testimony by Paimaan Lodhi and written statement dated July 25, 2018 (REBNY)
13. Ian Dunford, New York Hotel and Motel Trades Council, spoken testimony and written statement dated July 25, 2018 (Dunford)
14. Darryl Hollon, Brooklyn East Industrial Account Manager, Business Outreach Center Network, spoken testimony and written statement dated July 25, 2018 (Hollon)
15. Jiong Gu, spoken testimony (Gu)
16. Gene Kaufman, spoken testimony and written testimony dated August 1, 2018 and August 6, 2018
17. Robin Kramer, representing 25 West 39th LLC, written statement dated July 18, 2018 and spoken testimony dated July 25, 2018 (Kramer)

## Comments and Responses on the DEIS

### Comments Received in Support of the Proposed Action

The following Community Boards voted to approve the Proposed Action: Bronx CB 3; Bronx CB 5; Bronx CB 7; Bronx CB 8; Bronx CB 9; Bronx CB 10; Brooklyn CB 2; Brooklyn CB 8; Brooklyn CB 10; Queens CB 1; Queens CB 2; Queens CB 3; Queens CB 4; Queens CB 10; Queens CB 11; Queens CB 12; Manhattan CB 3; Manhattan C 12;

The following organizations and members of the interested public submitted testimony in support of the proposed action: ANHD [with modifications], New York Hotel & Motel Trades Council (represented by Ian Dunford), Business Outreach Center Network (represented by Darryl Hollon).

### Comments on the Purpose and Need for the Proposed Action

- c.1 **The rezoning as proposed has no merit as planning policy. Manufacturing jobs in the City have dropped by over 90 percent since 1950 and are now only 2 percent of the workforce but M districts still comprise 14 percent of the land. (Kaufman) Hotels and construction in M1 are less than 1 percent of the buildable area in M1 districts. So who can say that hotels have taken away opportunities from other permitted uses? (Kaufman)**

As stated in **Chapter 1, "Project Description,"** of the EIS, Light Manufacturing zoning districts – M1 zones – have emerged as areas of opportunity, presenting some of the City's last reservoirs of buildable land. It is critical that the vacant and underdeveloped sites in these neighborhoods are available to other uses better equipped to fulfill neighborhood development objectives and needs, given that hotels may accelerate neighborhood change with the expansion of tourism-oriented uses. A CPC Special Permit is not a complete ban on hotel development; rather, it would allow consideration, on a site-specific basis, of the appropriateness of hotel development.

As of 2014, the City's M districts supported an estimated 314,000 jobs in 17,000 firms and a substantial share of these jobs are in non-industrial sectors like food services, healthcare and retail. More recent employment trends in M1 districts point to the development of office-based sectors (Bureau of Labor Statistic, QCEW); these include traditional office users such as financial services, legal services, real estate, as well as other high-growth sectors that depend heavily on human capital and creativity, including technology, advertising, media, and information. Therefore, the claim that M1 districts do not have demand for office space is flawed.

At the same time, while there has been little growth in manufacturing, other industrial sectors – such as construction, transportation/warehousing, and wholesale – are growing, and manufacturing districts are generally the only places that they can locate. For example, between 2010 and 2016 in Brooklyn and Queens, 64% of new jobs in transit-accessible light manufacturing districts were in non-industrial sectors.<sup>1</sup> Many of these businesses have been

---

<sup>1</sup> NYS Department of Labor. Quarterly Census of Employment and Wages (QCEW), 2016.

attracted to under-utilized industrial lofts that can be converted to create more flexible spaces than those available in established business districts.

- c.2 **The study for this proposal has rampant omissions and faulty reasoning. At a minimum, the vote should be delayed until the analysis can be corrected. (Kaufman) In this report, no distinction is made between M1-6 (10 FAR) districts in Manhattan and M1-1 (1 FAR) districts in Queens. No distinction is made between areas where hotel rates are \$150 or less or where they're \$500 or more. (Kaufman) Banning affordable M1 hotels in Brooklyn and Queens and forcing new hotels into the expensive Manhattan market means new hotels will be only for the wealthy. (Kaufman) This proposal discriminates against not only 62.8 million visitors and the businesses that depend on them, it discriminates against middle-class Americans, minorities, people of color, who will be priced out of coming to New York City. Instead, it is a gift to hotel owners, who will increase their prices to astronomical levels, aided by last week's ban on Airbnb, which increased demand by 30,000 rooms, which are not factored into this report. (Kaufman) Since special permits were required in Tribeca and Midtown East, not a single hotel has been proposed or built; the special permit is in effect, a ban. (Kaufman)**

While the *NYC Hotel Market Analysis: Existing Conditions and Ten-Year Outlook*, referenced in the EIS as the **Consultant Report**, did not specifically consider FAR allowances in various M1 districts across the city, DCP does not believe that this detail has a meaningful effect on the report's findings. As noted in the **Consultant Report**, while zoning and the ability to develop hotels as-of-right do play a role in driving hotel growth in certain areas, interviews with hotel developers and other stakeholders that were undertaken as part of the report revealed that zoning and land use are overshadowed by other factors—primarily access to transit and amenities and proximity to Manhattan (for locations outside Manhattan). This is reflected by the fact that 75 percent of hotel rooms built in M1 districts outside Manhattan between 2008 and 2017 are located in just four clusters (excluding JFK Airport)—Long Island City, Jamaica, North Brooklyn, and Gowanus. Long Island City is the largest of these clusters, accounting for almost 17 percent of hotel rooms in M1 districts outside Manhattan. However, half of all of the hotel rooms delivered in Long Island City during this period are located in the paired M1/R districts (where hotel development would continue to be allowed as-of-right under the proposed action), likely due to these areas' better access to the transportation hub at Queens Plaza.

The proposed action does not “ban affordable M1 hotels in Brooklyn and Queens” but allows for the City Planning Commission (CPC) to more carefully evaluate the impact of proposed hotel projects in light manufacturing areas citywide on a case-by-case basis. The EIS recognizes that this action could result in fewer hotels being developed in M1 districts (see **Chapter 1, “Project Description,”** and **Chapter 3, “Socioeconomic Conditions”**).

As described in **Chapter 1, “Project Description,”** of the EIS, it is expected that under the proposed action, some hotel development may shift from M1 districts to nearby commercial districts or mixed-use districts to meet residual demand. Many of these commercial and mixed-use districts have FAR allowances that are similar to the FAR allowance in the M1 districts to which they are proximate. For example, in Long Island City, much of the existing M1 district is M1-4. Nearby mixed-use districts where hotel development would continue to

be allowed as-of-right under the proposed action are zoned M1-5/R9, M1-5/R7 and M1-4/R6.

**Chapter 3, "Socioeconomic Conditions,"** of the EIS does state that the proposed action could potentially result in less hotel development in certain submarkets or a shift in the production of certain hotel products, which potential effects were determined not to be significant.

The commenter's note that the proposed action will discriminate against middle class Americans, minorities and people of color by pricing them out of the hotel market is not supported by the data. There are currently (as of June 2018) 15,000 Economy Class (see the **Consultant Report** for definition of "Economy Class" and other hotel typologies) hotel rooms in the five boroughs (amounting to 12 percent of total supply), of which only 17 percent, or just over 2,700 rooms, are in M1 districts. When one examines just the hotel inventory that has been delivered in M1 districts between 2007 and June 2018, 11 percent of the rooms are Economy Class compared to 57 percent that are Upscale or Luxury Class.

**Chapter 3, "Socioeconomic Conditions,"** notes that the typology of hotels built since 2007 in M1 districts in the four boroughs outside Manhattan is skewed heavily toward Economy and Midscale Class hotels, with 31 percent of the hotel room inventory being Economy and 47 percent being Midscale. However, this is not drastically different from the distribution of all hotel rooms built since 2007 in all zoning districts outside Manhattan, where 20 percent are Economy and 43 percent are Midscale.

**Chapter 3** also acknowledges that the proposed action may result in some shift in hotel typology distribution; however, there should still be outlets for budget options in low density commercial areas like C2 and C8 districts.

The commenter states that the proposed action would restrict hotel supply. While some future projects are likely to be discouraged by the additional time and costs engendered by the special permit process likely resulting in less hotel development in M1 districts, it is expected that future hotel development will shift to nearby commercial and mixed-use districts to accommodate the residual demand that is not met by those hotels currently in the construction pipeline. Because there would still be significant areas in all five boroughs where hotels could be constructed as-of-right, including in those submarkets that have seen the largest concentration of new hotel development, it is expected that new hotels will be built to meet projected demand over the next decade.

Based on Smith Travel Research (STR) inventory, the **Consultant Report** distinguishes hotel typologies, using a six-tier categorization system based on room rates. And as of the first quarter of 2017, midscale hotel rooms now make up the second largest segment of the hotel inventory, which has doubled in the past decade. Furthermore, NYC's hotel market has diversified over the years, with four boroughs outside of Manhattan comprising a significant share of the rooms in Economy and Midscale class.

Furthermore, the **Consultant Report** is an estimate and projection of what the future hotel market will look like based on recent trends. A CPC Special Permit allows for additional consideration to achieve more balanced neighborhood growth throughout the City and to ensure hotels are built only on appropriate sites in M1 districts.

- c.3 **There is insufficient data to support the claim that zoning in the M1 districts gives hotels a competitive advantage over most other permitted uses and detracts from opportunities for other kinds of development. (REBNY) In fact, the market shows this is not the case. There has been virtually no construction of buildings designed for manufacturing uses, the demand for Class A office space is not in the areas where M1 districts are located, and the market is not constructing new Class B and C office space. (REBNY) The Final Scope, page 3, that “hotels benefit from a business model that can maximize the value of permitted height and floor area ratios in M1 districts” but omits the Draft Scope’s unsupportable continuation “giving such development an additional advantage over other uses permitted in M1 districts”. However, the attitude of Final Scope that hotels function as “precluding” other types of development remains one of perceived unfairness, that hotels appear to be successful but that there has been little or no development for industrial uses since at least the Second World War. Despite M1 hotels being relatively new, the Final Scope attempts to place responsibility for the roughly 70-year continuous decline in industrial uses and land use at the feet of these few hotels. The contention that hotels are more able to use smaller sites or that assemblages are needed for other conforming uses is not substantiated. (Kaufman)**

In recent years, M1 districts have emerged as one of the last areas of opportunity in the City and these areas have become critical in accommodating growth, not only for industrial or manufacturing uses, but for commercial or institutional growth.

As highlighted in *New York Works*, Mayor de Blasio’s 2017 plan for workforce expansion, the City’s economy is thriving (NYC Office of the Mayor, 2017a). More than 300,000 jobs have been created since 2014, and unemployment is as low as 4 percent. These unprecedented employment increases have occurred through a more intensive use of existing office space and the creation of new space, but there continues to be demand for additional commercial square footage.

However, the supply of Class A and B office spaces is limited. Accordingly, businesses and institutions are increasingly looking to M zones, particularly those near transit or highways. Between 2008 and 2015, private sector employment increased by 2,357 jobs, many of these in the healthcare and social-assistance sectors, as well as many office-based uses in the professional, scientific, and technical service sector (Bureau of Labor Statistics, QCEW).

Moreover, approximately 43 percent of the City’s M1 districts, excluding airports, may be considered “active” industrial areas and DCP considers these areas as prime locations for the expansion of industrial uses.

Furthermore, the proposal addresses not only the amount of developable area, but also the potential for land use conflicts associated with commercial hotels.

In active industrial M1 districts, there is a potential incompatibility issue between hotel development and active industrial uses, which generate – to varying degrees – increased noise and traffic, pollution and other irritants. New residences are not permitted in industrial districts, and hotels, which allow transient occupancy, pose similar challenges in these districts. Hotels produce increased foot- and automobile-traffic and nuisance-generated complaints, which have the potential to interfere with the activity and productiveness of industrial and manufacturing facilities.

In the more mixed-use M1 districts, hotels may directly or indirectly impede opportunities for other kinds of development and drive the expansion of other tourism-oriented uses, rather than uses better equipped to fulfill neighborhood objectives and needs.

Please also see response to Comment 1.

**c.4 The contention that the “proliferation” of hotels in M1 districts is “problematic” is not substantiated:**

- › **Given the minute amount of hotel development relative to the available zoning area, hotels are not proliferating.**
- › **Hotels do not create land use conflicts but instead greatly improve the neighborhood where they are located, raising the profile and making the area more attractive for investment.**
- › **There is no substantiation of what the land use conflicts are or how hotels create a concentration of “tourism-related uses”. (Kaufman)**

**Chapter 3, “Socioeconomic Conditions,”** of the EIS states:

“Concerns regarding hotel development in M1 districts vary, ranging from potential land use conflicts with active industrial businesses, effects on neighborhood character resulting from rapid growth of hotels in certain M1 districts, and lost opportunities for development of a greater diversity of commercial and industrial uses.”

The concerns described in this sentence are concerns that were raised during the consultant team’s interviews with a diverse group of stakeholders, including the leadership of business improvement districts, economic development officials, community and business leaders, and developers, in order to inform the **Consultant Report**. The **Socioeconomic Conditions** chapter notes these concerns to establish a context for the proposed action.

New York City’s land area is zoned into residential, commercial, manufacturing, and mixed-use districts. As noted in **Chapter 1, “Project Description,”** of the EIS, residential districts are the most prevalent zoning districts in NYC, accounting for almost 60 percent of the City’s buildable land. Due to land use characteristics, however, residence districts are generally not appropriate locations for significant commercial or industrial development. The City’s commercial districts today permit a wide range of uses. However, commercially-zoned land represents only 4 percent of the City’s lot area and many of these districts are already densely developed. This indicates that there may be less available opportunity in commercial districts to accommodate the demand for new business development generated by the needs of a growing population. Accordingly, light manufacturing districts have emerged as areas of opportunity for existing businesses seeking to expand and remain in the city as well as for new businesses.

Between 2007 and 2017, there had been a discernable trend of increased hotel development in M1 districts, particularly in the boroughs outside of Manhattan where 40 percent of the hotel rooms that had come online had been located in light manufacturing districts. For instance, the boroughs outside Manhattan have a higher percentage of their rooms in M1 districts. Therefore, a CPC special permit would be helpful in considering, on a site-specific basis, the appropriateness of a hotel development in M1 districts to address potential

incompatibilities among uses and to direct growth towards various other employment sectors.

Please also see response to Comment 3.

- c.5 **The City has taken a piecemeal and opaque approach to regulating new hotels by applying a hotel special permit requirement throughout the city, including central locations like East Midtown and the Garment District where hotel development should be encouraged. (REBNY) The City should state its position on as-of-right hotel development. (REBNY) Further, the City needs to undertake a comprehensive study of the impact of recent land use actions on the hotel industry, instead of the segmented analysis provided in the Consultant Report. (REBNY) The Consultant Report fails to make a case for the need for the special permit. (REBNY)**

As-of-Right hotel development is not appropriate everywhere. As actions come before the City Planning Commission, it is sound planning to review the appropriateness of as-of-right hotel development in the context of the goals and objectives of local land use actions affecting specific neighborhoods, such as East Midtown, which was studied as part of the Greater East Midtown rezoning, adopted in August 2017.

Furthermore, this citywide proposal would not prohibit hotels in M1 districts, but would simply subject them to the CPC Special Permit requirement. Since 2010 and as discussed in some detail in the EIS, there has been rapid increase in hotels in M1 districts, particularly in areas near transit, due to a rapid growth in tourism in New York City. Given the increasingly diminishing stock of buildable land in NYC, with most being located in M1 districts, more careful thought about hotel development in these areas is appropriate.



- c.6 **The hotel industry is a critical linchpin to our city's tourism economy, and it is vital that hotel development not be constrained. In total, the 60 million tourists a year sustain more than 375,000 jobs across the city. These figures are expected to rise as 1.5 million additional tourists are estimated to visit next year. The proposed action is an unnecessary constraint on the rights of property owners to address a market condition that needs no correction, and it appears to be motivated by factors unrelated to sound planning. It is unclear why the City is advancing a proposal that will impose heavy restrictions on hotel development, and the Hotel Study submitted fails to make a case for its need. We respectfully request that the City Planning Commission not support this zoning proposal in its current form. (REBNY) Everybody knows we have 63 million visitors every year; we are one of the best cities in the world to visit. Tourists bring a lot of money into the city, \$42 billion spent last year, and that number is going to keep on increasing. One out of every four dollars a tourist spends in New York City, they spend on lodging, which means that the other three dollars are going towards other things: restaurants, bars, and that just helps to create more jobs in NYC for everybody else. Now, they say that RevPAR is going down, and that's a problem. That's a problem for the hotel developer to deal with; it's not for the City to deal with. If hotels actually have a problem with room rates, then people will stop developing hotels. You don't need a special permit to restrict them. (Gu) The first thing an international tourist looks at is airfare, and the second is how much a hotel room costs every night. If we can offer them a beautiful at \$150, \$200 a night, they're going to want to come here, and bring their dollars here, to spend their money, and that's good for everyone. That creates more jobs. (Gu) By inhibiting hotel development, hotel rates will skyrocket, pricing many travelers out of the NYC market. This is a significant adverse impact. (Kaufman)**

The **Consultant Report**, appended to the EIS, is forthright and detailed about the significant role that hotels and tourism play in the New York City economy.

**Chapter 3, "Socioeconomic Conditions,"** of the EIS finds that the proposed action is not projected to impose heavy restrictions on hotel development nor to have a significant adverse impact on the hotel industry in New York City. While the proposed action would likely result in fewer hotels being developed in those areas primarily zoned for light manufacturing, large areas of the city—including the submarkets that accommodate the majority of new hotel development in New York City—would continue to be available for hotel development on an as-of-right basis.

Construction of new hotel rooms in M1 districts does appear to have slowed over the past two years, particularly in the boroughs outside Manhattan. However, the trend over the past decade has been a significant increase of new hotel development in light manufacturing districts, particularly outside Manhattan. In some M1 districts, this has led to concern about potential land use conflicts with active industrial businesses and the pricing out of manufacturing and industrial businesses that cannot compete with hotel developers. The proposed action would allow the CPC to more carefully evaluate the impact that individual proposed new hotel projects may present in specific neighborhoods within M1 districts.

The commenter notes that, if revenue per available room (RevPAR) is falling, then hotel development will slow on its own. The **Consultant Report** concurs with this observation as it projects that the past decade's unprecedented expansion of hotel supply in New York City

will slow over the coming decade as supply and demand reach equilibrium and RevPAR flattens.

While hotel occupancy rates continue to rise in New York City, citywide average daily room rates, as of the end of 2017, are the lowest they have been since 2011. During that same period, almost 27,600 hotel rooms were delivered citywide. As stated in **Chapter 1, "Project Description,"** of the Final EIS, updated (as of June 2018) hotel inventory and pipeline data show that there are currently 20,200 rooms under construction that would not be impacted by the proposed action. In addition, there are over 17,000 hotel rooms in varying stages of pre-construction and approximately one-third of these rooms are proposed to be in M1 districts.

The City recognizes the importance of the tourism industry in the city's economy and the role hotels play in supporting that economy. In addition, the City also recognizes the importance of other growing sectors, such as professional services, and the unique land use needs of businesses necessary to a well-functioning economy, such as construction and distribution. The M1 districts are an important resource for the growth of these sectors and the hotel special permit will allow for a greater balancing the space needs of the city's diverse and growing economy.

Moreover, the rapid increase in hotel development of the last 10 years has significantly increased the supply of rooms in the city and, as noted, is sustaining a record 60 million tourists a year. The introduction of the hotel special permit is not expected to reduce the inventory of rooms and would therefore not be expected to significantly affect the levels of visitation.

- c.7 The DEIS does not demonstrate that there is a need for the proposed special permit, particularly not for hotels that are under construction. (Kramer) The DEIS assumed a growth rate of tourists beginning in 2016 of approximately 1.7 percent annually; in fact, NYC visitors grew by 4.7 percent from 2016 to 2017. The NYC Comptroller's Quarter Economic Update for the First Quarter of 2018 states that the hospitality market increased by 2.7 percent over the same period in 2017. The DEIS discusses the increase of 300,000 jobs in NYC since 2014 to demonstrate the need for additional commercial space, but fails to mention the industries in which such growth occurred. A report from the NYS Comptroller's Office indicates that since 2009, the leisure and hospitality industry has accounted for one-fifth of job growth with only small changes in the manufacturing sector. The continued growth in AirBnB further demonstrates the demand for accommodations for visitors. There is a shortage of land for many uses, particularly residential uses, throughout many part of NYC; if that is really a concern, perhaps M1-1 zones should be rezoned to allow residential uses. But this is not evidence that hotels should be limited, particularly in Manhattan, where manufacturing will not be returning. The current proposed changes to the Special Garment Center District is further evidence of this. (Kramer)**

While New York City visitor numbers increased steadily since 2010, the projected growth rate of tourists is only an approximation and we cannot predict that this growth of tourism will continue, as much of it depends on international and domestic market dynamics that are unforeseeable. However, given the land use rationale and potential incompatibility of

commercial hotels in M1 districts, this proposal would allow for additional consideration of the appropriateness of hotels on a site-specific basis.

While this proposal is irrelevant to M1-1 zones being rezoned to allow residential uses, growth in NYC is constrained by a limited supply of developable land, and balancing land use needs for housing and businesses is more difficult than ever before. Thus, it is all the more important for allow CPC Special Permit to have discretion over hotels to be built only on appropriate sites.

Please also see responses to Comments 4 and 6.

- c.8 The commonly understood underlying reason for the M1 hotel special permit (and all other hotel special permit rezonings) has been the political influence of the hotel works union in its attempt to curb free market competition with non-union hotels. This elephant in the room should be subject to study and exposed or laid to rest. (Kaufman)**

Many constituents, from industrial business advocates to civic groups concerned about neighborhood character, have publicly expressed concerns about the rapid development of new hotels in light manufacturing districts. Although hotel labor unions are among those who have expressed concerns, zoning is based upon land use considerations, not the level of unionization.

The purpose of the proposed action, as stated in the EIS, is to allow for more balanced neighborhood growth, thus facilitating the growth of viable industrial businesses in core industrial areas, while encouraging growth of other kinds of commercial, and in conjunction with rezonings, residential, uses in other light manufacturing districts. Given the increasingly diminishing stock of buildable land in NYC, with most being located in M1 districts, more careful thought about hotel development in these areas is appropriate.

- c.9 To address issues related to unaligned street walls does not require a special permit related to use but can be addressed by modifying height and setback regulations. (Kaufman) The stated concern about neighborhood and streetscape is ironic because most M1-1 and M1-2 districts are predominantly eyesores, one-story warehouses, empty lots, and abandoned, wrecked cars. (Kaufman)**

Comment noted. Please see **Chapter 1, "Project Description,"** of the EIS for a full explanation of the purpose and need for the proposed action.

## Comments on the Analytical Framework

- c.10 **There is no evident methodology as to how the prototypical sites were selected or what makes them prototypical. The “prototypical” sites include some of the least prototypical sites one can imagine. Most glaring is the 20’ wide, 15.0 FAR Lexington Avenue site that is meant to represent all of Manhattan hotel development sites. Not only does this site produce too few keys to attract a major brand, the 20’ wide site is so narrow that the hotel guest room layout will be so negatively impacted, and the construction cost so huge for a 355’ tall sliver, and the efficiency (gross square feet per guest room) low, that this project is likely not feasible and would not be built with market rate land costs, if the owner did not already depreciate the land cost down to near zero. The other prototypical sites are also problematic in that they are not representative of NYC conditions. Surely, they do not “ensure that the possible effects of any development are entirely understood and analyzed” (page 29). (Kaufman) The prototypical sites were arguably chosen because they may not trigger further analysis. (Kaufman) The DEIS concludes that “most of the developments under the With-Action condition would be smaller in size than the No-Action condition.” For Development to occur and reduce the size from existing conditions should be explained. (Kaufman) The conceptual analysis site is also not prototypical. (Kaufman) Land prices should be considered in determining where hotels will relocate with the proposed action. (Kaufman)**

The prototypical site selection, as detailed in **Chapter 1, “Project Description,”** of the EIS, was from an analysis of the geographic submarkets, which determined the locations where a shift in hotel development from M1 districts to commercial or mixed-use districts is most likely. A few of the criteria in determining the sites were proximity to Midtown and Downtown Manhattan, access to direct subway service, presence of services, and existing clusters of hotels. However, beyond the general selection of areas that fulfil the stated criteria, the exact location of future hotel rooms cannot be projected, as it depends on many other factors that cannot be anticipated.

Given the numerous possibilities for future development of hotels, a detailed, quantitative analysis of these potential developments and their environmental impacts in a site-specific manner would be very speculative. As such, this is a generic, city-wide action and the potential impacts of the hotel development by means of a prototypical analysis is the most reasonable projections for the future. The chosen prototypical sites have attributes to reflect the diversity of variables and ensure that the potential impacts of any development are entirely understood and analyzed. As explained in the EIS, since the proposed action would not change any rules regulating as-of-right development outside of M1 districts, the prototypical sites are assessed to describe the possible effects of shifting from one use (such a different commercial or residential use) in the No-Action condition to a hotel use in the With-Action condition.

In the No-Action and With-Action conditions for four of the prototypical sites (Jamaica, South Slope, Downtown Brooklyn, and Williamsburg) the observed reduction in buildings size is generally the result of developments containing non-hotel commercial, residential, and/or community facility uses shifting to developments solely occupied by hotel uses. For these four prototypical sites the zoning permits greater amounts of floor area for residential

and or community facility uses than for commercial uses. In the No-Action condition the floor area for these uses were maximized to a reasonable extent resulting in larger buildings than those in the With-Action condition which only utilize the lower permitted maximum floor area for commercial uses.

- c.11 **Rather than the prototypical sites, the EIS should analyze recent hotels in M1 and outside of M1, as the typical sites to be reviewed and determine if, for the ones in M1, they would have been granted a special permit as is, a special permit with conditions, or denied a special permit. (Kaufman)**

As noted in response to Comment 10, the prototypical sites were identified based on an analysis of the geographic submarkets, which determined the locations where a shift in hotel development from M1 districts to commercial or mixed-use districts is most likely. The EIS analyzes the potential environmental effects of these prototypical developments consistent with the technical guidance of the *CEQR Technical Manual*; the EIS is not an appropriate place to assess historical hotel development within New York City.

- c.12 **The count of in-construction and pre-construction pipeline for hotel rooms should be redone. (Kaufman) Incredibly, it claims that the 24,200 rooms and the “no action in construction” pipeline will provide nearly 90 percent of all hotel rooms needed over the next 10 years and therefore predicts that hotel development will drop by 90 percent. This rezoning attempts to prohibit what the report says will happen anyway. (Kaufman)**

The **Consultant Report** relied on hotel construction pipeline data from the NYC Department of Buildings (NYCDOB) and augmented by data from NYC & Company and the DCP. This data, as of the second quarter of 2017, showed a hotel pipeline of 276 properties comprising 37,986 rooms both under construction and in varying stages of pre-construction. 24,200 rooms had already received construction permits. The consultant team and DCP received updated data from NYCDOB in August 2018. This updated data, as noted in **Chapter 1, “Project Description,”** of the Final EIS, and viewable in the **Consultant Report Amendment** in **Appendix A.1**, showed a total of 287 hotel properties comprising 37,300 rooms under construction or in pre-construction, with 20,200 of those rooms permitted for construction.

To project future hotel room demand, the 2017 **Consultant Report** relied on visitation projection data provided by NYC & Company and the US Travel Association for leisure travel projection and data from the NYC Mayor’s Office of Management and Budget’s 2017 Budget and Financial Plan projections and the NYC Metropolitan Transportation Council’s 2045 Regional Transportation Plan’s non-agricultural employment projections for business travel forecasting. Since the release of the **Consultant Report** and the Draft EIS was completed, the consultant team reviewed updated forecasts and calculated in the **Consultant Report Amendment** that these translate into an annual average demand growth of 1.7 percent for New York City overall between 2017 and 2020 and 1.9 percent between 2017 and 2028.

Applying these growth rates to current hotel room demand (which is determined by looking at current room supply multiplied by current occupancy rate), the **Consultant Report Amendment**, updated through June 2018, calculated a future total hotel room demand of 146,500 hotel rooms citywide in 2028. This is compared to the 120,300 hotel rooms in New York City as of June 2018 and represents a 22 percent increase in supply. Subtracting the

existing 120,300 rooms and the 20,200 rooms currently under construction leaves an unmet demand of 6,000 hotel rooms citywide between 2018 and 2028. As reflected in the EIS, the proposal would not prohibit hotels but would subject them to a special permit. A CPC Special Permit involves a case-by-case, site-specific review process, with findings that the CPC must make in order to grant the permit. The findings are not intended to be high barriers to development; rather, they are primarily based on assuring compatibility between a hotel development project and the surrounding area.

- c.13 **The EIS frequently repeats that “it is impossible to predict the universe of sites where development would be affected by the proposed action and the proposed action is analyzed as a ‘generic action’.” The admission of impossibility in predicting the consequences of the proposed rezoning should give pause to any such action, or at least spur more rigorous, complete and open analysis by a group more capable of making predictions than the one who confesses to his task, and presumable its results, being “impossible”. The generic action is a regulated category of land use that avoids the more comprehensive and stringent analysis for a specific action. Given the admission that the generic analysis cannot predict the consequences of the proposed action, it is imperative that a non-generic review with all pertinent data be conducted. (Kaufman)**

Consistent with *CEQR Technical Manual* guidelines, the proposed action is analyzed in the EIS as a “generic action” because of its broad applicability. As noted in the *CEQR Technical Manual*, a generic EIS is useful when the details of a specific action cannot be accurately identified, as no site-specific project has been proposed, but a broad set of further projects is likely to result from the agency’s action. It is appropriate for the promulgation of new regulations, such as the proposed text amendment. As noted in previous responses, there are areas where hotel development would continue to be allowed as-of-right under the proposed action; the EIS analyzed prototypical development for these sites to reflect the modest shift to these areas that is anticipated to occur. The EIS also includes a conceptual analysis of a development that will seek the special permit.

- c.14 **The claim that the proposed action will “affect the location, but not the amount or type, of future hotel development” is likely untrue. The proposed action will result in fewer hotels in less centrally located areas, which will reduce the number of moderately priced hotel rooms. (Kaufman)**

The **Socioeconomic Conditions** chapter of the EIS states as a principal conclusion that the proposed action “could potentially result in less hotel development in certain submarkets or a shift in the production of certain hotel products, potentially affecting the availability and cost of accommodations in certain submarkets.” The chapter also acknowledges that, while M1 districts in Manhattan accommodate a diverse range of hotel product, in the boroughs outside Manhattan, the typology of hotels built in M1 districts since 2007 is heavily skewed toward Economy and Midscale. The EIS’s socioeconomic conditions analysis finds that there may likely be a shift in the typology breakdown of hotels as a result of the proposed action but that there should still be outlets for budget options in lower density commercial areas like C2 and C8 districts.

It is unlikely that the proposed action would result in hotels having to locate in less central or accessible areas as most of the largest hotel submarkets—including Midtown Manhattan, Lower Manhattan, Downtown Brooklyn and the mixed-use zoning districts near Queens Plaza in Long Island City—would continue to allow hotel development as-of-right.

**c.15 The use of 2028 as an analysis year does not recognize the cyclical nature of the hotel business. (Kaufman)**

As discussed in the *CEQR Technical Manual*, for some generic actions where the build-out depends on market conditions and other variables, the build year cannot be determined with precision; a build year ten years in the future is generally considered reasonable for these actions as it captures a typical cycle of market conditions and generally represents the outer timeframe within which predictions of future development may usually be made without speculation.

**c.16 The geographic submarkets are unreasonable and unrepresentative. For example, Manhattan is divided into two districts, above and below 59th Street, whereas there are very few hotels above 59th Street, and below 59th Street is the densest hotel concentration in the United States and should be divided into at least a midtown and downtown submarket. (Kaufman)**

The **Consultant Report**'s designation of hotel submarkets was logically based and meant to illustrate the largest clusters of recent hotel development across the city, particularly in the boroughs outside Manhattan where several significant hotel clusters—such as Long Island City, Downtown Brooklyn/Gowanus, and Williamsburg/North Brooklyn—have developed in the past decade. While Manhattan Below 59<sup>th</sup> Street could be divided into further submarkets, such as Midtown Manhattan and Downtown Manhattan, ultimately, such a breakdown would not have an impact on the principal findings of the 2017 **Consultant Report** or the conclusions of the EIS.

### Comments on the Unintended Consequences of the Proposed Action

**c.17 The hotel as-of-right use has been an important factor when Manhattan CB 5 recommends denial of BSA variances to allow residential development. If a hotel use is no longer as-of-right, hardship cases may be easier to get approved. DCP must determine a fool-proof protocol for closing the hardship loophole, which would prevent the development of residential buildings in M1 districts. (Manhattan CB 5)**

Comment noted.

**c.18 Manhattan CB 1 Is concerned that as hotel development will become more onerous in M1 districts that will now require a special permit, there will be inadvertent impacts of increased hotel development in portions of Manhattan CB 1 where hotel development will remain as-of-right. (Manhattan CB 1) Adopting a special permit requirement would transfer hotel development pressures to local areas where they are permitted as-of-right, i.e., local commercial streets that are zoned C4-2A and C4-3; but developed with local service uses for the surrounding residential areas. (Queens CB 1)**

**DCP must monitor those areas where hotels will continue to be allowed as-of-right—especially those areas in the vicinity of districts in which a special permit will be required—to ensure that they do not become oversaturated with hotels. If this risk becomes evident to community boards, that extension of the special permit requirement or other zoning regulations related to hotel should be promptly considered. (Brewer, Manhattan Borough Board) The City must study the effects of spillover from M1 district to adjacent districts in the Borough of Manhattan. (Brewer) The potential for significant increase in hotels in specific areas is not considered in the EIS. (Kaufman)**

**The proposed action has the potential to cause a mass concentration of hotel over-development in the C8 areas of Brooklyn CB 17; these areas are where vital job creating industrial businesses are located as well as where many residential units are intertwined. (Brooklyn CB 17)**

**I am concerned that the conclusion that hotel development in some of these mixed-use areas are based on assumptions that may prove to be false over time. (Brewer)**

**Chapter 3, “Socioeconomic Conditions,”** of the EIS states that there is a possibility that, under the proposed action, a shift in hotel development to nearby commercial and mixed-use districts could result in a net decrease in other permitted uses in these districts. However, the socioeconomic conditions analysis also concludes that these commercial and mixed-use districts are dispersed across the city and have active commercial and residential markets and that, therefore, the shift in hotel development to some of these other areas is not expected to significantly alter patterns of development in any one neighborhood.

Further, the socioeconomic conditions analysis states that under the proposed action, prototypical site analysis highlights the fact that future hotel development is likely to occur on soft sites where potential for displacement is not specific to the construction of a hotel.

This conclusion is applicable to the commercial districts in Manhattan Community Board 1, where hotels are generally compatible with the existing mix of businesses. The socioeconomic conditions analysis states that in all of Manhattan there will be an unmet demand of 1,900 additional hotel rooms when those rooms currently under construction are factored; 425 of these rooms would be projected to be in M1 districts based on historic distribution of hotel development patterns. In Manhattan below 59<sup>th</sup> Street, the average room-count for hotels that have opened in M1 districts in the past decade is 182. Based on this precedent, it can be assumed that two or three typically sized hotels would accommodate the unmet demand that would be met in M1 districts under a No-Action scenario. In a With-Action scenario, it is likely that these hotel rooms would be distributed



across numerous as-of-right districts adjacent to M1 districts, including Community Board 1, but also in Midtown, Midtown South and the Far West Side.

As noted in “**Chapter 1, “Project Description,”** of the EIS, DCP commissioned an economic consultant BJH Advisors to conduct a study of the hotel industry. The study found that the hotel industry has greatly expanded over the last 10 years, adding almost 40,000 hotel rooms as the number of visitors to the City grew by 30 percent. Many market analysts have forecast this growth continuing through 2020 as current hotel projects in the construction pipeline are delivered; however, as hotel demand and supply reach equilibrium, these analysts see hotel development in New York slowing between 2021 and 2028. While the hotel industry is cyclical, and forecasts often involve a certain level of uncertainty, the shift of new hotels from M1 to other districts is not expected to be significant.

In response to the comment about further limiting hotels, overall, while the City is comfortable putting some limitations on hotel location and growth, it cannot restrict hotel growth in an unfettered fashion without consequences. The travel and tourism industry are very important to New York City, and hotels need to be able to freely locate in other areas of the City. The proposed special permit creates a reasonable balance between imposing limitations on hotels while continuing to allow them on appropriate sites.

- c.19 **The fact that current as-of-right hotels will be subject to environmental review will impose even more stringent requirements on such applicants than the findings in the proposed zoning text and suggests that such a high barrier to development will make this Report’s prophecy that no more hotels (excepting for the homeless) will be built in M1 a likely reality. (Kaufman)**

The proposal would not prohibit hotels but would subject them to a special permit. A CPC Special Permit involves a case-by-case, site-specific review process, with findings that the CPC must make in order to grant the permit. The findings are not intended to be high barriers to development; rather, they are primarily based on assuring compatibility between a hotel development project and the surrounding area. M1 zones have emerged as areas of opportunity for many different kinds of uses – not just hotels. Therefore, the City needs to ensure that sufficient opportunities to support industrial, commercial, and institutional growth remain.

## Comments Specific to Public Purpose Hotels

- c.20 **The proposed text amendment should be modified so that it incorporates proposed City, private, and commercial shelters to require a special permit in M1 zones. (Bronx CB2) We have a few concerns over certain exemptions for constructing new hotels, such as those for housing the homeless. (Brooklyn CB 8) Public purpose hotels should not be excluded from the Special Permit requirement as the proposed exclusion may be used as a vehicle for for-profit transient hotels to site in M1 zones. (Manhattan CB 4) The proposed exemption for hotels operated for a public purpose, i.e., transient hotels that are the equivalent of homeless shelters, undermines the intent of the proposed text amendment. (Queens CB 5) We strongly oppose the waiving of the Special Permit when a hotel is proposed for a public use. (Queens CB 9) The exemption for homeless shelters should be removed. (Queens CB 11) The conditions should be modified so that any transient facility, regardless of either having contractual status with a State, City, or non-profit organization, or not having such status, and regardless of the eventual end use, will be subject to the Special Permit requirements. (Queens CB 6) Hotels for public purposes in the M1 districts should also be required to go through the special permit review process. (Katz) The City should not exempt itself from the requirements of the proposed text amendment. (Manhattan CB 11) If the City is unwilling to require a special permit for transient hotels for a public purpose in M1 districts, it must also adopt criteria for ensuring a fair distribution of these facilities and require a meaningful review process for every such development. (Brewer) The proposed zoning text exempts any new hotel from special permit review that is used for or converted to a public purpose, potential causing oversaturation of shelters in the Dutch Kills and Ravenswood areas. (Queens CB 1) Pairing a ban on hotels with eliminating public review of the homeless shelters will give rise to a wave of new homeless shelters in M1 zones. (Kaufman)**

As explained in the EIS, while transient hotels operated to house homeless individuals will continue to be permitted as-of-right in M1 districts as they are today, this proposal is intended to address land use concerns associated with new commercial hotels and is neutral with regard to current policies for siting shelters. It is a legal obligation of the City to shelter anyone who needs housing in the five boroughs, which requires retaining the existing flexibility in zoning that permits temporary housing for the homeless in all M1 districts. The proposed text amendment is designed to place controls on the location of hotels for visitors and not hotels used exclusively to shelter homeless individuals. (As described in "Turning the Tide on Homelessness in New York City," the City aims to end the use of all cluster sites and commercial hotel facilities citywide that are currently used to house the homeless by opening a number of new, more effective traditional shelters.)

- c.21 **A second Special Permit should be introduced for when a hotel initially receives a Special Permit and the City subsequently determines that the hotel will be used for a public purpose, for whatever reason. (Queens CB 9) Although the conversion of a public service hotel to a transient hotel will require a Special Permit, it is likely that the default conclusion will be that a building that operates as a public service hotel is fundamentally unsuited for any use but a hotel, thus minimizing the compatibility hurdle. (Manhattan CB 4)**

While the use of commercial hotel locations as a temporary stop-gap measure may still occur, according to DHS, use of hotels is under emergency situations when there is not enough shelter capacity on a given night. Further, according to DHS, its first priority in the Mayor's "Turning the Tide" plan is to transform the shelter system and completely end the use of all remaining cluster sites and commercial hotel facilities as well.

Please also see responses to Comment 3 and 20.

- c.22 **The language around the public purpose exemption must be more specific to indicate how much of a hotel must be allocated for a public purpose, whether as a percentage or total number of rooms, before the exemption is triggered. (ANHD)**

Comment noted.

## Comments Specific to Areas of Applicability

### Areas for Exclusion

- c.23 **All of Manhattan should be excluded from the hotel special permit. (REBNY) The City's stated justification for the restriction is that hotels are crowding out other uses in low density M1 locations which are providing a reservoir of space for the new light manufacturing/commercial uses. These conditions do not apply in Manhattan where M1 districts have higher densities. Additionally, the Consultant Report states that Manhattan has reached saturation in hotel development due to the recent hotel boom. A hotel special permit in Manhattan is unnecessary and should be excluded. (REBNY)**

While Manhattan tends to be denser and less industrial than other boroughs, and thus less likely to experience a particular type of potential land use conflict than other boroughs, there remains a need to evaluate the appropriateness of hotels in the context of each neighborhood in Manhattan. As explained in **Chapter 1, "Project Description,"** of the EIS, the proposed action would allow for consideration of the appropriateness of hotel development in M1 districts on a case-by-case basis, ensuring there is a balanced mix of uses, as appropriate.

- c.24 **Manhattan CB 5 should be excluded from the proposed text amendment. (Manhattan CB 5)**

See response to Comment 23.

- c.25 **The Hampton Inn & Suites Hotel, and future hotels and boatels located on South Avenue’s Corporate Park should be exempt from the text amendment and considered “grandfathered” in. (Matteo, Staten Island CB 2) The Staten Island Industrial Park Campus should be exempt from the new special permits requirements. (Matteo)**

With the exception of M1 areas adjacent to the airports where hotels play a specific and important part in the local and regional economy, the zoning change is intended to allow for a consistent process for consideration of the appropriateness of new hotel development in M1 districts citywide.

- c.26 **The City should exclude areas that have special zoning provisions that already consider and address location-specific conditions and needs. This would capture Special Districts, like Long Island City, SoHo, West Chelsea, and the Garment District, as well as M1-5A and M1-5B areas. (REBNY) M1-5 and M1-6 districts should be treated differently than M1-1 zones as they have radically different character, location, and bulk regulations. (Kaufman)**

See response to Comment 25.

#### **Areas for Inclusion**

- c.27 **ALL hotels should require a special permit. (Queens CB 14) Special permits for hotels in all districts should be required. (Katz) The text amendment should be extended to all zoning districts. (Queens CB 11) The Proposed Action should be expanded so that the Special Permit is not limited to M1 areas but instead covers all manufacturing and commercial districts citywide where hotels/motels presently can be built as-of-right. All hotels/motels should be examined on a case by case basis since the addition of a hotel/motel can trigger negative impacts to the area, especially when built in districts within close proximity to residential areas and other community resources. (Brooklyn CB 10)**

As stated in **Chapter 1, “Project Description,”** of the EIS, the travel and tourism industry are very important to New York City. Tourism has become a major City industry and last year, NYC attracted over 63 million visitors. As a major industry that supports the livelihoods of hundreds of thousands of New Yorkers, the City needs to support this important industry.

While the City is comfortable putting some limitations on hotel location and growth, it cannot restrict hotel growth in an unfettered fashion without consequences. Hotels need to be able to freely locate in some areas of the City, and the proposed special permit creates a reasonable balance between imposing some limitations on hotels while continuing to allow them on appropriate sites.

- c.28 **A special permit should be required for hotel development in C zones as applicants will seek alternative zoning districts to avoid the special permit process in the M1 zones. (Staten Island CB 3) A permit must be required for C8 zones. (Brooklyn CB 17)**

In areas of the City zoned for commercial use, the current provisions that allow as-of-right hotels are important to the City’s overall economy. In its ongoing planning efforts throughout the City, DCP will continue to consider the appropriate role of new commercial hotels.

Please also see response to Comment 27.

- c.29 **The proposed text amendment should be modified to not exclude M1 districts that include airport properties and areas adjacent to airports. (Queens CB 10) M1 areas adjacent to the airports should not be exempted from the hotel special permit requirement. (Katz) The text amendment excludes the M1 areas around La Guardia and JFK airports. Given the City's existing commitment to restrict competing uses in IBZ, most recently in its action to restrict self-storage, it is crucial that the proposed action to restrict hotels applies the same standard to manufacturing districts in all IBZs. (ANHD) As per Appendix K-Excluded Areas in M1 District in the Text Amendment and the index map (EIS Appendix 2), one area in our community board is named the Ozone Park/JFK and is shown as an exempted area. This area is part of, and adjacent to, a residential area with a school within our Community Board. Queens CB 10's position is that the new established restrictions for a Special Permit for new hotel development will be needed in this area and therefore should not be excluded. It is a condition of Queens CB 10's approval that all proposed hotel uses within M-1 districts be required to obtain a special permit. (Queens CB 10)**

The EIS, in **Chapter 22, "Alternatives,"** did consider an alternative that modified the geographic applicability of the proposed action to include the M1 districts immediately surrounding the City's two airports (Airport Areas Inclusion Alternative). The EIS concluded that this alternative would likely diminish hotel production in the M1 zones immediately surrounding the airports as compared to the proposed action.

Airports are a major economic generator for New York City, and given the importance of the aviation industry to the City, subjecting all M1 areas adjacent to airports could potentially make the City airports less attractive costing the aviation industry business and resulting in fewer jobs for City residents.

Currently, the area around John F. Kennedy (JFK) Airport is largely industrial, with air cargo being a significant industry not only for the airport, but for the City's economy as a whole. JFK also serves as an important entryway into the City for both domestic and international tourists. Both JFK and LaGuardia Airports act as hub for travelers transferring between planes and as broad regional hubs for travelers who are going to the many destinations served by the airports. The broad reach of the airports requires many hotel rooms as many travelers and airplane personnel are in need of overnight accommodations.

Today, there is an established cluster of hotels located in the vicinity of both JFK and LaGuardia Airports that are actively serving visitors. There continues to be strong demand to accommodate the increasing number of visitors to the City. It is projected that the number of passengers to the airport will grow by at least 20 percent at the two airports by 2030. As a result, the areas around the airports will need to continue to serve overnight visitors with accessory businesses such as auto rental companies and hotels.

- c.30 **Consideration should be given to the benefits of broadening the scope of the hotel special permit to all of Manhattan below 59th Street. (Brewer)**

Despite recent growth of hotels in Brooklyn Queens, the Bronx, and Staten Island, Manhattan unquestionably remains the largest, most diversified and most mature hotel market in New

York City by a large margin. According to the **Consultant Report**, Manhattan is home to 83 percent of New York City's hotel rooms and the only borough in New York City to have hotels of every typology.

Manhattan below 59<sup>th</sup> street was studied as one of the major geographic submarkets in this analysis, and the extent of Manhattan between 59<sup>th</sup> street and the Battery accounts for 90 percent of the borough's hotels and 93 percent of its hotel rooms. Manhattan below 59<sup>th</sup> Street is the core of New York City's tourism industry and this area should continue to serve the tourism industry without putting additional restrictions on hotels that can build in as-of-right areas outside of M1 districts.

Please also see response to Comment 18.

- c.31 **Because north-west Tribeca is increasingly mixed-use with many residents, where as-of-right hotel development under 100 rooms continues to cause conflict and negatively impact neighborhood character, Manhattan CB 1 requests that DCP study the potential for expanding these proposed special permit requirements to areas A4, A5, A6, and A7 of the Special Tribeca Mixed Use District. (Manhattan CB 1)**

See response to Comment 23.

- c.32 **Queens CB 2 recommends that the LIC Special District be included in the geographic areas covered by the text amendment and that DCP initiate a study immediately to review including the LIC special mixed-use district in the text amendment with the potential to expand to other districts. (Queens CB 2) DCP should conduct a study to determine if the Long Island City Special Mixed-Use District and other special districts should have the hotel M1 special permit requirement. (Katz)**

Comment noted.

- c.33 **A comprehensive zoning approach to all of the City's IBZs is needed. (ANHD)**

Comment noted.

### Comments on the Findings/Approval Process

- c.34 **Brooklyn CB 17 recommends that the Community Board where a hotel development is proposed to be located is given veto power, or at the very least a voting interest, rather than a solely advisory role. (Brooklyn CB 17)**

Comment noted.

- c.35 **Brooklyn CB 17 is concerned that the M1 Hotels text amendment is not sufficiently transparent regarding the process by which a developer actually seeks a special permit and therefore recommends that developers applying for the special permit be required to present their development plan to the respective local Community Board within 14 days of apply for the special permit to demonstrate that the development meets the requirements of the special permit. (Brooklyn CB 17)**

Comment noted. The Uniform Land Use Review Procedure (ULURP), pursuant to the City Charter, requires referral of special permit applications to the affected Community Board for review and recommendation.

- c.36 **Manhattan CB 1 requests more detailed and specific language in the findings required for the grant of the special permit: i.e., define terms such as “undue vehicular or pedestrian congestion” and “impair the essential character or future use of the surrounding area.” (Manhattan CB 1) The findings are vague and require supporting documentation to define key terms. (Kaufman)**

Comment noted.

M1 districts are widely mapped throughout the City and are varied in their character. In the heavier industrial areas, such as Industrial Business Zones (IBZs), hotels may be visually inconsistent, bring in foot traffic and change the balance of uses in the neighborhood. In the more mixed-use M1 areas, DCP has seen gradual concentration of hotels come in and change the character of those places.

A single hotel on its own may be totally appropriate and not drastically change the characteristics in one neighborhood, but it may in another, which is why DCP believes it is appropriate to review hotel development in M1 districts on a case-by-case basis and that the flexibility in the findings is necessary in order to allow for CPC discretion.

- c.37 **The proposed finding related to a hotel’s impact on surrounding uses should be modified as follows (new text is in underline): the site plan incorporate elements that are necessary to address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building#, the #building’s# orientation and landscaping, and storage space for trash and for linens. (Manhattan CB 4) The findings should be strengthened to that situations in which hotel use or oversaturation of hotels presents a conflict with existing uses is considered regardless of potential mitigation. (Brewer, Manhattan Borough Board)**

Comment noted.

- c.38 **The proposed finding related to a hotel’s impact on vehicular and pedestrian circulation should be modified as follows (new text is in underline): such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or reduction in the availability of nearby parking; and... (Manhattan CB 4)**

Comment noted. Please also see response to Comment 36.

- c.39 **The proposed finding related to a hotel's impact on neighborhood character should be modified as follows (new text is in underline): such #use# will not impair the essential character or future use or development of the surrounding area and in areas where M1 districts are adjacent to #residential# districts, such #use# shall be compatible with adjacent #residential# districts. (Manhattan CB 4) The findings should be strengthened to include a finding that uses be consistent with the character and context of the neighborhood. (Brewer, Manhattan Borough Board) An additional finding should be added to protect and encourage a harmonious balance of uses consistent with the mixed-use character of Manhattan CB 2's M1-5 districts where non-manufacturing uses are prevalent. (Manhattan CB 2)**

Comment noted. Please also see response to Comment 36.

- c.40 **The language around essential character should be strengthened to consider how a proposed development would impact the real estate market in the area. (ANHD)**

Comment noted.

- c.41 **In addition to determining whether a proposed project successfully mitigates potential conflicts, it is important to address whether a proposed transient hotel is fundamentally compatible with existing neighboring uses and areas. Manhattan CB 4 requests that the question of undesirable concentration of hotels be incorporated as an additional finding:**

**d. Concentration of Hotels**

**such #use# shall not cause undue concentration of such #uses# within a 500-foot radius of the proposed location. (Manhattan CB 4)**

Comment noted. Please also see response to Comment 36.

- c.42 **The text amendment should be modified to require that sufficient parking be included: one car per two guest rooms. (Staten Island CB 1)**

Comment noted. Please also see response to Comment 36.

- c.43 **Because many manufacturing districts are located along the waterfront and in flood zones, an additional condition should be added to the findings requiring payment into a fund for resiliency infrastructure and protection from extreme weather events. (Manhattan CB 1) DCP should continue to work with CBs on their board-specific concerns such as resiliency issues relating to hotels in flood zones and the impacts of the special permit requirement on certain specific districts and uses. (Manhattan Borough Board)**

For sites that are located within New York City's Coastal Zone, they will be required to demonstrate consistency with the City's Waterfront Revitalization Program (WRP), which takes these concerns into consideration.



- c.44 **Manhattan CB 2 requests that the text amendment specifically allow CPC to prescribe appropriate additional conditions, for example, limitations of eating and drinking establishments, based on their impact on residential uses in the area, similar to the Conditions and Safeguards provision from ZR 74-21. (Manhattan CB 2)**

Eating and drinking establishments are permitted as-of-right in M1 districts today, and are not the subject matter of the proposal. Imposing new limitations on uses allowed as-of-right would be outside the scope of the proposed action, as well as outside the scope of a future application for a hotel special permit. The special permit would allow the CPC to consider the appropriateness of a hotel development including any facilities accessory to the hotel, as part of the scope of a future application for a hotel special permit, within the context of the surrounding area and would allow for modifications that minimize conflicts with adjacent uses.

Please also see response to Comment 36.

- c.45 **The text amendment should be modified so that existing restrictions on certain uses below the level of the second floor in M1-5A and M1-5B districts are retained. (Manhattan CB 2).**

Comment noted.

- c.46 **The text amendment requiring a hotel special permit should be modified to be clear that it will not supersede the requirement for any other special permit that may otherwise be applicable. (Manhattan CB 2, Manhattan Borough Board)**

Comment noted.

- c.47 **The findings should be modified so as to differentiate between applications for hotels in industrial M1 zones versus mixed-use M1 zones. (Kaufman)**

The special permit allows ample discretion to evaluate new hotel development and its effect on neighborhood characteristics and surrounding uses, whether it is in an industrial M1 zone, or a mixed-use M1 zone. Further, because M1 districts are varied in their character, it is important to review new hotels in these areas on a case-by-case, site-specific basis.

Please also see response to Comment 3.

### Additional Comments

- c.48 **The City should consider limiting the applicability of the hotel special permit to a certain period. (REBNY) The Consultant Report states that the current hotel development boom is unlikely to sustain itself over the long term and that the market is displaying signals that supply is on pace to match demand. (REBNY)**

Comment noted. The proposed action is not expected to have an adverse effect on the supply of hotel rooms in New York City. In the event that conditions change markedly in the future, DCP and the CPC can respond accordingly.

- c.49 **I request that DCP/CPC amend the proposed Section 42-111 of the proposed zoning text amendment to extend, until the date that the CPC adopts the hotel text amendment, the date by which hotels that receive a building permit or partial permit prior to the adoption of such text amendment may start or continue construction. (Kramer) The 39th Street hotel will be a 299-room, boutique transient hotel located in an M1 zoning district on West 39th Street between Fifth and Sixth Avenues. The hotel owner obtained from DOB zoning approval, with foundation approval obtained on April 27, 2018. The owner expects to obtain a foundation permit shortly. Construction of this hotel has been in process for more than 4 years, commencing at least 3 years before the hotel text amendment was presented to the public and four years before certification of the hotel text amendment by the Commission. There is no certainty that the 39th Street hotel could obtain a special permit pursuant to the hotel text amendment, even if the owner were to apply for one, and the process would result in additional significant delay and increased costs. (Kramer)**

The Department acknowledges that a number of hotel developments were already well-advanced in the development process at the time of referral of the text amendment and therefore included a provision to cover a much larger universe of projects in which substantial investments have already been made. Extending the provision to the date of adoption would cover an even larger universe of projects that have not advanced as far in the development process. A number of projects that have obtained their permits post-referral date and made substantial investments may be eligible to vest under Zoning Resolution Section 11-30 or by applying to the BSA.

- c.50 **The text amendment will increase filings with DOB to secure permits for hotels so they may be grandfathered and avoid special permit review. In recent months permit applications were filed with DOB to construct 700+ new rooms at four sites in Queens CB 1. (Queens CB 1)**

Comment noted. Please also see response to Comment 49.

- c.51 **Three years is too generous a timeline to complete construction under existing zoning regulations without community review. There has already been a stalled and incomplete construction site in Dutch Kills that requested from BSA an extension of time to complete under the previous zoning regulations. (Queens CB 1)**

Comment noted. The vesting provision that was referred out is similar to that for Greater East Midtown, the zoning text amendment was adopted in August 2017, and DCP determined that three years is a reasonable timeframe for construction for new commercial hotels.

- c.52 **The Proposed Action does not address the hotel-related issues in Queens CB 1 that arose since the adoption of the Long Island City Special Purpose District. That zoning amendment envisioned new mixed commercial and residential development, but, instead, the Special District significantly tipped the residential/industrial balance from a traditionally mixed-use neighborhood to an area that is now predominantly commercial and transient. (Queens CB 1) The proposed zoning text exempts any new hotel proposed in the LIC Special Purpose District from special permit review, allowing the current hotel development trend in the area to continue. (Queens CB 1)**

See response to Comment 27.

### Alternatives

- c.53 **The City should consider an alternative based on the number of room keys. There is likely some linkage between the number of keys and the effect on neighborhood character, which is a consideration for the proposed action. (REBNY)**

As explained in the Purpose and Need section of **Chapter 1, "Project Description,"** of the EIS, the proposal is intended to address land use concerns associated with new commercial hotels and evaluate their potential to impair the neighborhood character or be incompatible with surrounding uses, based on factors including but not limited to their sizes. Therefore, an alternative with applicability based on room size would not be consistent with the purpose and need of this proposal.

### Comments on the DEIS Technical Areas

- c.54 **The Principal Conclusion, that the Proposed Action "would not have the potential to significantly affect land use, zoning or public policy" is FALSE. (Kaufman) By casting the Proposed Action as being "from non-hotel use (such as residential) to a commercial hotel", it makes clear that it expects hotels to displace residential uses outside of M districts. The prediction that "other uses that better serve the mixed-community, would be developed in place of hotels" is also folly, as the only alternative use that the report puts forth as viable are homeless shelters, which will serve some interests but likely be objected to by "the community" ("mixed-community" is a misnomer for districts where residential use is not legal). (Kaufman)**

DCP commissioned an economic consultant BJH Advisors to conduct a study of the hotel industry and the resulting market report found that the hotel industry has greatly expanded over the last 10 years, adding almost 40,000 hotel rooms as the number of visitors to the City grew by 30 percent. The salient portions of that market report have been described and summarized in **Chapter 1, "Project Description,"** of the EIS.

Many market analysts have forecast this growth continuing through 2020 as current hotel projects in the construction pipeline are delivered; however, as hotel demand and supply reach equilibrium, these analysts see hotel development in New York slowing between 2021 and 2028. While the hotel industry is cyclical and forecasts often involve a certain level of uncertainty, the shift of new hotels from M1 to other districts is not expected to be

significant as defined by CEQR and stipulated in **Chapter 2, "Land Use, Zoning, and Public Policy,"** of the EIS.

**c.55 The conclusion that the proposed action is not projected to have a significant adverse impact on the hotel industry in New York City is false. (Kaufman)**

As outlined in the **Chapter 1, "Project Description,"** of the EIS, in a No-Action scenario, it is projected that approximately 30 percent of the unmet demand for additional hotel rooms in New York City, or approximately 1,150 rooms, would be developed in M1 districts citywide. In a With-Action scenario, it is assumed that the additional time and costs associated with a special permit process would likely drive a significant portion of this development outside M1 districts to contiguous commercial and mixed-used districts where these hotels could be built as-of-right. Because these as-of-right districts are plentiful across the city, including in areas adjacent to M1 districts in some of the city's most active hotel submarkets, it is expected that new hotels will continue to be developed and that New York City will be able to accommodate the projected demand of both business and leisure visitors over the next decade.

The market analysis illustrated that the growth in tourism NYC has experienced and the current rapid pace of hotel development is not expected to continue at the same rate. Absent the proposed action, it is expected that much of the residual hotel demand will be met in M1 districts with strong demand drivers. However, it is expected that some of this development may shift to nearby commercial or mixed-use districts to meet residual demand for hotel rooms. Nevertheless, because large areas of the City will continue to be available for hotel development on an as-of-right basis, it is expected that new hotels will continue to be developed and that the City will be able to accommodate the demand of visitors.

Given the robust pipeline for development, the continued opportunities for redevelopment throughout the City, and the substantial increase and diversification of the hotel market in NYC in recent years, the EIS concluded that the proposed action is not expected to significantly and adversely affect business conditions, impair the economic viability, or substantially reduce employment in the hotel industry in NYC as detailed in **Chapter 3, "Socioeconomic Conditions,"** of the EIS.

Moreover, the rapid increase in hotel development of the last 10 years has significantly increased the supply of rooms in the city and, as noted, is sustaining a record 60 million tourists a year. The introduction of a hotel special permit is not expected to reduce the inventory of rooms and would therefore not be expected to significantly affect the levels of visitation.

**c.56 Airbnb was not considered and was completely omitted. (Kaufman) The text amendment will boost the Airbnb market. (Kaufman)**

Under New York State law, it is illegal for an apartment to be rented out for transient occupancy – less than 30 days – unless the permanent tenant is residing in the same apartment. Airbnb is a service, not a land use, and is outside the scope of this action.

- c.57 **The EIS does not consider the fact that community facility uses that have an advantage over commercial and manufacturing uses (such as dormitory, drug treatment center, or other community facility uses) might be built instead of hotels on a variety of sites and locations, including in M1-1, M1-2 and M1-3 districts. (Kaufman)**

The assessment of community facilities and services as contained in **Chapter 4, "Community Facilities and Services,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

Community facilities are generally not permitted in M1 districts, with the exception of medical offices and houses of worship. As is the case in many other zoning districts throughout the City, community facilities are permitted a higher floor area ratio in low- and mid-density M1 districts than other types of land uses. To the extent that fewer hotels may be developed in the future with the proposed action, the proportion of future development consisting of community facilities relative to other as-of-right land uses in M1 districts is not expected to change.

- c.58 **A full open space study is necessary. (Kaufman)**

The open space assessment contained in **Chapter 5, "Open Space,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.59 **It is suspicious that the shadows fall just short of or minimally touch public space and minimally fall on public or landmark buildings. (Kaufman)**

The shadows analysis as conducted in **Chapter 6, "Shadows,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.60 **The EIS does not include any cross reference analysis of landmark and other historic sites with prototypical sites and C districts. (Kaufman)**

The assessment of historic resources provided in **Chapter 7, "Historic and Cultural Resources,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.61 **Figure 1 of the Manhattan prototypical site, if taken from slightly further back and to the right, the nearly 40 story new Building would completely obscure the view of the Chrysler Building. (Kaufman)**

The analyses contained in **Chapter 8, "Urban Design and Visual Resources,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*. The pedestrian's view of the Chrysler Building may be constrained from the location noted by the commenter, however many other viewpoints would still be available for pedestrians to experience views of that resource.

- c.62 **If a significant portion of the identified 1,150 hotel rooms likely to move from M1 zones were substantially concentrated in Manhattan, the threshold for an analysis of water and sewer infrastructure would be exceeded. (Kaufman)**

The water and sewer infrastructure assessment as conducted in **Chapter 11, "Water and Sewer Infrastructure,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.63 **Measuring waste product by number of hotel employees rather than hotel guests seems like an odd way of measuring. (Kaufman)**

The solid waste assessment as contained in **Chapter 12, "Solid Waste,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.64 **The traffic analysis avoids consideration of Uber and other ride sharing services, and by following outdated methods is incorrect. (Kaufman)**

The transportation analyses as conducted in **Chapter 14, "Transportation,"** of the EIS was prepared in accordance with the methodologies outlined in the *CEQR Technical Manual*.

- c.65 **The DOT crash data is unreliable and likely incorrect. (Kaufman)**

See response to Comment 64.

- c.66 **The consideration of the amount of parking to be required relative to M1 districts and the eventual location of the relocated hotels, combined with the parking requirement associated with that zoning, that the Final Scope and DEIS say cannot be determined will have a major impact on the traffic that is likely not appropriately addressed by these non-prototypical "prototypical" sites. (Kaufman) Changes to parking requirements will likely alter the traffic analysis, but parking changes are not considered. It should be noted that the parking requirements can and should be reduced from current zoning if the traffic analysis is correct, or alternatively, that analysis bears correction. (Kaufman)**

See response to Comment 64.

- c.67 **The EIS should include an air quality analysis of all M1 sites that are under built for floor area with a separate study that also includes all M1 sites in case, as the Report suggests, hotels might be the highest and best use of M1 zoning area, in which case the possibility of fully built M1 sites with industrial uses might be demolished and rebuilt as hotels. (Kaufman)**

Comment noted. As stated in **Chapter 1, "Project Description,"** of the EIS, the principal effect of the proposed action is to affect the location, but not the amount or type, of future hotel development and, furthermore, as the proposed action introduces a discretionary approval process via a CPC special permit for hotel development within M1 districts, DCP projects less hotel development in M1 districts under the With-Action condition than the No-Action condition. Therefore, such an assessment as described in the comment would be beyond the scope of this EIS.

The EIS did include an analysis to determine what would be the possible environmental impacts of a new hotel development in a M1 zoning district. That analysis, conducted on a conceptual basis, is contained in **Chapter 23, "Conceptual Analysis,"** of the EIS and concluded that a new hotel development pursuant to the special permit could result in significant adverse impacts with respect to historic resources, air quality, and hazardous materials.

As stated in **Chapter 23**, because the potential for significant adverse impacts is dependent on site-specific conditions, it is difficult to predict the full scope of potential impacts in the absence of specific applications. It is not possible to predict whether discretionary actions would be pursued on any one site in the future, and each action would require its own land use approvals from the CPC. Any time a discretionary action is applied for, including the special permit created under this proposed action, it would be subject to its own environmental review.

- c.68 **The EIS should include a study of the incremental impact of industrial use being located at all M1 sites instead of hotel uses in terms of the effects on air quality, greenhouse gas emissions, noise, and public health, including impact on existing legal and illegal residential occupants, loft law residential and joint live-work occupants, and occupants of public purpose hotels. (Kaufman)**

The EIS analyses focus on the potential effects of the proposed action. It is beyond the scope of the EIS to analyze the as-of-right uses that may be located on sites that may have been occupied by a hotel in an M1 zone. Furthermore, industrial uses in M1 zones (and M2 and M3 zones) are regulated in terms of their air and noise emissions by the New York City Department of Environmental Protection and are required to meet certain performance standards.

The EIS considered the impact of the proposed action on all required categories; it would not be appropriate to consider the potential impact of as-of-right industrial development within M1 zones as the purpose of environmental review is to assess the potential impacts of a proposed action.

- c.69 **The EIS conclusion of no significant adverse impacts to neighborhood character is based on a false calculation (1,150 more hotel rooms). (Kaufman)**

As discussed above in response to Comment 55, the estimate of 1,150 relocated hotel rooms is not based on a false calculation.

- c.70 **It should be observed that the neighborhood character of M1 districts is a misnomer, given that residential use, normally the predominant use in a neighborhood outside the business districts, is illegal in M1 districts; that most M1 districts, excepting M1-6, are extremely ugly, run down, with high vacancy rates, devoid of pedestrians and street life, and give the appearance of being part of a failed city, including as a first impression of New York City to the millions of people arriving at our airports and going by car to Manhattan through Long Island City. (Kaufman)**

The proposed action, if adopted, would allow the CPC to consider the appropriateness of a hotel in a given location within a M1 district. The CPC could for some locations, conclude

that a new hotel would be a positive addition to a neighborhood and potentially grant the applicant a special permit for the hotel use. In other locations, the CPC may conclude the hotel will create conflicts and, as the result, deny the special permit.