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# TESTIMONY IN SUPPORT OF CITY OF YES: ECONOMIC OPPORTUNITY TO CITY PLANNING COMMISSION JANUARY 24, 2024

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Thank you for the opportunity to testify today. My name is Howard Slatkin and I am the Executive Director of Citizens Housing & Planning Council (CHPC), a nonprofit organization dedicated to the well-being of the city’s housing stock and the people it serves.

One of the central land use lessons from the COVID-19 pandemic is the importance of allowing space to be repurposed quickly and without unnecessary costs. The City of Yes for Economic Opportunity proposal tackles the daunting but important issue of rationalizing use regulations to make our buildings and economy more nimble. It will give businesses greater clarity and more options for where they can locate, and make it easier for building owners to fill their spaces.

**This proposal would also be beneficial to housing and to affordable housing.** Ground-floor commercial and community facility spaces provide important revenue to support the operation of residential buildings, and their occupancy supports the quality of life in neighborhoods. When nonresidential spaces can be retenanted quickly and without the need for a new Certificate of Occupancy, residents also benefit.

When zoning becomes too prescriptive, it can increase costs, unaffordability, and vacancy. Striking the right balance of flexibility and predictability is critical.

There are two areas in which the current proposal misses the mark on this balance and should be amended: the **streetscape regulations** and **home occupation provisions**.

**The proposed “Tier B” streetscape regulations would dramatically expand mandates for ground-floor nonresidential use in commercial districts, and would create unnecessary impediments for housing.** We have a housing crisis, and it is imperative to support businesses and jobs. Streetscape continuity is a desirable objective, but it should not impede our efforts to address more pressing priorities.

I’ve reviewed an example of an affordable building currently in design. Under the proposal, it would need to create an isolated 20’x30’ storefront next to its parking entrance that the builders do not wish to build or operate. This flows counter to a central purpose of the proposal – for space to be built and occupied in a way that is responsive to needs. An affordable unit would need to be eliminated, parking relocated and mechanically ventilated at greater expense. Glazing requirements would also make energy efficiency standards more difficult to meet.

The complexity of the Tier B regulations – including basing the requirements on the zoning and use of the surrounding area, which may change over time – are bound to slow down and trip up projects, particularly for smaller builders. On merged zoning lots with buildings in separate ownership, they may condition one building’s compliance on what happens in another, creating legal tangles.

**The Commission should pare back the Tier B regulations to ensure that they don’t impede housing or economic development goals. This includes:**

- **Significantly reducing the applicability of the Tier B requirements** to reduce the number of locations where they are newly applied. Another option is to increase the threshold at which these requirements are triggered, from sites where at least 50% of the surrounding area contains existing ground-floor commercial use to

sites where at least 75% do, making the more inflexible standards the exception rather than the rule;

- **Reducing the Tier B requirement from 100% parking “wrap” to 50%**, which would provide important flexibility and largely eliminate the need for an extensive list of exceptions to the requirement;
- **Simplifying the applicability standards** to make it easy to determine whether a building is subject to requirements, and to ensure that requirements for a single building don’t change over time because of nearby changes of use or zoning; and
- **Making the regulations more flexible for existing buildings.**

For new streetscape provisions that may require changes to the design of pending projects, the proposal should incorporate **vesting provisions** that enable projects that are advanced in design to proceed without risking further delay or loss of financing. This vesting provisions **should allow the HPD Commissioner to make a determination that provides eligibility for vesting to projects that have been in the HPD pipeline** for a specified period of time. This is important because of significant backups that have occurred in the HPD pipeline.

The proposed changes to home occupations are generally sound, but **require some additional safeguards to support management of the residential environment:**

The existing home occupation provisions include restrictions on uses that would invite large numbers of customers into a residential building. Without clear limitations on these types of activities, the proposal may make it difficult to curtail inappropriate business activities that create a nuisance for building residents.

Residential property managers may be hampered by the time and resources it takes to enforce the terms of a residential lease in housing court – and owners of some rent-regulated buildings may choose not to try. This would degrade living conditions for other rent-regulated tenants.

The proposal can address this by **explicitly clarifying that home occupations cannot utilize residential common areas** such as hallways, lobbies, and stairwells for waiting, queuing, or other purposes. It may be worth considering further (non-zoning) legislation to ensure that residential property managers can prevent home-based businesses from disrupting the residential environment.

Additionally, attention should be paid to ensuring that any drafting issues in the text, such as the following, are addressed:

- **Definitions of “commercial” and “manufacturing” uses:** The proposed text defines a Use Group 10 use in a commercial district as a commercial use. This is intended to encompass those small manufacturing uses that are allowed to locate in commercial districts. However, this language appears to define all nonconforming manufacturing uses in commercial districts as commercial uses. The text also appears to leave nonconforming manufacturing uses in residence districts defined ambiguously as something other than a manufacturing use, and commercial uses in residence districts don’t fall within the definition of “commercial use.” **The drafting of these definitions should be fixed to reference the actual uses, not the districts in which they are or are not considered conforming, and avoid significant unintended effects.**

I’ll be happy to answer any questions.