



THE COUNCIL  
OF  
THE CITY OF NEW YORK

**GALE A. BREWER**

COUNCIL MEMBER, 6<sup>TH</sup> DISTRICT, MANHATTAN

**DISTRICT OFFICE**  
563 COLUMBUS AVENUE, AT 87<sup>TH</sup> STREET  
NEW YORK, NY 10024  
**TEL:** (212) 873-0282  
**FAX:** (212) 873-0279

**CITY HALL OFFICE**  
250 BROADWAY, ROOM 1875  
NEW YORK, NY 10007  
**TEL:** (212) 788-6975  
**FAX:** (212) 513-7717

GBrewer@council.nyc.gov  
www.council.nyc.gov

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**Testimony before the New York Department of City Planning  
City of Yes for Economic Opportunity  
February 27, 2024**

My name is Gale Brewer and I represent the Upper West Side and part of Clinton in the City Council in Manhattan. I support the intent of the City of Yes for Economic Opportunity, but there are valid concerns that must be addressed. I am commenting on some of the policies put forward in City of Yes and making suggestions about additional challenges that have been brought to my attention over the past decades.

The goal of City of Yes is to realign zoning regulations with the current economic conditions of New York City, specifically by making it easier for businesses and emerging industries to find space and opportunities to grow while keeping neighborhoods active, healthy, and safe. It is essential that the plan take into account concerns regarding housing availability, residential quality of life, proper implementation, and efficient enforcement. Zoning text amendments cannot be one size fits all because every neighborhood is different.

**Preserving Residential Units and Quality of Life**

New York City is facing a housing crisis with a shortage of affordable housing units and increasing rents. The competition for housing is at its peak. The City of Yes proposal risks further diminishing available housing by permitting commercial activity on upper floors (Amendment 5) and expanding home-based businesses in residential buildings (Amendment 11). The prosperity and encouragement of businesses in residential buildings comes at a cost outlined in resolutions by Manhattan Community Boards 4 (CB4) and 7 (CB7) as both a loss in affordable housing units and diminishing residential quality of life through increased noise, vibrations, foot traffic, deliveries, and air pollution. Amendment 11 allows up to 49% of floor area to be leased to businesses within residential buildings, which could increase an already overwhelming housing crisis even with a 3-employee maximum.

It is my experience that celebrity media outlets like New York Post's Page 6 highlight the excitement of rooftop bars, but the noise from patrons is disruptive to residents in the surrounding buildings, and answering the 311 calls with city enforcement staff is tiresome and never satisfactory to New Yorkers. Allowing dancing in venues under 200 people is important to nightlife but can turn a bar into a problematic site, particularly if apartments are above. Owners can limit the noise with soundproofing but the vibrations from the lower bass frequencies cannot be muffled. 24/7 activity needs to be encouraged but in appropriate settings.

Urban agriculture should be encouraged, but with provisions that do not negatively impact residential quality of life. In 2011, I passed Local Law 49 which makes it easier to construct rooftop greenhouses in

the city by excluding any greenhouse that occupies less than a third of the roof area from height limits and from being considered an extra story. I believe that this opportunity has not been explored to its full potential and the City of Yes must embrace the widest range of activities by the public.

Only new buildings with adequate safeguards should take advantage of these proposed zoning texts.

Another component of the City of Yes proposal is a shift in allowing small-scale production and manufacturing uses within commercial and residential districts. Residential and commercial districts like the Upper West Side rely on local and service-based businesses to serve neighborhood residents. Encouraging the use of commercial space for solely production and manufacturing may close local retail businesses, but light manufacturing which includes artistic endeavors could add variety and excitement to the streetscape of an avenue.

### **Micro-Distribution Centers**

The new zoning regulations actively encourage the development of micro-distribution centers (MDCs). Many residents are opposed to filling public spaces with battery charging infrastructure, as proposed for West 72 Street and Broadway in my district, but use of any storefront space would have to include zoning text that prohibits uncertified e-bikes and battery storage, particularly when there is a residential building above. I suggest working with companies such as PopWheels, a startup that maintains vending stations that accept depleted batteries in exchange for fully charged, certified batteries. In dense districts such as the UWS, it is hard to find outdoor space for such activity and the apps should lease vacant storefronts with safety in mind (as well as access to restrooms).

Companies such as Amazon and Fresh Direct also need micro-distribution centers (MDC's). Their trucks are now parked everywhere, blocking hydrants and parking spaces, and they want to park off avenues and roads and utilize cargo bikes to deliver the packages and food.

### **Micro-Fulfillment Centers and Lithium-Ion Batteries**

Another problem to address is micro-fulfillment centers (MFCs) that do not allow retail customers into the establishment, unsafely charge and store lithium bike batteries below residential buildings and feature obstructed or glazed windows that do not comply with transparency rules. There have been a number of fires originating from lithium-ion e-bike batteries, such as one in front of a New York City bike shop which tragically killed four people in a residential apartment building. An increase in the development of MFCs could exacerbate these accidents caused by lithium-ion batteries, requiring stricter enforcement of transparency regulations. According to the Department of Building's (DOB) regulatory bulletin (2022-011), businesses are required to maintain transparency for 50% of the storefront with specific Use Groups required to allow the general public access to in-person shopping. Are these rules being abided by and does the DOB have the capacity to enforce the new regulations in addition to the old ones?

### **Transparency**

A topic that is not discussed in this City of Yes for Economic Opportunity is how to improve the streetscape with [active design](#). Former CPC Chair Amanda Burden focused on this issue and I try to do the same. Few businesses know where and when transparency on store windows is required. In fact, city agencies are not clear on the regulations; they need to be clarified and publicized. I support transparency

on commercial windows, but exceptions could be considered for grocery stores, LGBTQ+ bars, or other establishments that makes a case for privacy at the street level.

### **Agency Capacity and Enforcement**

A major concern for changing zoning regulation is the limited capacity of agencies to enforce the new rules. As CB4 points out, the number of staff needed for inspections and enforcement at DOB, Department of Consumer and Worker Protection (DCWP), Department of Transportation (DOT), Fire Department of New York (FDNY), and other agencies is insufficient. Adequate funding and staff would allow for successful and safe implementation and enforcement envisioned in the City of Yes proposal, which is especially important in residential buildings regarding construction, odor and noise pollution.

Loading docks are not relevant to the streetscape but often older buildings have them because of past uses such as shipping, wholesaling, and warehousing. Owners do not want to give up the sidewalk curb that goes with the loading dock in case a future owner is interested in a parking facility; they know that such a curb can be grandfathered but cannot be applied for in the future. Meanwhile, there is less parking space on the street. I suggest making a dataset of loading docks and curbs and a more flexible policy for future use.

### **NYCHA**

For years, I have advocated for commercial spaces on campuses such as NYCHA. I believe that any change at NYCHA would have to be approved by the federal government, but fresh produce, low-cost food, and service stores would do well if offered a low rent. The Senior 202 Housing is also not allowed to build commercial stores on their premises, and we should advocate to change this policy. However, in all cases, renting such premises should be monitored; today NYCHA has thousands of feet of vacant commercial space. (The City of New York also has not leased much of its commercial space even though the City faces a budget crisis and revenue is needed).

### **Vacant Storefronts**

Vacant stores are a problem for the commercial corridor and the neighboring businesses. City, State, and Federal agencies do not give tax breaks for the vacancy, but spaces can stay empty for years. Only the state can decide to levy a tax on owners who refuse to rent for long periods of time; I support such a policy.

Addressing the issue of how to rent vacant stores is challenging. I passed a law to gather and maintain the data on ground and second floor commercial vacancy (Local Laws 157 of 2019 and 95 of 2022) and New York City Small Business Services (SBS) has allocated funding to map the information in real time. In 2012, I also passed the Special Enhanced Commercial District Upper West Side Neighborhood Retail Streets Text Amendment to maintain over time the general multi-store character of Amsterdam and Columbus avenues, while promoting a varied and active retail environment on Broadway which is typified by larger and second story retail establishments. A December 2017 City Council [report](#) on retail issues evaluated commercial corridors across the city and found that this text amendment has been successful in maintaining mom and pop stores on the two avenues but the large storefronts on Broadway were often vacant. Today, this is the reality. City of Yes should include zoning that encourages mom and pop stores, particularly in gentrifying areas.

## **Arts in Activating Storefronts**

City of Yes aims to reduce storefront vacancies by easing regulations for reactivating storefronts and allowing nonconforming stores to legally re-tenant their spaces. I also propose expanding partnerships with art and artist workshops to activate storefront spaces. For years, I have supported and funded the organization ChaSHaMa and their mission to brighten the streets of New York City through hosting art exhibits in vacant storefronts. I have also seen Lincoln Center artists transform vacant stores into performance spaces, and Art on the Avenue brighten windows in empty storefronts. This not only activates vacant spaces but also allows artists to showcase their creativity. At my suggestion, the non-profit owner of a Mitchell-Lama building has turned over a commercial space that was not renting (it was not deep enough) to ChaSHaMa and the debris, homeless encampment, and generally poor sanitation issues are gone. Instead, a well-lit and exciting space now features artists, entrepreneurs, and activity.

## **Address Display**

Finally, any City of Yes for Economic Opportunity proposal should include being able to find the building address you are looking for. As Manhattan Borough President, with then Council Member Jumaane Williams, I passed Local Law 26 of 2017 which requires street numbers to be placed on every side of a building that contains an entrance primarily utilized for day-to-day pedestrian ingress or egress. It also increases the civil penalty for failing to post street numbers from twenty-five dollars to two hundred fifty dollars and the daily penalty from five dollars to fifty dollars. This law is not enforced but it needs to be. First responders, New Yorkers, and visitors spend time looking for addresses on buildings that refuse to display them.

While I appreciate the DCP's efforts toward economic progress, we must protect and prioritize available affordable housing, residential quality of life, and transparency amongst all stakeholders.

Thank you again for the opportunity to testify.