

Special Subcommittee on Last Mile Trucking Facilities Minutes

<https://www.youtube.com/watch?v=MKkBgaxya0&t=1106s>

Monday, May 16

6:00 p.m.

Agenda Revised as of May 16th 2022

~~1. (INVITED) DH Property and Bridge Development Partners on their plan to develop a four-story last mile trucking distribution center on 3rd Avenue from 19th to 21st Streets.~~

1. Update on current legislation and agency presentations and requests - Update from City Councilmember Alexa Aviles Legislative Director and Last Mile Warehouse Special Permit Requirements
2. Committee members review and discuss the text and request to support "Last Mile Warehouse Special Permit Requirements"
3. Public Comment
4. Vote by committee on special zoning text

Attendance

Katherine Walsh

Nick Azadian

Christina Lem

Sam Sierra

Zak Jasie

Cesar Zuniga

Not in attendance:

Stacy Boyd

Gladys Bruno

John Fontillas

Cynthia Gonzalez

Katie Walsh, Chair of Special Committee

- One year since we convened; while it was brewing previous to this, a time to reflect on how far we have come
- Use the links to read the special text amendment
- <https://bit.ly/specialtext1>
- Background for Special Text Amendment <https://bit.ly/specialtext2>
- Here are the elected representatives who have followed up from our letter we sent in December sent out in 2022. Positive response

Responses from Community Board 7 Letter – Request for Meetings on Last Mile Trucking

(As of May 16th, 2022)



- **Congressperson Velasquez**
- **Congressperson Clarke**
- **Senator Savino**
- **Assemblymember Carroll**
- **Assemblymember Abbate**
- **Assemblymember Mitaynes**
- **City Council Member Alexa Aviles**
- **Brooklyn Borough President Antonio Reynoso**
- **Kizzy Charles Guzman, the Executive Director of the Mayor's Office of Climate and Environmental Justice, and Kate Gouin, her Chief of Staff**

cause (k) added to say that they don't think that this is applicable to their office:

Carson C. Hicks, Ph.D. | Deputy Executive Director, Mayor's Office for Economic Opportunity

- Quick meeting – Councilmember Aviles, walk through with DOT Commissioner Ydanis Rodriguez, on transportation (last mile one part of that)
- Prompt shared with Katie Walsh before the walk-through; during the ten minutes delivered the letter (posted below)
- The letter reflected issues that have been given in other public meetings, notes just put into a memo and hand delivered memo to the Commissioner, about transportation, safety, etc.

**Commissioner of New York City Department of Transportation, Ydanis Rodriguez
May 13, 2022**



10:30 am - 10:40 am	<p>Stop @ BQE corner of 22nd street & 3rd avenue through 131 32nd street</p> <ul style="list-style-type: none"> • Conducts an FTR study • FTR study traffic study • FTR study program on 17th street to 65th street other clubs in district
	<p>Historically, 3rd Avenue the site of most traffic deaths in BQE. BQE performance and safety issues since 2012 4 deaths in 2019 alone</p> <p>Katie Walsh, Responder, Board of Transportation to speak on the safety of reaching issue, with BQE and the need for a traffic study</p>

May 13, 2022

Hand delivered during site visit in Sunset Park on 3rd avenue to Ydanis Rodriguez, Commissioner of the Department of Transportation on May 13th highlighting issues in our district.

Amended to include a note on metered parking from 17th street to 65th street under the BQE

Transportation is one of our most pressing issues. This is because we are home to two major highways, a large industrial area that requires trucks and because transportation issues have a strong impact on public safety and the quality-of-life in our community.

DOT **has not addressed** the specific conditions and needs of the local community for over 20 years; DOT's intransigence is baffling and points to a pronounced failure of leadership. DOT should listen to the needs and lived experiences of the local community to determine what should be prioritized for study and improvement, not inform the community.

We have made it very clear what our challenges are and solutions to fix them. But the Brooklyn Borough Commissioner for DOT has failed CB7 repeatedly. Rather than carefully study problems and create solutions tailored for the local needs, we get half-baked efforts which don't address local conditions.

We have dozens of examples – the 20th street bike lane project, 7th and 8th avenue conversions, 39th truck route creation, all of these problematic. In fact, it took Article 78 lawsuit to even get DOT to agree to follow the law. The Commissioner has served in this role since September 2014, it's clear that this agency, more than any other, would benefit from new leadership in this administration.

- 15 years ago we asked DOT to **conduct a traffic study for 3rd Avenue from 17th street to 65th street**, and we make the request every single time a committee meets with DOT and after additional fatalities. DOT has given us no written timeline, no firm commitment, no next steps with the community or CB7 engagement from DOT, ever on this topic.
- Every opportunity to submit official requests to the City, and every meeting we have with DOT, we highlight the issues on "Capital Requests Related to Transportation and Mobility" that we want **safer pedestrian crossings and improved lighting at every intersection with design and reconstruction of 3rd Avenue from 65th to 17th Street**, to include all service roads, with safer pedestrian crossings and improved lighting at every intersection.
- 20 years ago we asked DOT to conduct a **"Safe Routes to School" pedestrian safety study for 3rd Avenue and 60th Street**, the most dangerous intersection in the community with more than 150 accidents a year and now home to four schools. We do not understand why these are not a priority of DOT.
- CB 7 has asked for a **comprehensive truck route study for Community Board 7**; when the truck route was suddenly moved from 20th to 39th with not even a month notice. We need this truck route study urgently, truck traffic is only going to be worsened by major last-mile trucking facilities which are planned for 19th street to 21st street below 3rd avenue. These e-commerce facilities, worsen local air pollution (we have some of the highest in the City), increase traffic and cause serious safety issues. The facility planned for Sunset Park is one of the "largest in the country of its type" Community Board 7 has created a special committee on last-mile trucking because of how bad this issue is. We have invited DOT to two of these meetings where they told us on the record "there is nothing we can do" related to this issue, which is not true – they could undertake any number of efforts outlined above related to safety, traffic and investments on the 3rd avenue corridor.
- We also want to see metered parking from 17th street to 65th street under the BQE; to address significant clustering of trailers vehicles around 20-22nd under BQE. Currently only have metered parking in the 30s. We want it the full length.

We invite you to meet with Community Board 7 to meet with us to discuss this issue 1:1 as we do not hold confidences in the leadership from the current DOT Brooklyn Commissioner.

Please contact Jeremy Laufer, District Manager (718) 854-0003, bk07@cb.nyc.gov.

Katie Walsh,

Chair of the Special Committee on Last Mile Trucking Facilities, Community Board 7

Zak Jasie

- Would like a full report on the tour from Councilmember office for the DOT Commissioner tour
- Late notice – more people could have been involved?

Cesar Zuniga

- Thanks to all involvement in this issue, community board should be proud we're organizing on this and show us what can happen when community comes together when we lift our voice, something that is super consequential to the entire district.
- Thanks to the electeds – Assembly member Mitaynes and Councilmember Aviles for their leadership

Christina Bottega, Legislative Director

- Congrats on one last year – have done so much already!
- Address concerns with DOT – happy to ask the office to give a full report out to the board. Did hear commissioner quite impressed with size and scale of facilities. Good he came in person. The goal was to do a walk through d38 – community members to have 1-2 people, please send recommendations. That message got miscommunicated and got relayed to a larger group of people. Warm up commissioner; we wanted someone to give fluently; not a ton of airtime
- I am hear to ask CB7 to sign a letter – this administration released a plan for “Renew, rebuild, reinvent” This administration; said that they want to have an industrial business zone working group. How to approach this problem of last mile? One way – could we tighten the regulation for the IBZ, exclude last mile facilities? We want to see good green jobs, we want to see particular types of industry, we don't want to see last mile. We think this is good, we want to have a discussion about industrial business zones, tighten restrictions, so we don't have improper use like last mile. We asked cb6 to sign on. We have several other councilmembers championing this as well – community board 1 (not sure yet): text of letter is in the Appendix
- This letter is about table-setting; how the rules are too loose. We hope you will talk to us about tightening regulations for IBZ, please talk to us and Community Board
- City legislation for license, for these kind of facilities (previously presented to the committee) etc. will be coming out soon! Councilmember hit some obstacles internally but there will be more to come soon. City timeline for legislation will be closing end of June – there are 3 more stated meetings – to be introduced in time for this legislation.

Katie Walsh

- We are here to go through the special text amendment that we all received, let's go through the questions we have. Last Mile Coalition that presented it – is here

Nick Azadian

- How will this be enforced?
- E-commerce goods, what is the definition?
- Do we define specific maritime areas? (wouldn't doing this be infeasible given port capacities?)
- Under findings: “advantaged communities” what would be applicable to where they are located. We happen to live in disadvantaged communities, if lawyer nitpick this is arbitrary

- Under 'additional requirements' given agencies 45 days –I don't know if the timeline is realistic, which means no reports will be issued because they never respond that quick
- If indirect source rule doesn't pass, Dept of EP will not have ability to enforce? i.e. Do we need to add more teeth to this if state legislation doesn't pass this?
- CB7 should have land-use counsel review this
- This is written from residents' perspective, we need to hear from business if this will have any negative impact. I want to know if we are inadvertently harming if we proceed

Kevin Garcia, Transportation Planner at the New York City Environmental Justice Alliance

- Will impact 50,000 feet or more – not going to be for existing (unfortunately they are not going to be impacted)
- If indirect source will target that more (existing facilities)

Hilary Aidun, Associate Attorney, EarthJustice

- We defined this based on the kinds of facilities we are targeting.
- Specific maritime is defined in zoning definition – this is what is used there in special text
- 45 days is what is standard under zoning regulation in referring this to agencies – same in special text
- State has identified and defined disadvantaged communities – we're less concerned with this being called arbitrary because state has done this in a draft basis and then will be doing this in a final basis the communities which have been identified; this would apply to commercial and residential as well; about this definition because this definition comes from the state as they are defining areas where pollutants are occurring

Alok Disa, Senior Research and Policy Analyst, EarthJustice

- Port capacity – legitimate concern; we hope to work with city to make it more actionable. We as a coalition we are comfortable putting that in there – we need to deal with that in a different way; part of negotiation after
- We tried to tailor definition tightly for last mile – because we don't want to impact other facilities
- We all know that not one policy to get to all the types of protections we want; there is going to be a mosaic patchwork to get to the solution. You asked for more 'teeth' we want to know what that looks like. If there's a more direct approach for DEP to do something
- For the zoning for this application, we wanted to keep it tailored within the purview of zoning uses.

Not just ports for maritime activity, point about port is excellent, but it doesn't have to be limited to a port facility. I have been creation for SMIA – not just for larger ports.

Nick Azadian

- Encourage you to talk to business community to understand their impacts

Kevin Garcia

- Present an option with a possible solution. We want your support on this, we do as much as we can, time is of the essence.
- We met with DCP, end of march, Chair of DCP, Dan Garodnick
- This is a negotiation once it's submitted, there's input with DCP to move it forward. We're confident it will move forward. We know DCP knows this is a problem and needs to be addressed, once the application is in.

- They will participate in a negotiation it's what happens in any application, City Planning will want to negotiate, if they have questions. On the whole, they recognize this is an issue. they have reached out to get the application to get into the process, in the format it needs to come to us.

Alok Disa

- Why doesn't DOT, DCP do something ? to move the parties to set of solutions, we're hoping CB7 is lending support for our application to keep positive and forward momentum to keep it going.

Katie Walsh

- We have an All of the Above strategy
- This is one tool in the toolbox – special text amendment
- Indirect source rule is another proposed at NYS

John Fontillas

- This special text would go to the City Planning Commission, it's not ULURP. The text amendment does not go to city council, does not go to ULURP.
- The special permit if the special text amendment is approved, then it would go to city council. Then it would be like the hotels.
- To get there, we have to get members of the city planning commission. Get majority of the boards to support.
- After they put it out to the boards, they could make the text change in 90 days.
- Let's face it, the City Planning Commission, they are "hostile" Not interested in helping this.
- Would hope there are some Commissioners that are supportive, those on fence who can be swayed, there are some who want to support every giant Amazon.
- What do you think about where other community boards or borough presidents are?

Kevin Garcia

- Came to Brooklyn Community board 7 first – because looking for you all the join as co-applicants
- Spoken to Bronx Community Board 2
- The Coalition is made up of a mix community-based organizations who are located in several community boards.

Hilary Aidun

- Will be referred to other community boards for recommendation; but not for "co application" like we are now to be submitted, but they can always join later in support and join in

John Fontillas

- We should learn from what happened with hotels; Community boards banded together – because we all saw what was happening with hotel for the special text amendment.
- How does one organize to get the community boards organized?
- Staten Island Board 1 – everyone is feeling the impacts of these facilities.
- We have to get everyone on the same page to make CPC do something
- Hotels amendment took 12 years....

Eva Hanhardt

- Even once application is submitted, additional sponsors can come on – other community boards. Letters of support, etc. not just by community boards, but community-based organizations. The

submission is not the end point. Having submission in is a good rallying point to bring in more support.

Alok Disa

- Infrastructure created by your community board, and this committee.
- Make the agencies talk to each other.
- We're going to build off this work, you are at the tip of the spear, with your support move forward on this process, engagement across the city

John Fontillas

- On the Staten Island bus, would the Amazon union be supportive?

Eva Hanhardt

- Special permit is not a prohibition. It's an opportunity for the city "yes we want these kind of businesses, if they act in a responsible way, if they are designed and run in a way that don't have a negative impact," idea is not a prohibition. Eddie Baptista said: "Idea is to not kill the industry, but not kill the neighborhoods it's in."

Katie Walsh

- To be a co-applicant, alongside with Public Advocate, as well as elected officials
- Would be involved in those back/forth applications as this moves forward, there are fees, those fees would be waved,

Hilary Aidun

- Question on who would pay for the Environment Impact Assessment – we don't expect we'd need this

Kevin Garcia

- Once we identify if CB7 is joining as a co-applicant, we need to include their name in the project description, one name – two documents that need to be filled out

Katie Walsh

- Agreed, that we'd want to have legal review before doing this

Public Comment

Peter Kruty

- Where do they think these trucks are going to go?
- So many deaths on 3rd avenue; and now a charter school
- Was it going to take? An injury of a child to make them do something? Why are they the builders of last mile facilities not acknowledging this issue - 4th is a parking lot, there is no way in/out because there might be a way to get on 3rd avenue, they have not gone there during
- It's impossible situation

Felicia

- On 28th street, residents have no idea what's going on around them
- 53 foot truck – coming down 28th – late to pick up my son, because of illegal trailers come down small blocks to turn on 3rd avenue.
- Liberty view, Fresh Direct, further impact on community already is such a big problem.

Katie Walsh

- This worsening of existing situation is exactly why we created this committee

Jesse Solomon

- Why it wouldn't need an Environmental Impact Assessment?
- Why does this look like for next steps for voting?

Kevin Garcia

- It would have to go through CER review, then they would declare, then it would have EIA, limit facilities, limit trucks/emissions. We're suspecting there would be a "negative declaration" so we don't have to do a EIA.

Jesse Solomon

- More goods on the waterfront, would that trigger an EIS?

Hilary Aidun

- Overall policy shift, not specific impacts associated with it. any facility would need a permit. For that reason, we don't see a full EIA would be necessary.

Katie Walsh

- Outlines process for voting;
- Introduces resolution for the committee "support CB7 joining as a co-applicant, with legal review"

Jeremy, District Manager, CB7

- Just a note everyone - we don't have an attorney

Nick Azadian

- If you go down the route for contracts, you want a lawyer to review

John Fontillas

- We didn't have a lawyer, we had George James who is land use planner

Katie Walsh

- Support the special text amendment provided it has legal review
- Seconded by Sam Sierra
- If anyone objects to unanimous consent to say so. I have heard no dissent.
- So the resolution has been passed
- Will bring this to the community board 7 meeting on Wednesday May 18th

LETTER BROUGHT BY CHRISTINA BOTTEGA, LEGISLATIVE DIRECTOR FOR COUNCILMEMBER ALEXA AVILES

Maria Torres-Springer
Deputy Mayor for Economic & Workforce Development
New York City Hall, 260 Broadway
New York, NY 10007

Deputy Mayor Torres-Springer:

As New York City struggles to emerge from the COVID-19 pandemic, the Adams Administration's first-year policy agenda is of critical importance to spurring a rapid, equitable, and sustainable recovery. We write this letter to raise the importance of planning and zoning reform for our city's industrial areas within this context.

The Administration's recently released "Rebuild, Renew, Reinvent" economic recovery agenda includes several provisions that may impact the future of our industrial zones and correctly notes the importance of the city's industrial sector:

"The industrial sector supports all segments of the local economy and links us critically to the region, country, and the rest of the world. Employing roughly half a million New Yorkers, nearly three quarters of whom are people of color, and paying average wages of over \$64,000, the sector provides an important pathway to the middle class for many New Yorkers."

"Rebuild, Renew, Reinvent" calls for an "Industrial Working Group" that "will bring City agencies and key industrial advocates and stakeholders together to develop recommendations around land use and transportation policy" and also for wide-ranging reform of commercial and manufacturing zoning districts to create more "flexibility by a range of industries," alongside continued investment in City-owned properties like the Brooklyn Navy Yard and Hunts Point Produce Market.

As advocates for industrial jobs, a secure and efficient supply chain, and an increased role for renewable energy in the city's economy, we welcome the continued investment in City-owned industrial properties. We also look forward to participating in the Industrial Working Group and would like to work with you on ensuring broad and inclusive representation in this body.

However, we are concerned that the proposal for reforming manufacturing zoning with an emphasis on "flexibility" misses the mark and does not address many of the challenges we have observed in our Industrial Business Zones (IBZs). With rezonings converting many industrial areas outside of the IBZs to residential use over the years, the IBZs have become more important than ever as sites for critical infrastructure and industrial economic development. The working waterfront is especially crucial for greening our supply chain and energy grid, yet City agencies have no clear strategy for preserving these areas for industrial maritime uses.

While more flexibility in zoning may be appropriate in some contexts, the current M zoning is actually *too* flexible when it comes to allowing non-industrial uses in the city's most important IBZs and Significant Maritime Industrial Areas. The allowance for retail, restaurant, office, and entertainment uses has led to widespread conversion of industrial properties to commercial uses. Additionally, overly restrictive parking, loading, and bulk regulations make it very difficult to develop new or enlarge existing industrial buildings. As a result, New York City's M zones artificially depress industrial economic development and create obstacles to siting essential city infrastructure.

The 1961-era M Zones also did not foresee the new era of large-scale, multi-story e-commerce distribution facilities that are currently allowed to locate as-of-right without regard for the significant and cumulative truck-traffic and emission impacts on local neighborhoods. We cannot allow environmental justice communities adjacent to industrial zones like Red Hook, Sunset Park, Hunts Point, and East Williamsburg to once again be burdened with the consequences of New York's failure to plan. Five

enormous last-mile warehouses of up to over 1.1 million square feet each are currently planned or under construction in the small area of Red Hook alone. Moreover, these facilities are currently allowed to occupy essential industrial and waterfront sites as-of-right without any required provision for maritime freight. This forecloses the future potential for additional job-intensive uses for the working waterfront, such as the planned Equinor project at the South Brooklyn Marine Terminal. Other states and municipalities across the country are increasingly moving to regulate the proliferation and practices of last-mile distribution centers to address these challenges

EDC and DOT's "Delivering Green" released in December 2021 proposes strategies for reducing citywide truck traffic but does not specifically address the local impacts of large-scale last mile distribution warehouses. The de Blasio administration also made significant progress on broader industrial land use and planning issues with its "Industrial Action Plan," including the proposed "North Brooklyn Industry and Innovation Plan" as a template for reform of manufacturing zoning. But this work was interrupted by the COVID-19 pandemic and remains unfinished.

The pandemic's inequitable health impacts on environmental justice communities, ongoing disruption of our supply chain, and New York City's continuing struggle with high unemployment make this work more timely and important than ever before. We urge the administration to promptly convene the proposed "Industrial Working Group" and work with elected officials and stakeholders to advance an integrated land use, transportation, economic, and workforce development plan to protect and activate the IBZs for industrial jobs, secure and green the supply chain and energy grid, and address the unique new challenges posed by last-mile distribution facilities.

We look forward to working with the administration on these critical issues for New York's recovery and long-term future.

Sincerely,

INSERT E-SIGNATURES WHEN FINAL

cc:

Dan Garodnick
Director, Department of City Planning
Chair, City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Andrew Kimball
President & CEO, New York City Economic Development Corporation
One Liberty Plaza, 165 Broadway, 14th Floor
New York, NY 10006

Ydanis Rodriguez
Commissioner, Department of Transportation
55 Water Street
New York, NY 10038

Last-Mile Warehouse Special Permit Requirements
LR Item 3: Description of Proposal
TEXT AMENDMENT

May 3, 2022

1. Introduction

Public Advocate Jumaane Williams, Councilmember Alexa Avilés, and Assembly Member Marcela Mitaynes join with Eddie Bautista, Elizabeth Yeampierre, Dariella Rodriguez, Marco Carrion, and Tevina Willis to respectfully submit this Zoning Resolution text amendment application due to their concerns about the rapid proliferation of last-mile warehouses and related impacts on their constituents. Truck traffic arising from last-mile warehouse activity creates adverse environmental, health, noise, and safety impacts on nearby residential communities, which already experience high levels of diesel truck pollution and congestion.

New York City’s Zoning Resolution permits “warehouses” in all manufacturing districts and C8 commercial districts as-of-right, and as a result, the City has no opportunity to plan for the installation of these facilities.

The operations and impacts of last-mile warehouses—from which goods are directly delivered to consumers—are fundamentally different from traditional warehouse uses. However, the Zoning Resolution does not distinguish between last-mile and traditional warehouses. Amending the text of the Zoning Resolution to require special permits for last-mile warehouses would provide opportunities for the City to prepare and plan for the expansion of this new industry, as well as to study and mitigate the impacts of last-mile warehouses.

2. Background

The increase in online shopping in recent years, and particularly during the COVID-19 pandemic, has led to an uptick in truck traffic and the rapid proliferation of e-commerce facilities to meet consumer demand for expedited and same-day delivery. As more consumers receive goods through e-commerce, and as retailers and shippers compete to reduce fulfillment times, e-commerce warehouses are increasingly located close to or in urban centers. Over two million packages are delivered in New York City every day, and trucking and goods movement activity in the New York City region is expected to increase in the next 25-30 years.¹ Some estimate a 67% increase in truck volume by 2045,² which without mitigation could add up to 75,000 trucks to City streets each day.³

¹ N.Y. Metro. Transp. Council, *Regional Freight Plan 2018-2045* 2-24 tbl.2.3 (2017), https://www.nymtc.org/Portals/0/Pdf/RTP/Plan%202045%20Final%20Documents/Plan%202045%20Individual%20Appendices/Appendix%208_Regional%20Freight%20Plan.pdf.

² *Id.*

³ See New York City Dep’t of Transp., Request for Proposals for Consultant/Program Management Services in Connection with the NYC DOT Off-Hour Deliveries Program at 5 (2022), https://passport.cityofnewyork.us/bare.aspx/en/fil/download_public/1BC6D969-0C18-40AF-8F1E-6DB112199EA4.
Last-Mile Warehouse Special Permit Requirements May 3, 2022 LR Item 3: Description of Proposal

Heavy-duty diesel vehicles are responsible for approximately half of on-road tailpipe emissions in the City, have a disproportionate impact on environmental justice communities, and emit greenhouse gases.⁴ Last-mile facilities tend to be much larger than traditional warehouses, and often have multiple levels with many more loading bays. Additionally, unlike traditional warehouses, last-mile facilities often operate on a 24-hour basis, resulting in greater truck traffic and resulting safety, environmental, and public health impacts. Heavy-duty vehicles emit dangerous pollutants, including particulate matter and nitrogen oxides, a precursor to ozone.⁵ Ozone can cause inflammation of the lungs, damage to the airways, and more severe and more frequent asthma attacks.⁶ Particulate matter can prompt asthma attacks, heart attacks, and strokes, and can cause lung cancer.⁷

New York City already suffers from persistently poor air quality, and is part of a federally designated multi-state non-attainment area for ozone. Vehicle emissions are a significant contributor to existing ozone levels and are a main driver of the neighborhood-level variation in air quality, which concentrates adverse health impacts like ozone in low-income communities and communities of color. Minimizing pollution from freight is identified as a critical strategy to improve air quality and achieve City and State emission reduction goals.⁸

Rapid last-mile warehouse development without any review is leading to clusters of these facilities, which is likely to generate increased congestion both on local streets and on highways throughout the City. For example, eight last-mile warehouses are currently in development between the Red Hook and Sunset Park neighborhoods of Brooklyn, with an estimated total of 3.5 million square feet.⁹ Because these facilities are permitted as-of-right, the City does not engage in any planning process or have the opportunity to evaluate and mitigate the impacts of related truck traffic. At least 13.1 million square feet of e-commerce warehouses have been planned or developed in New York City, by our estimate.¹⁰

⁴ *Delivering Green: A vision for a sustainable freight network serving New York City* (Dec. 2021), <https://www1.nyc.gov/html/dot/downloads/pdf/freight-vision-plan-delivering-green.pdf> at 1. ⁵ Zawacki, et al., *Mobile source contributions to ambient ozone and particulate matter in 2025*, 188 *Atmosphere Environ.* 129 (Sept. 2018), <https://doi.org/10.1016/j.atmosenv.2018.04.057>.

⁶ U.S. Environmental Protection Agency, “Health Effects of Ozone Pollution,” <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution> (last visited Mar. 30, 2022).

⁷ California Air Resources Board, “Summary: Diesel Particulate Matter Health Impacts,” <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts> (last visited Mar. 30, 2022); American Lung Association, *Nearly Half of U.S. Breathing Unhealthy Air; Record-breaking Air Pollution in Nine Western Cities* (April 21, 2020), <https://bit.ly/2AqUEdg>.

⁸ See *supra* note 3; N.Y. Evt. Conserv. Law § 75-0103(13)(f).

⁹ See Figure 1. Square footage data compiled from MWPVL and various news sources. See MWPVL Int’l, Inc., *Amazon Global Supply Chain and Fulfillment Center Network*, https://www.mwpvl.com/html/amazon_com.html (last accessed Feb. 17, 2022).

¹⁰ See *supra* note 9.

Last-Mile Warehouse Special Permit Requirements May 3, 2022 LR Item 3: Description of Proposal

Additionally, last-mile warehouses are located close to residential areas, resulting in inappropriate volumes of truck traffic on local streets and near sensitive receptors like parks. Last-mile warehouses are also concentrated in communities of color and low-income communities that are already experiencing truck congestion and pollution, compounding existing environmental injustice.¹¹ For example, Red Hook is home to the largest public housing development in Brooklyn, with over 6,000 residents, and has been identified by the New York City Environmental Justice Advisory Board as an environmental justice area.¹²

Currently, communities of color and low-income communities in New York State breathe dirtier air than white and affluent New Yorkers, and health outcomes reflect this disparity. For instance, Black and Hispanic New Yorkers are 7 and 4 times more likely, respectively, to visit the emergency department for asthma than white New Yorkers, and 3–4 times more likely to die from asthma.¹³ Ozone-attributable asthma hospitalization rates and emergency department visits vary based on a neighborhood’s relative poverty rate, with ozone-attributable asthma hospitalization rates 4 times higher in high-poverty neighborhoods compared to low-poverty neighborhoods.¹⁴ A study of the contribution of motor vehicles to particulate matter concentrations in New York City found that on-road mobile sources “contribute to hundreds of preventable [particulate matter]-attributable deaths, hospitalizations, and emergency department visits among residents of NYC, with disproportionate impacts in high poverty neighborhoods.”¹⁵ The study authors noted that their findings indicated “increased policy efforts should focus on the most polluting vehicles in these [high poverty] neighborhoods.”¹⁶

Requiring review, evaluation, and regulation of this new industry would be consistent with New York City’s climate and environmental justice policy goals. In announcing the creation of his Office of Climate and Environmental Justice, Mayor Eric Adams affirmed his administration’s “commit[ment] to transforming the city’s quality of life and fighting for environmental justice for all New Yorkers.”¹⁷ The City has begun the process of developing an environmental justice report and a citywide environmental justice plan, and has committed to studying the impacts of “warehousing, distribution, and other logistics centers” in the report.¹⁸

¹¹ See Figure 2.

¹² <https://my.nycha.info/DevPortal/Portal>; New York City Environmental Justice Board, “Environmental Justice Areas,”

<https://nycdohmh.maps.arcgis.com/apps/instant/lookup/index.html?appid=fc9a0dc8b7564148b4079d294498a3cf> (last visited February 8, 2022).

¹³ N.Y. Dep’t of Health, *New York State Asthma Surveillance Summary Report* 18, 20 (2013),

https://www.health.ny.gov/statistics/ny_asthma/pdf/2013_asthma_surveillance_summary_report.pdf.¹⁴ See N.Y.C. Dep’t of Health & Mental Hygiene, *Air Pollution and the Health of New Yorkers: The Impact of Fine Particles and Ozone* 30 figs.24 & 25 (2011) (“NYCDOHMH Air Quality Report”),

<https://www1.nyc.gov/assets/doh/downloads/pdf/eode/eode-air-quality-impact.pdf>.

¹⁵ See generally Iyad Kheirbeck et al., *The contribution of motor vehicle emissions to ambient fine particulate matter public health impacts in New York City: a health burden assessment*, 15 *Env’tl Health* 89 (2016).¹⁶ *Id.*

¹⁷ New York City Office of the Mayor, *Mayor Adams Announces Appointments of Climate Leadership Team, Streamlines Multiple City Environmental Agencies Into One* (Jan. 31, 2022), <https://www1.nyc.gov/office-of-the-mayor/news/053-22/mayor-adams-appointments-climate-leadership-team-streamlines-multiple-city#/0>.¹⁸ New York City Mayor’s Office of Climate and Sustainability, *Addressing Climate and Environmental Justice Concerns*

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New York’s OneNYC 2050 plan articulates the goals of achieving carbon neutrality and addressing the health needs of all communities.¹⁹ As discussed further below, a text amendment to require special permits for last-mile facilities would allow the City to address greenhouse gases, other vehicle pollution, and environmental disparities by promoting vehicle electrification and ensuring that already overburdened communities do not bear the brunt of truck traffic impacts.

Additionally, New York’s OneNYC 2050 plan includes the goals of ensuring New York City’s streets are safe and accessible, and reducing congestion and emissions.²⁰ A text amendment that allows the City to plan for last-mile warehouses, taking into account potential traffic and safety impacts, would serve these goals.

The proposed text amendment would also advance statewide policy objectives as set forth in the Climate Leadership and Community Protection Act (“CLCPA”). The CLCPA requires steep cuts in New York’s greenhouse gas emissions, including a 40% reduction in emissions from 1990 levels by 2030, and an 85 percent reduction from 1990 levels by 2050.²¹ The CLCPA further instructs the State to prioritize reductions of non-greenhouse gas pollutants in “disadvantaged communities,” defined as:

are communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high concentrations of low- and moderate income households.²²

By promoting vehicle electrification and other measures to reduce greenhouse gases, and curbing emissions of other pollutants such as particulate matter and precursors to ozone, the proposed text amendment would make a meaningful contribution to meeting these statewide goals.

3. Description of the Surrounding Area

The proposed text amendment would affect C8, M1, M2, and M3 Districts. A number of manufacturing zoned areas are adjacent to residential districts, including potential environmental justice areas, as shown in Figures 1 and 2 below.

4. Description of the Proposed Project Area

Environmental Justice Interagency Working Group, *New York City’s Environmental Justice for All Report, Scope of Work* (Dec. 2021) at 14, <https://www1.nyc.gov/assets/sustainability/downloads/pdf/EJ-Report-Scope.pdf>¹⁹ OneNYC 2050, Vol. 7, A Livable Climate 3, <https://bit.ly/3HJX3xq>.

²⁰ OneNYC 2050, Vol. 8, Efficient Mobility 3, <https://bit.ly/3Lg8pey>.

²¹ N.Y. ENV. CONSER. LAW § 75-0107(1).

²² CLCPA § 7(3), S.B. 6599, 242d Sess. (N.Y. 2019).

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As discussed, the proposed text amendment would apply citywide and affect C8, M1, M2, and M3 Districts.

5. Description of Proposed Development Site (if different than the Project Area)

Not applicable.

6. Description of the Proposed Development

Not applicable.

7. Actions Necessary to Facilitate the Project.

An amendment to the Zoning Resolution is necessary to protect communities from unfettered expansion of truck traffic caused by last-mile warehouse proliferation. Requiring a special permit for last-mile warehouses would allow the City to study and mitigate the effects of such facilities by providing for facility-by-facility review, including by mandating studies on traffic and pollution impacts and annual reporting from facility operators. Additionally, the proposed text amendment would provide much-needed public health protections by requiring modest setbacks from sensitive receptors such as schools and nursing homes, and a finding from the Commission that a proposed facility would not increase air pollution in any disadvantaged or nearby community. Crucially, the proposed text amendment would also prevent the clustering of last mile warehouses that has exacerbated the City's environmental injustices by requiring that such facilities be a certain distance from each other.

The proposal would also advance New York City's climate objectives by promoting truck electrification, the use of alternative transportation modes such as bicycles and marine transport, the installation of solar panels, and other measures to mitigate greenhouse gases from trucks. Furthermore, requiring special permits for last-mile warehouses would be consistent with the City's vision for a sustainable freight network, which includes the goals of "greening" the last mile, transitioning to zero-emission truck fleets, and shifting goods from trucks to marine transport.²³

8. Conclusion

New York City must address a new industry that has fundamentally different impacts, particularly in immediate surrounding neighborhoods, from the "warehouses" that have for

decades been allowed as of right. Other cities experiencing rapid growth in last-mile warehouses

²³ *Delivering Green: A vision for a sustainable freight network serving New York City* (Dec. 2021), <https://www1.nyc.gov/html/dot/downloads/pdf/freight-vision-plan-delivering-green.pdf> at 5-13.

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have used their zoning authority to address the issue and provide for meaningful planning.²⁴ To live up to New York City’s environmental justice and climate promises, the City Planning Commission must enact the proposed citywide text amendment.

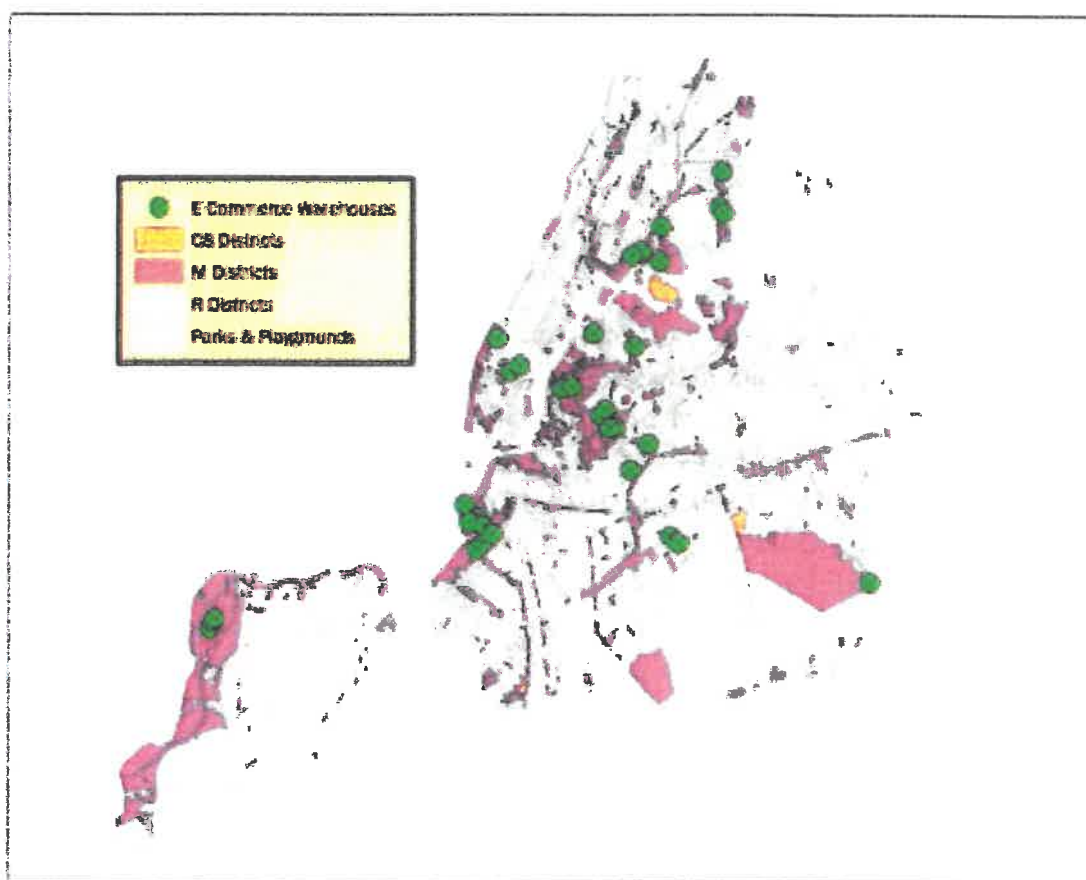


Figure 1

²⁴ See, e.g., Contra Costa County, Ordinance No. 2021-43, Urgency Interim Ordinance Prohibiting Heavy Distribution Land Use Development in the North Richmond Area.

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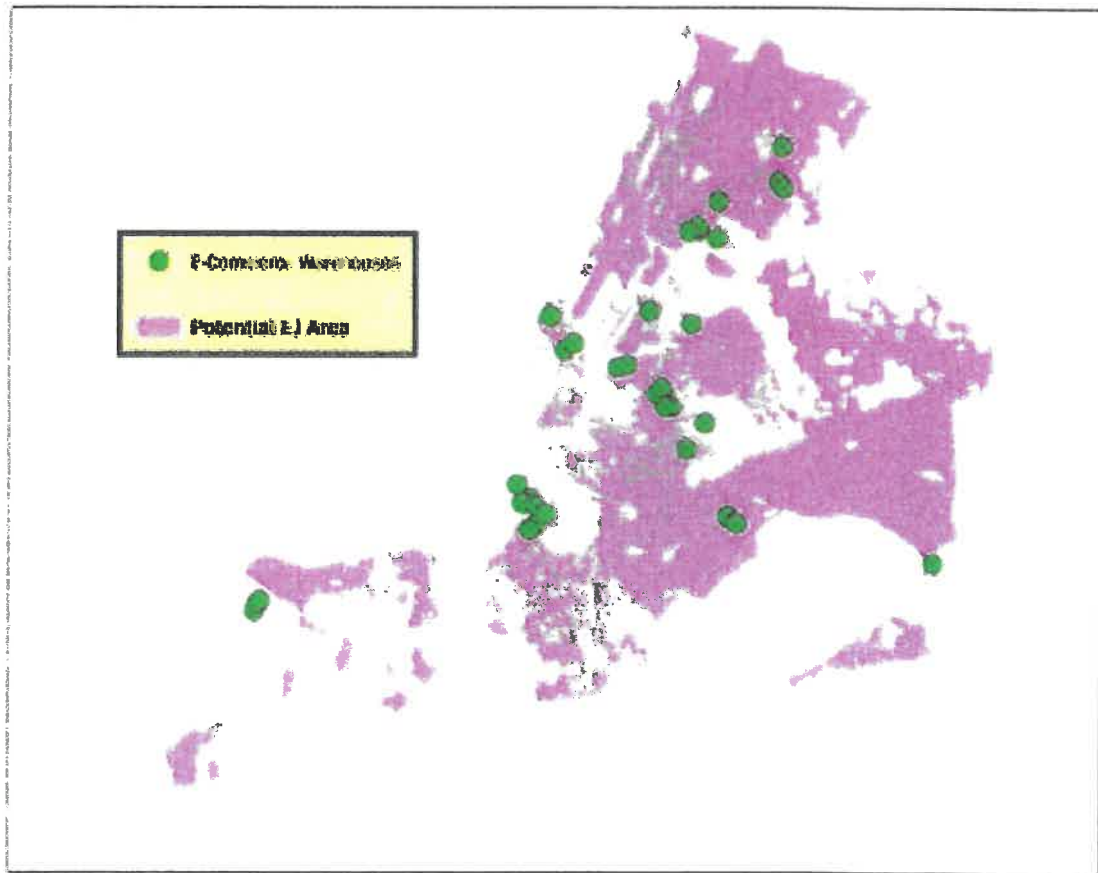


Figure 2