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October 22, 2013

**RE: East Midtown Rezoning (ULURP Nos. N 130247 ZRM and C 130248 ZMM)**

Dear Colleagues and Members of the City Council,

We thank you for the opportunity to comment on the Department of City Planning's proposal for a rezoning of East Midtown. The 73-block area surrounding Grand Central Terminal impacted by the rezoning falls within both of our Senate Districts. In addition to our verbal testimony today and our previous submissions to the City Planning Commission, appended herewith, we write herein to summarize several key points we feel must be stressed in your consideration of this proposal.

These observations are drawn from our thorough study of the rezoning proposal, our observation of the process in which it has been considered and modified, and our consultation with experts and officials from the many relevant government entities.

We must stress that we support the stated goals of the proposal – ensuring the future of East Midtown as a world-class business district and the commercial heart of New York City. We find, however, that in its current form, it fails to meet that goal. This proposal is flawed, incomplete, and rushed. We can and must do dramatically better than this: if not now, then in a new year and with a new administration.

**Fearmongering on Transit Capital Improvements**

This plan continues to be marketed by the Bloomberg administration as the only solution to raise needed capital funding for improvements in East Midtown's transit infrastructure, and particularly the already over-capacity Lexington Avenue line. The administration repeatedly told us that the proposed District Improvement Fund (DIF) in this plan was the only way to raise revenue for the needed projects. This argument was and is fundamentally disingenuous.

Receipts from the DIF may enable an acceleration of portions of the work, but necessary means necessary: as state elected officials, we are both confident, having reviewed the MTA's capital construction priorities in this area, that the lion's share of the work the administration claims the DIF is needed to fund would nonetheless be included in the MTA's capital plans over the coming two decades.

This shell game violates important principles of responsible capital budgeting and abuses the DIF concept. Money raised through the one-shot creation and sale of new air rights by the city

should be used for new and transformational projects that cannot otherwise be budgeted, not for what are essential subway station upgrades that, notwithstanding the administration's fearmongering, we are certain would be budgeted in normal capital plans.

Moreover, the administration's private suggestions to us and other elected officials that somewhere in the neighborhood of \$100 million for transit and public realm improvements could be bonded up-front, backed by future DIF receipts, does little to address our concerns. In the context of MTA capital budgeting this is a drop in the bucket, and at least \$500 million worth of work in East Midtown has already been identified as necessary in the coming years – even without any increase in buildings or area population due to rezoning.

### **A Flawed Process**

This plan is the product of a flawed process. It has been rushed, it has not meaningfully incorporated public input, and it has not been appropriately vetted.

*Rushed and Unvetted* – This sweeping proposal to rezone the beating heart of Midtown Manhattan, perhaps the most iconic and recognizable central business district in the world, has hurtled through the review process with unprecedented speed so that it could be approved during Mayor Bloomberg's tenure. The Department of City Planning ignored repeated requests by all the elected officials and community boards representing the rezoning area to delay the certification to provide time for sufficient community input, and the plan was certified barely a year after it was first mentioned in the mayor's 2012 State of the City address. As a result, essential details that should have been known to all before the rezoning application was certified – such as the possibility of bonding for infrastructure, or the creation of a virtually unprecedented air rights transfer sub-district for landmarks – instead surfaced only as revelations in the press in the middle of the formal environmental review process. In particular, this new air rights transfer proposal is a radical departure from existing practice, with the potential to open up a Pandora's box of unintended consequences. Perhaps it is a worthy idea, and perhaps it is not – but clumsily throwing this kind of massive shift into the mix this late in the game, without time for study or review, is simply not how land-use policy should be done in New York City.

*Incorporation of Input from the Community and Public* – Both of our offices have monitored the many public sessions, community meetings, and communications between members of the community, the Department of City Planning, and the mayor's office. We have also had our own correspondence and discussions with officials of the mayor's office and City Planning. After a thorough review and discussion of how this process was conducted from beginning to end, we are forced to conclude that the administration was entirely unserious about engaging with the community, and that the failure to leverage feedback to improve the plan directly resulted in the perpetuation of the flaws that now gravely threaten its success.

Time was wasted on repetitive presentations, and question-and-answer sessions devolved into shouting matches, as administration officials unwilling to answer questions or address alternative proposals from community members chose to raise their voices when flustered.

Public review and community participation should have improved the plan by exposing flaws and posing questions, leading to study, revision, and improvement. Instead, the administration

pursued its plan with little to no consideration of major modifications, going through the motions of public participation without doing the substantive work.

### **3. We Can Easily Accomplish These Goals Next Year, With Far Less Controversy**

As members of the state legislature we will not be sitting at the negotiating table that produces whatever final proposal comes before you, and we acknowledge and respect that approval or disapproval of any final plan is entirely the Council's prerogative.

However, we are confident that neither we, nor the overwhelming majority of the opponents of this plan in its current form that we have spoken to, are opposed to a judicious rezoning of these areas of East Midtown. This is the great tragedy of the Bloomberg administration's pursuit of this plan – it did not need to be this controversial, and had it been pursued with more deliberation and more respect for the affected communities, it may have sailed through with broad consensus.

Should the Council decide not to approve this particular East Midtown rezoning plan, we see no reason why a more thoroughly vetted proposal that addresses community concerns in good faith and is more financially responsible could not more easily be approved within the next two years.

Sincerely,



Liz Krueger  
State Senator



Brad Hoylman  
State Senator