



June 4, 2026

Michael Flynn
NYC DOT Commissioner
55 Water Street
New York, NY 10041

*Submitted via NYC Rules Portal and Email
rules@dot.nyc.gov*

Re: Public Comment on DOT Proposed Amendment of Rules Relating to Citywide Truck Routes—Proposed Addition of 3rd Avenue (65th–86th Streets) and 86th Street (3rd Avenue–Fort Hamilton Parkway), Bay Ridge

Dear Commissioner Flynn:

On behalf of the Merchants of Third Avenue Civic Improvement Association, the 86th Street Bay Ridge Business Improvement District, the Bay Ridge 5th Avenue Business Improvement District, Brooklyn Community Board 10, and on behalf of myself as a resident of Bay Ridge and member of the Merchants of Third Avenue, we submit this comment in opposition to two specific proposed additions to the Local Truck Route Network: the extension of 3rd Avenue between 65th and 86th Streets, and the extension of 86th Street between 3rd Avenue and Fort Hamilton Parkway. We do not oppose the citywide rule. We ask that DOT sever and withdraw these two Bay Ridge segments before adoption.

These two additions affect the commercial and residential corridor these organizations have served for decades. The designations are unsupported by the analysis Local Law 171 requires, were designated through a process that bypassed the consultation the Local Law mandates, and rest on an assertion of authority the Local Law does not provide. Each defect is independently sufficient to require severance; together, they leave no basis on which these designations could withstand review.

Section 1043 of the City Charter requires DOT to publish a final statement of basis and purpose that responds to substantive comments. We respectfully ask that the agency’s adoption statement address each point raised in this letter specifically.



I. Statement of Interest

The Merchants of Third Avenue Civic Improvement Association, Inc. (“the Association”) is a not-for-profit civic organization that has served the businesses and residents of Bay Ridge, Brooklyn for more than fifty years.¹ The Association represents over 140 member businesses along the 3rd Avenue corridor—restaurants, retailers, medical and wellness providers, professional service firms, and specialty shops that together form the commercial backbone of one of Brooklyn’s most distinctive neighborhoods. For nearly five decades it has organized the Third Avenue Festival, run the Summer Stroll on Third, the Holiday Lighting Program, and the Senior Sidewalk Social, and partnered with the Norwegian Day Parade, the Bay Ridge St. Patrick’s Day Parade, the Memorial Day Parade, and the Bay Ridge Ragamuffin Parade. These events are expressions of what Third Avenue is: a street that functions as a public living room for Bay Ridge, where commerce, culture, and community life are inseparable.

The Bay Ridge 5th Avenue Business Improvement District (“the Bay Ridge 5th Avenue BID”)² is a formally established BID whose district, according to NYC Department of Small Business Services records, include properties along 5th Avenue from 65th to 85th Streets—coextensive in length with the proposed 3rd Avenue extension two blocks away. The Bay Ridge 5th Avenue BID has previously conducted a multi-year Commercial District Needs Assessment covering 3rd Avenue as part of its broader Bay Ridge commercial corridor work.³ Whether or not its formal boundary extends to 3rd Avenue, the Bay Ridge 5th Avenue BID is a district management association for a formally established BID in direct geographic proximity to the proposed designation, with an established institutional interest in the conditions of the corridor.

The 86th Street Bay Ridge Business Improvement District (“the 86th Street Bay Ridge BID”) is a formally established BID that has operated along 86th Street in Bay Ridge since 2001.⁴ Its district management association oversees 131 properties and over 160 businesses along 86th Street—the street of the proposed new truck route extension. The 86th Street Bay Ridge BID is a public-private partnership whose board includes property owners, commercial tenants, residents, and elected officials, coordinated by NYC Department of Small Business Services. Its district runs the entire length of the proposed 86th Street truck route addition.

Brooklyn Community Board 10 (“CB10”) is the advisory body established under the New York City Charter to represent the neighborhoods of Bay Ridge, Dyker Heights, and Fort Hamilton, with a combined population exceeding 122,000 residents. CB10 is composed of fifty volunteer members appointed by the Brooklyn Borough President and plays an advisory role in land use and zoning matters, municipal service delivery, and the full range of community concerns affecting the district. The entirety of both proposed truck route segments lies within CB10’s jurisdiction.

¹ www.merchantsofthirdave.com

² www.bayridgebid.com

³ Available at <https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/avenyc-cdna-bayridge.pdf>.

⁴ www.86bid.org



The proposed designation threatens the character of the corridors these organizations have spent decades building and protecting. Heavy truck traffic on a two-lane street already burdened by double-parking and high pedestrian volumes will impede the outdoor dining, street festivals, and sidewalk activity that define the avenue’s identity and sustain its member businesses. For CB10, the concerns extend further: the corridor is home to thousands of residents—including families with children attending the schools that line the route and seniors living in the buildings above its storefronts—who will bear the safety and quality-of-life consequences of a designation that was made without their community board’s input.

All four organizations also have a direct interest in the procedural integrity of this rulemaking. Local Law 171 § 1(b) expressly requires DOT to consult “community boards,” “district management associations for business improvement districts,” and “representatives from the trucking, logistics and last-mile delivery industries” in conducting the redesign. CB10 is the community board with jurisdiction over the proposed truck route segments. The 86th Street Bay Ridge BID and the Bay Ridge 5th Avenue BID are formal district management associations within the meaning of that requirement. And the Merchants of Third Avenue is the organized representative body of merchants who comprise the last-mile delivery industry stakeholders the Local Law was designed to include. Each of these four organizations falls squarely within a named class of statutory consultees. None was consulted in conducting the redesign, and none appears in the Report’s stakeholder log.

All four organizations submit this comment to place their opposition on the record, to ensure that the consultation Local Law 171 requires occurs before any designation is finalized, and to protect the neighborhoods and corridors they serve.

II. The Administrative Record

The administrative record supporting the proposed Bay Ridge designations consists of three documents and a set of statements made by DOT representatives at a public meeting. Taken together, they constitute the entirety of what DOT has produced to justify 1.43 miles of new local truck route through one of the densest residential and commercial corridors in southern Brooklyn.

A. The Report (November 2025)

The Truck Route Network Redesign Report (the “Report”), published by DOT in November 2025, is the primary document supporting the proposed rule.⁵ The Report spans ninety-one pages and addresses proposed changes to the truck route network across all five boroughs. Its treatment of the two Bay Ridge segments at issue consists of four sentences.

The agency’s “route justification” for the 3rd Avenue extension is one sentence: “This extension connects the existing truck route down to 86th Street, where currently no truck routes exist in the core area of Bay Ridge, along a highly commercial corridor.” Report at 65 (Table 8). The

⁵ Available at <https://www.nyc.gov/html/dot/downloads/pdf/truck-network-redesign-report.pdf>.

justification for the 86th Street extension is also one sentence: “Extension of existing 86th Street truck route west to connect with 3rd Avenue; supports egress/entry of trucks into and out of Bay Ridge and serves a high-density commercial corridor.” Report at 65 (Table 8).

The Land Use Analysis adds one further sentence: “Mixed commercial and residential buildings account for 25% of the land adjacent to proposed truck route additions in Brooklyn. These buildings are primarily found along the proposed 3rd Avenue and 86th Street corridors, which are proposed as new routes to support the entry and egress of trucks into and out of Bay Ridge, reducing the likelihood of off-route behavior within the neighborhood.” Report at 35.

That is the complete record of DOT’s stated justification for the two Bay Ridge designations in the Report.

B. The February 2026 CB10 General Board Meeting

Following publication of the Report in November 2025, DOT presented the proposed Bay Ridge designations to Brooklyn Community Board 10 at its February 2026 general board meeting. This was the first time DOT had presented the proposed designations to CB10—after the Report had already been published. At that meeting, CB10 voted to send a formal letter to DOT and to elected officials outlining concerns and specific data requests, including: copies of traffic studies DOT had conducted at specified intersections along the proposed route; an enforcement plan for overweight trucks; and an explanation for why street-level truck routes were being added while the City simultaneously pursued Blue Highway marine freight transport. February 2026 General Board Meeting (“Feb. Tr.”).⁶

DOT did not respond to CB10’s February 2026 letter before publishing the proposed rule.

C. The Proposed Rule (Spring 2026)

DOT published the proposed rule amending the citywide truck route network in spring 2026, initiating a public comment period closing June 9, 2026.⁷ The rulemaking record as published consists of the Report and no other documentary support specific to these two segments. Proposed Rule at 3 (“The findings and recommendations set forth in the report are the basis for the proposed rule.”).

D. The May 6 Plan

On May 6, 2026—after the proposed rule had been published—DOT presented to CB10’s Traffic and Transportation Committee a corridor-specific safety enhancement plan titled “Third

⁶ Available at <https://www.youtube.com/watch?v=w1Ttd7e8iW4&t=2s>.

⁷ Available at <https://rules.cityofnewyork.us/wp-content/uploads/2026/05/DOT-Proposed-Amendment-of-Rules-Relating-to-Citywide-Truck-Routes-certifications-FINAL2.pdf>.

Avenue, Wakeman Place to 86th Street — Community Board 10 — May 2026” (the “May 6 Plan”).⁸ It is a twenty-four-page deck prepared by NYCDOT.

The May 6 Plan contains the following material not present in the Report:

- Corridor crash data: 111 crash injuries and 13 killed or severely injured (KSI) incidents along the one-mile corridor between 2021 and 2025, including 2 pedestrian KSI, 3 cyclist KSI, 6 motorized-two-wheeler KSI, 2 motor vehicle occupant KSI, and 1 fatality. Over 46% of pedestrian injuries occurred while pedestrians were crossing with the signal. Over 30% of motor vehicle injuries occurred due to sideswipes. May 6 Plan at 7.
- Bay Ridge truck-trip growth data: a 76% increase in average weekday truck trips on 3rd Avenue between 2019 and 2023 (373 additional daily trips), and a 50% increase on 86th Street over the same period (297 additional daily trips). May 6 Plan at 20.
- Merchant survey findings: that “most delivery vehicles are forced to double park to complete deliveries”; that “some delivery vehicles are forced to unload on adjacent side streets”; that “passenger vehicles frequently obstruct designated Truck Loading Zones”; and that “traffic congestion has recently become notably worse.” May 6 Plan at 22.
- A fuller rationale for designation than appears in the Report, stating that “~90% of the buildings along the corridor have mixed residential/commercial or commercial uses”; that “many businesses along the corridor receive multiple daily deliveries”; that “the lack of a dedicated truck route in Bay Ridge results in trucks using streets unsuitable for commercial vehicle traffic”; and that “a local truck route will assist with enforcement efforts to keep trucks off residential streets.” May 6 Plan at 5.
- A proposed safety enhancement package, including concrete and painted curb extensions, hardened centerlines, signal-timing changes, and two truck loading zones (at 71st–73rd and 74th–76th Streets). May 6 Plan at 10–13, 23–24.
- A project timeline scheduling implementation for “Late Summer 2026,” completion for “Late Fall 2026,” and post-implementation monitoring for “Winter/Spring 2027.” May 6 Plan at 15.

None of this material appears in the Report. None of it was presented to the public during the period between publication of the Report and publication of the proposed rule. And none of it is incorporated in the proposed rule.

E. Statements of DOT Representatives at the May 6, 2026 CB10 Meeting

At the May 6, 2026 meeting,⁹ DOT’s representatives made the following statements on the record, cited throughout this comment as “May 6 Tr.”

⁸ Available at <https://www.nyc.gov/html/dot/downloads/pdf/third-ave-wakeman-pl-86-st-may2026.pdf>.

⁹ Available at https://www.youtube.com/watch?v=OMShF_MJQvQ.

- *On the reason for the designation:* DOT freight planner Jack Holmes emphasized that the rationale for the designation was to conform the truck route network to existing freight patterns:
 - “these two streets were chosen for these proposed additions because they experience already the most significant truck traffic in the neighborhood”
 - “Local Law 171 which mandates DOT as an agency to re-evaluate the truck route network and make changes to bring it in line with the activity we’re seeing today. And you know in Bay Ridge that activity is happening along Third Avenue more than any other corridor, which is the reason you know behind the designation, so that it can regulate the activity that is already there.”
 - “it’s a redesign to take into consideration existing freight patterns. So it’s looking at where freight was once occurring where it maybe isn’t anymore and where it is now occurring that it wasn’t before and adjusting the truck route network to those patterns.”
- *On the effect of designation on truck volume:* Holmes stated that the proposed designations “will not be introducing new trucks to Bay Ridge” and that the route “is really for trucks that are already serving businesses in Bay Ridge and it’s making sure that they do not deviate from that route.” When asked how DOT knew this would be the result, Holmes acknowledged that the agency would assess traffic impact only “as part of our post-implementation evaluation.”
- *On whether Local Law 171 requires expansion:* When asked whether Local Law 171 “requires an expansion,” Holmes responded: “no, not per se.”
- *On the relationship between the safety improvements and the designation:* DOT representative Andrew Diaz stated: “for the safety improvements we’re treating them in this case separately from the truck route additions so we would still want to do the safety improvements even without the truck route part.” Diaz agreed that the safety plan is not contingent on the truck route.
- *On the 7th Avenue alternative:* In response to a question about how DOT knew that the plan would not result in more trucks routing to 3rd Avenue, Holmes acknowledged that the 3rd Avenue route “is going to be much slower than taking the existing Gowanus Expressway or the existing 7th Avenue route.”
- *On the unanswered February 2026 CB10 letter:* District Manager Josephine Beckmann confirmed that CB10 had “sent the letter to the commissioner . . . to which we have not received a response.” DOT’s liaison stated she would “look up that letter and get a response.”
- *On the merchant survey:* Holmes stated that DOT “conducted merchant surveys of businesses along Third Avenue.” James Vavas, President of the Merchants of Third Avenue Civic Improvement Association, responded that his organization—representing over 140 members—“was never contacted.” CB10 requested a copy of the street

ambassador survey report; DOT committed to “follow up” but produced nothing at the meeting. As of this writing, DOT has not provided the merchant survey to CB10.

F. CB10’s May 18, 2026 Vote and May 20, 2026 Letter

On May 18, 2026, Brooklyn Community Board 10 voted unanimously to strongly oppose the proposed expansion of the 3rd Avenue truck route and to request that DOT pause implementation of the paired safety enhancement project.¹⁰ On May 20, 2026, District Manager Josephine Beckmann conveyed that vote by letter to Borough Commissioner Bray, with copies to Council Members Santosuosso, Carr, and Avilés.¹¹ The letter specifically requests that the Merchants of Third Avenue be included in any further discussion.

G. Gounardes-Santosuosso June 2 Letter

On June 2, 2026, State Senator Andrew S. Gounardes and Council Member Kayla Santosuosso submitted a joint letter to NYC DOT Commissioner Flynn opposing the proposed 3rd Avenue truck route addition.¹² The letter describes 3rd Avenue as “an already heavily congested commercial corridor, home to hundreds of restaurants, shops, schools, daycares, and small businesses, as well as active bus routes and a shared bike lane,” and states that the corridor “was never designed for the volume or vehicle size that a truck route designation would bring.” The letter urges the Commissioner to reconsider the proposal and notes that the elected officials have heard concerns from constituents and from CB10. Senator Gounardes represents the 26th Senate District, which includes Bay Ridge, and Council Member Santosuosso represents the 43rd Council District—both of which include the proposed truck route corridor.

H. Summary of the Record

The record supporting the two Bay Ridge designations, in its entirety, consists of: four sentences in the Report; a May 6 Plan presented to CB10 after the proposed rule was already published and never placed in the public rulemaking record; statements by DOT representatives at the May 6 meeting; and letters of opposition from CB10 and from the state and local elected officials representing the corridor. The Report contains no traffic study, no safety determination, no congestion analysis, no origin-destination data, and no consideration of the existing 7th Avenue truck route as an alternative. The May 6 Plan contains data DOT should have placed in the Report, but was produced instead as a post-publication presentation to the community board the Local Law required DOT to consult before the Report was published. And although the proposed safety enhancements may achieve the goals enumerated in Local Law 171, DOT confirmed that the safety enhancements exist independent from the designation, and any anticipated improvements are traceable to the safety enhancements, not to the designation.

¹⁰ Available at <https://www.youtube.com/watch?v=pM-uREBNwdw&t=6019s>.

¹¹ Available at <https://rules.cityofnewyork.us/wp-content/uploads/2026/05/DOT-Safety-Enhancement-Plan-3rd-Avenue.pdf>.

¹² Available at <https://www.facebook.com/photo?fbid=1462905565641322&set=a.300362468562310>.

This is the record on which DOT proposes to designate 1.43 miles of new local truck route through a corridor with 13 KSI in five years, abutting multiple schools, a hospital, and one of Brooklyn’s most active commercial and festival corridors. The sections that follow explain why that record cannot support adoption of the proposed rule.

III. DOT Has Not Made the Determinations Local Law 171 Requires

Local Law 171 authorizes DOT to make “any changes to such network that the department determines would enhance safety, increase visibility, reduce traffic congestion, reduce vehicle miles traveled, or otherwise facilitate the conduct of vehicular traffic within the city truck route network.” L.L. 2023/171 § 1(b). The accompanying report must state “the reasons for any proposed changes.” *Id.* § 1(c). An agency determination that lacks the findings the authorizing law requires is arbitrary and capricious.

The Report devotes four sentences to both Bay Ridge segments combined. Measured against each of the five criteria, the record contains no determination at all.

Enhance Safety. DOT’s own corridor-specific May 6 Plan reports 111 crash injuries and 13 KSI incidents along this one-mile corridor between 2021 and 2025, including 2 pedestrian KSI, 3 cyclist KSI, and 1 fatality. May 6 Plan at 7. DOT collected this data but made no finding that the designation would reduce those numbers. The Report acknowledges citywide that “total injury crashes and incidents involving vulnerable road users, pedestrians, and cyclists are significantly higher” on designated truck routes than on residential streets. Report at 27. A determination that a designation “would enhance safety” cannot rest on a record showing the opposite.

The 86th Street extension terminates at Fort Hamilton Parkway, which DOT’s own Truck Priority Safety Corridor analysis identifies as one of Brooklyn’s top five truck-KSI corridors, at 2.63 KSI per mile. Report at 62 (Table 2). The Report makes no finding explaining how feeding additional truck traffic into that corridor enhances safety.

Reduce Traffic Congestion and Vehicle Miles Traveled. The Report contains no traffic-volume study, no congestion modeling, and no origin-destination analysis for either segment. DOT’s own freight planner conceded at the May 6 meeting that any assessment of traffic impact will occur only “as part of our post-implementation evaluation.” May 6 Tr. In other words, DOT has not determined that that the designation would reduce traffic congestion or vehicle miles traveled. Local Law 171 requires that such determinations be made as a precondition to any changes, not after adoption.

Enhance Visibility. The Report contains no Bay Ridge-specific visibility analysis. Community testimony and DOT’s own field observations document persistent double-parking that obstructs sightlines throughout the corridor. The Report does not address it.

“Otherwise Facilitate” Vehicular Traffic. The Report makes no facilitation finding beyond the conclusory phrase “supports egress/entry of trucks into and out of Bay Ridge.” Report at 65. The inadequacy of that conclusion is confirmed by DOT’s own freight planner, who acknowledged at

the May 6 meeting that routing through 3rd Avenue “is going to be much slower than taking the existing Gowanus Expressway or the existing 7th Avenue route.” May 6 Tr. A slower route does not facilitate traffic. The proposed designation does exactly the opposite of what Local Law 171 requires.

IV. Local Law 171 Does Not Authorize Designation as a Substitute for Enforcement

An agency acts without or in excess of jurisdiction when it exercises authority the enabling law does not confer. The sole basis for designation that appears consistently throughout the record is that trucks are already using these streets in violation of existing rules. The Report states the addition will “reduc[e] the likelihood of off-route behavior.” Report at 35. The May 6 Plan states designation will “assist with enforcement efforts to keep trucks off residential streets.” May 6 Plan at 5. At the May 6 meeting, DOT’s freight planner confirmed: “this route will not be introducing new trucks to Bay Ridge . . . this route is really for trucks that are already serving businesses in Bay Ridge and it’s making sure that they do not deviate from that route.” May 6 Tr.

That is not a determination that the change “would enhance safety, increase visibility, reduce traffic congestion, reduce vehicle miles traveled, or otherwise facilitate the conduct of vehicular traffic.” It is a decision to legalize existing violations. Local Law 171 does not confer that authority. Enforcement tools are the appropriate response to off-route activity: Target Enforcement Zones, weigh-in-motion sensors, joint NYPD enforcement, and related measures. Report at 52. Designation is not a substitute for enforcement.

DOT’s own representative acknowledged at the May 6 meeting that Local Law 171 does not require expansion of the network. Holmes stated that the Local Law requires DOT to “take into consideration existing freight patterns” in conducting the redesign. May 6 Tr. That is accurate: Local Law 171 does direct DOT to consider existing patterns. But consideration of existing patterns is an input to the analytical process the Local Law prescribes, not a substitute for the output it requires. Local Law 171 directs DOT to consider existing patterns in order to make a determination that a proposed change would advance one of five enumerated objectives. See L.L. 2023/171 § 1(b). Observing that trucks are already using 3rd Avenue is the beginning of the analysis, not the end of it. DOT must still determine that designating the route would enhance safety, reduce congestion, reduce vehicle miles traveled, increase visibility, or otherwise facilitate vehicular traffic. No such determination appears anywhere in the record.

V. DOT’s “No New Trucks” Representation Is Unsupported, Likely Wrong, and Internally Inconsistent with DOT’s Own Rationale

DOT’s attempt to address community concerns about these designations compounds rather than cures the deficiency. At the May 6 meeting, DOT’s freight planner stated that the proposed designations “will not be introducing new trucks to Bay Ridge” and that the route “is really for trucks that are already serving businesses in Bay Ridge.” May 6 Tr. That representation is not supported by any study, traffic model, or data in the Report or the May 6 Plan. It is an assertion—offered to assuage community concern—with no evidentiary foundation.

The assertion is also almost certainly wrong, for a reason DOT’s own framework explains. The current prohibition on truck routing through 3rd Avenue functions as a deterrent: a driver who might otherwise divert from a congested 7th Avenue service road to 3rd Avenue refrains from doing so because the diversion would expose the driver to citation. Remove that deterrent—which is precisely what formal designation does—and the calculus changes. The current prohibition is itself the mechanism keeping additional truck traffic off the corridor. DOT has produced nothing to support the proposition that legalizing a route will not increase usage of that route, and the proposition is implausible on its face: legal prohibitions deter conduct, and removing them changes behavior. The designation would be like throwing away your umbrella in a rainstorm because you are not getting wet.

This unfounded assumption is not the kind of reasoned finding Local Law 171 § 1(b) requires. Reasoned agency action requires that the agency grapple with the foreseeable consequences of its decision; an assumption substituted for analysis is a hallmark of arbitrary action.

The evidentiary failure places DOT’s rationale in a logical bind from which there is no escape on this record. If, as DOT represents, designation will not introduce new trucks to Bay Ridge, then the designation produces no change in freight movement. A change that produces no change in freight movement does not “enhance safety,” “increase visibility,” “reduce traffic congestion,” “reduce vehicle miles traveled,” or “otherwise facilitate the conduct of vehicular traffic”—it satisfies none of the five criteria. The designation would be, on DOT’s own account, a nullity: a rule change with no consequence other than transforming previously prohibited conduct into permitted conduct.

If, on the other hand, designation does produce additional truck volume on 3rd Avenue—the foreseeable and likely result of removing a legal deterrent—then the Report fails for a separate reason: DOT has not analyzed the adverse impacts that increased truck traffic would impose on safety, congestion, and visibility along a corridor its own data shows already has 13 KSI in five years and persistent sideswipe injuries from vehicles maneuvering around double-parked trucks. An agency that touts the benefits of a regulation while simultaneously maintaining that the regulation will have no consequences cannot satisfy the requirement of reasoned decision-making. The public is entitled to be skeptical of a rationale that runs in both directions at once.

VI. The Designation Violates DOT’s Own Selection Principles Without Explanation

An agency determination is arbitrary and capricious when it departs from the agency’s own standards without explanation. The Report sets out the principles that “guide” route designation. Report at 29. The Bay Ridge additions are inconsistent with each.

Essential connection. “Local streets should only be designated truck routes if they provide essential connections.” Report at 29. The Report does not identify the connection as essential. The existing 7th Avenue service road—a wider, divided roadway with direct BQE access—already provides the connection DOT says the 3rd Avenue addition would serve. At the May 6 meeting, CB10’s District Manager observed that “right now that connection is made through 7th Avenue.” DOT acknowledged that routing through 3rd Avenue “is going to be much slower than

taking the existing Gowanus Expressway or the existing 7th Avenue route,” confirming that 3rd Avenue provides no essential connectivity that does not already exist. May 6 Tr.

Avoidance of constrained corridors. The selection principles require DOT to “avoid assigning truck routes through areas with physical or environmental constraints, such as narrow roadways . . . high residential densities, or proximity to sensitive land uses (e.g., schools, parks, or hospitals), *unless no viable alternative exists.*” Report at 29 (emphasis added). The 3rd Avenue corridor between 65th and 86th is a two-lane street with persistent double-parking. It abuts numerous schools, a hospital, and a fire station. It hosts restaurants with outdoor dining setups and numerous street festivals every year. CB10 board members specifically noted—and DOT did not dispute—that the corridor is residential as well as commercial, with families living above street-level businesses. The “no viable alternative” precondition was never discussed in the Report and was not addressed by DOT at the May 6 meeting.

Differential treatment without explanation. The disparity in DOT’s reasoning across the proposed rule is notable. The Manhattan route changes each cite a specific predicate event justifying the change: one segment is added because Broadway’s transformation into pedestrian and bicycle infrastructure displaced existing truck routing; another because a Parks capital project closed access to Division Street; another because a slip-lane closure eliminated an existing connection. Report at 69 (Tables 12 and 13). Each addition is tied to an identifiable change in network conditions that the designation is designed to address. The Bay Ridge additions cite no analogous predicate. There is no recent street closure on a parallel corridor, no rezoning, no documented change in freight demand—only the observation that trucks are already using the street. The Report also identifies Caton Avenue, Grand Street, and Metropolitan Avenue as corridors requiring “deep dive” study before any designation change because their conditions “pose complexities that require more in-depth analyses, outreach, and coordination.” Report at 29. The 3rd Avenue corridor between 65th and 86th—narrower, denser, and with a comparable concentration of sensitive land uses—received four sentences and no deep-dive analysis. An agency that applies rigorous pre-designation reasoning to some corridors and bare conclusions to others must explain the differential treatment. The Report offers none.

VII. DOT Failed to Perform the Consultations Local Law 171 Requires

An agency determination is both made in violation of lawful procedure and constitutes a failure to perform a duty enjoined by law when it issues without the procedural steps a governing law requires. Local Law 171 § 1(b) requires DOT to “consult with” specified stakeholders in conducting the redesign. That duty is mandatory—the Local Law uses “shall”—and it specifies consultation “in redesigning” as a predicate to designating changes. DOT’s failure to conduct mandatory pre-designation consultation renders the designation procedurally defective.

Local Law 171 requires DOT to consult with “community boards.” Brooklyn Community Board 10, which has jurisdiction over the entirety of both proposed segments, does not appear in the Report’s stakeholder log. Report at 90–91 (Appendix F). DOT’s first substantive presentation to CB10 on these segments occurred in February 2026—after the Report was published in November 2025. At that meeting, CB10 formally requested traffic studies at specified

intersections, an overweight-truck enforcement plan, and an explanation of the Blue Highway alternative. DOT did not respond before publishing the proposed rule. At the May 6 meeting, District Manager Josephine Beckmann confirmed: “We did send the letter to the commissioner . . . to which we have not received a response.” CB10 Board Chair Sandy Vallas characterized the situation as “very highly problematic” and observed: “you have the community board which has not received an answer to a letter.” May 6 Tr.

Local Law 171 separately requires DOT to consult with “district management associations for business improvement districts.” L.L. 171 § 1(b). The NYC Department of Small Business Services lists two business improvement districts (BIDs) within the designation zone: the Bay Ridge 5th Avenue BID; and the 86th Street Bay Ridge BID.¹³ Neither appear in the Report’s stakeholder log, Report at 90–91 (Appendix F), and neither were consulted by DOT “[i]n redesigning” the network.

The consultation defect extends to the Merchants of Third Avenue. Local Law 171 § 1(b) requires DOT to consult “representatives from the trucking, logistics and last-mile delivery industries.” The businesses along the 3rd Avenue corridor—which DOT’s own May 6 Plan describes as receiving “multiple daily deliveries” and generating the freight activity that DOT cites as the primary justification for designation—are precisely the last-mile delivery industry stakeholders the Local Law contemplates. Yet the May 6 Plan reports that DOT conducted its merchant outreach through street ambassadors going business to business, May 6 Plan at 22, without engaging the organized representative body of those merchants. At the May 6 meeting, James Vavas, President of the Merchants of Third Avenue, disputed the adequacy of that outreach directly:

“I represent the largest organization of organized merchants on the avenue with over 140 members. I don’t recall ever seeing anyone reaching out to us. . . . If we had provided that feedback you would have heard very strongly that we are in significant opposition to this.”

May 6 Tr. The District Manager asked DOT to produce the street ambassador survey report; DOT committed to “follow up” but produced nothing at the meeting. As of this writing, DOT still has not produced the street ambassador survey report to CB10 or the Association.¹⁴ The Association is acknowledged by name in the May 6 Plan as the organization that “manages events and programming along the corridor,” May 6 Plan at 21, yet does not appear in the Report’s stakeholder log. Consulting individual businesses through street ambassadors while bypassing the organized association that represents over 140 of them does not satisfy the Local Law’s requirement that DOT consult industry representatives in conducting the redesign—

¹³ Available at <https://nycsbs.maps.arcgis.com/apps/webappviewer/index.html?id=7c2d36ad6c774e98a90ade1064fb575a> (accessed May 27, 2026).

¹⁴ CB10 received an email from the city on May 22, 2026, advising that the city will send the results of the merchant survey after it has completed its internal review.



particularly where the association’s existence and role were known to DOT and reflected in its own presentation materials.¹⁵

The 2023 “3rd Avenue Corridor (BK) Safety Study” listed at Report page 90 does not cure this defect. That consultation was conducted with Brooklyn Community Board 7, which covers Sunset Park. CB7 has no jurisdiction over the proposed 65th–86th Street segment, which lies entirely within CB10. To the extent DOT treated the CB7 consultation as adequate for the Bay Ridge designation, the agency conflated two geographically distinct corridors and two distinct community boards.

The sequence of events speaks for itself. DOT published the Report in November 2025 without having consulted CB10, the relevant BIDs, or the Association. DOT presented the proposed Bay Ridge designations to CB10 for the first time in February 2026, after the redesign had already been completed and the Report published. CB10 responded with a formal letter requesting corridor-specific traffic studies and other data. DOT did not answer that letter. DOT then published the proposed rule. When DOT finally presented the paired safety enhancement plan to CB10 on May 6, 2026, its freight planner represented that merchant surveys had been conducted, but those surveys have not been made public, and they do not satisfy the mandatory consultation requirements. CB10 voted unanimously to oppose on May 18, 2026, and conveyed that vote by letter to Borough Commissioner Bray.

That sequence is the opposite of what Local Law 171 § 1(b) requires. It mandates that DOT “shall consult with” specified representatives “[i]n redesigning such network”—consultation is a predicate to the redesign, not a courtesy extended after it concludes. The Council named community boards and industry representatives because they possess corridor-specific knowledge the agency would otherwise lack; that knowledge is useful only if it can inform the designation before it is made. What DOT provided CB10 was notification, not consultation. And what DOT conducted was a street ambassador survey that bypassed the BIDs covering hundreds storefronts along the corridors and the organized association representing over 140 businesses on Third Avenue. In both cases, the consultation Local Law 171 requires was either conducted after the fact or not conducted at all.

VIII. The Paired Safety Enhancement Plan Confirms the Defects

DOT has prepared a corridor-specific safety enhancement plan to accompany the proposed designation. The May 6 Plan proposes curb extensions, hardened centerlines, signal-timing changes, and truck loading zones, with project completion scheduled for “Late Fall 2026” and

¹⁵ I conducted an informal survey of merchants located on Third Avenue. When asked whether they knew about the proposed designation, none had ever heard of it. When asked whether DOT officials surveyed them about the proposed designation, some said they were never surveyed. Those that were surveyed recalled DOT officials asking general questions about traffic and congestion along Third Avenue, but none recalled DOT officials asking about the proposed designation. When asked if they would have contacted the Merchants of Third Avenue had DOT asked them about such a plan, all respondents said that they would have.

post-implementation monitoring beginning “Winter/Spring 2027.” May 6 Plan at 15. The existence and content of that plan provide additional bases for severance.

The paired safety enhancements do not supply the necessary justification for the designation. The Report acknowledges that new truck routes may have collateral effects and that safety enhancements should accompany them where feasible. Report at 29. But the May 6 Plan makes clear that the proposed enhancements are a response to *existing* conditions on the corridor, not to any new risk the designation itself introduces. May 6 Plan at 7–13. Those conditions exist today, before any designation, and DOT’s own representative confirmed at the May 6 meeting that the safety improvements are warranted independently. Safety enhancements justified by existing conditions cannot serve as the basis for a new designation.

The enhancements also fail to account for the most foreseeable consequence of the designation: additional truck volume. As established above, the current prohibition functions as a deterrent, and removing it will predictably change driver behavior. The May 6 Plan’s engineering designs are calibrated entirely to existing conditions and make no accommodation for any increase in truck volume. If designation generates additional truck traffic—the foreseeable consequence of removing a legal deterrent—the safety enhancements DOT has proposed will be inadequate from the moment of implementation. The DOT’s “post-implementation evaluation” will merely confirm what we know today: that the safety plan cannot adequately mitigate safety risks posed by an influx of additional freight traffic.

The May 6 Plan’s rationale was never placed in the public record. The rationale DOT presented to CB10 in May 2026 is materially more developed than the rationale in the November 2025 Report: the May 6 Plan offers four reasons for designation; the Report offers four sentences. Significant data—13 KSI over five years, 76% truck-trip growth on 3rd Avenue between 2019 and 2023, 50% growth on 86th Street, merchant survey findings—appears only in the May 6 Plan. Charter § 1043 requires the published record to enable meaningful public comment. When the agency relies on analysis that was presented only to a single community board after the proposed rule was published, and never placed in the public record, the resulting basis-and-purpose statement cannot satisfy § 1043.

The designation timeline confirms that post-designation analysis is being substituted for pre-designation determination. The Local Law requires the determination to precede the change. §§ 1(b), (d). The May 6 Plan schedules “post-implementation monitoring and data collection” for Winter/Spring 2027, and DOT confirmed at the May 6 meeting that traffic-impact assessment will occur “as part of our post-implementation evaluation.” May 6 Tr. That sequence inverts the Local Law’s requirement.

IX. Requested Relief

We respectfully ask that DOT sever and withdraw the following segments from the final rule before adoption:

- 3rd Avenue from 65th Street to 86th Street; and



- 86th Street from 3rd Avenue to Fort Hamilton Parkway.

The remainder of the rule may proceed on its current timeline. Local Law 171’s September 15, 2026 implementation deadline applies to changes “that the department has determined” would advance one of the five objectives. § 1(d). Severance of two segments for which no such determination has been made—and for which the mandatory consultation was not performed—is consistent with the Local Law 171 and protects the agency from the legal exposure that adoption of these segments on this record would entail.

In the alternative, we ask that DOT defer designation of these segments until it has: (i) placed the May 6 Plan’s data and analysis on the public record and reopened the comment period on these segments; (ii) consulted CB10, the 5th Avenue and 86th Street BIDs, and the Merchants of Third Avenue as Local Law 171 requires, and responded to CB10’s February 2026 letter; and (iii) made explicit, record-based findings tying each designation to one or more of the five criteria in § 1(b), with specific findings on why no viable alternative to 3rd Avenue exists and why the existing 7th Avenue service road does not already serve the stated function.

Respectfully submitted,

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Resident of Bay Ridge

James D. Vavas
President
Merchants of Third Avenue

Elizabeth Lovejoy
Executive Director
Bay Ridge 5th Avenue BID

Steve Petros
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