

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York to create a Mandatory Inclusionary Housing program that would require, through zoning actions, a share of new housing to be permanently affordable.

This application for an amendment to the Zoning Resolution, N 160051 ZRY, was filed by the Department of the City Planning on September 10, 2015, to create a Mandatory Inclusionary Housing program that would require, through zoning actions, a share of new housing to be permanently affordable.

BACKGROUND

The Department of City Planning proposes a citywide zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) program, which would require a share of new housing in specified areas to be provided as permanently affordable to low- and moderate-income households. The subject text amendment would establish no geographic applicability for this program; rather, the provisions established under this text amendment would be applied in conjunction with subsequent land use actions to encourage the creation of new housing in medium- and high-density districts.

Even with substantial rates of new housing creation, growth in population and employment in New York City has placed increased demands on the city's housing supply, exacerbating already high housing costs. In recent years, rents have risen faster than incomes, and the share of New Yorkers who qualify as "rent burdened," paying more than 30 percent of their income toward housing costs, now constitutes almost 55 percent of all renter households, an increase of 11 percent since 2000.

In 2015, the Department released a study titled *Mandatory Inclusionary Housing: Promoting Economically Diverse Neighborhoods*, which showed that many of the city's more affluent areas, which frequently offer greater opportunity in terms of access, directly or via public transportation, to quality services, education and employment opportunities, have had a net loss of low- and moderate-income households, indicating that there has been a decline in the amount of housing accessible to low- and moderate-income households in these areas. A consequence of recent housing market, employment and demographic trends is that many of the city's neighborhoods are becoming less economically diverse. This poses a threat to the city's economic competitiveness as well as to the opportunities available to lower-income New Yorkers.

As described in this study, neighborhoods affect economic opportunity and quality of life by providing not just a location for housing, but a "package" of services and amenities for their residents. The characteristics of neighborhoods can have profound implications for quality of life

and economic well-being, affecting the quality and diversity of choices and prices paid for housing, childcare, healthcare, education, and transportation, as well as access to certain social networks and family resources. Public investments support the quality of facilities, services and amenities in neighborhoods throughout the city. Promoting economically diverse neighborhoods, in which residents at a range of income levels have access to housing, is important to ensure that a diverse range of New Yorkers may enjoy access to quality facilities, services and amenities.

Sustaining high levels of overall housing production is important to reduce upward pressure on housing prices. However, even aggressive efforts to increase overall housing capacity would not encourage economic diversity at a neighborhood level. The City has long used a wide range of tools to create and preserve housing that is affordable to low- and moderate-income households, most significantly the use of City, State, and Federal subsidies for the construction and preservation of affordable housing on both publicly and privately controlled land. A voluntary Inclusionary Housing program has provided a mechanism to create affordable housing on private sites, but has not provided assurances that affordable housing will be included in new developments in a wide range of neighborhood conditions. The creation of a Mandatory Inclusionary Housing program would promote neighborhood economic diversity and the availability of housing for New Yorkers at a range of income levels where future zoning changes encourage the creation of new multifamily housing, and ensure that permanently affordable housing is available even as neighborhood housing prices increase over time.

Under *Housing New York*, Mayor de Blasio's ten-year affordable housing plan, the City plans to spend more than \$8.2 billion, with a total investment of more than \$41 billion from public and private sources, to create and preserve 200,000 units of affordable housing over 10 years. While previous affordable housing efforts tended to produce most units affordable in a narrow range focused at 60 percent of Area Median Income, the plan includes new initiatives to create more affordable units at lower income levels, as well as at moderate incomes, and to provide more affordable housing for seniors. As a key initiative of *Housing New York*, the establishment of a Mandatory Inclusionary Housing program would require a share of new housing to be permanently affordable in medium- and high-density areas that are rezoned to promote new housing production. Under this program, affordable housing would be required, not optional, when developers build in a newly rezoned area, whether rezoned as part of a city neighborhood plan or a private rezoning application.

New requirements for affordable housing under the proposed MIH program are only one part of a broader set of strategies to address the affordability crisis under *Housing New York*. Several other initiatives will complement MIH to address the city's affordable housing needs and promote neighborhood economic diversity, including most prominently the use of subsidies by the Department of Housing Preservation and Development and Housing Development Corporation to support the creation and preservation of affordable housing on public and private sites, City efforts to prevent displacement of existing residents, the Zoning for Quality and Affordability (ZQA) zoning text amendments to support the creation of affordable housing and better-designed buildings, and a series of neighborhood planning initiatives to identify opportunities for new housing supported by neighborhood services and infrastructure.

The requirements proposed under this text amendment have been informed by a financial feasibility assessment conducted by BAE Urban Economics, a consultant with experience in designing inclusionary zoning programs for communities throughout the United States, for HDC, HPD, and DCP. This analysis evaluated the effect an affordable housing requirement in conjunction with land use actions to promote increased housing would have on the financial feasibility of new residential development for a range of building types, market conditions, and affordable housing parameters. This analysis noted that a tradeoff exists between the percentage of affordable housing that can be achieved and the depth of incomes that can be reached, and concluded that with the availability of a tax exemption or subsidy, the city's strongest housing markets could generally support a requirement for 20 to 30 percent housing affordable to low-to-moderate income residents, while the weakest markets require direct subsidy to support new multifamily construction irrespective of any affordable housing requirement, and mid-market conditions do not support the creation of affordable housing without direct subsidy unless moderate incomes are targeted. The proposed program would allow the use of HPD subsidies in coordination with the MIH requirement in order to reach lower-income households or to finance a higher proportion of affordable housing; however, subsidy is not guaranteed to a developer. HPD will exercise its discretion over the use of affordable housing subsidy to use them when the financing of a development fits HPD's mission of promoting high-quality housing for low- and moderate-income households in thriving and diverse neighborhoods throughout the city.

The proposed MIH program is based on the land use planning rationale of promoting neighborhood economic diversity. It is important to distinguish this from other possible bases for such a program, premised on exaction or value capture. A requirement that purports to mitigate the impacts of proposed developments, that relies on ad hoc or negotiated requirements that differ for individual projects, or that is premised on an evaluation of the economic returns being realized by a specific development, may be characterized as an exaction, and thereby subject to a strict standard of judicial scrutiny. In contrast, the proposed program is based on the application of a consistent set of standards that are premised on promoting a valid land use objective. As such, these standards are conceived to be broadly feasible across a variety of neighborhoods and market types, and to support, rather than stifle, development in areas that are determined to be appropriate for planned growth. The proposed program provides flexibility to accommodate a range of building types and tenures, incorporates features to address challenges faced by smaller developments, is complemented by the availability of subsidies that support feasibility in weaker market conditions, and includes provisions allowing recourse for relief in the case of financial hardship.

PROPOSED ZONING TEXT AMENDMENT

A citywide zoning text amendment is necessary to authorize a Mandatory Inclusionary Housing program in Section 23-90 of the Zoning Resolution, which would become applicable in areas to be designated by future actions in Appendix F. The proposed text amendment would modify Sections 12-10 (Definitions), 23-10 (Open Space and Floor Area Ratios), 23-90 (Inclusionary Housing), 62-80 (Special Review Provisions), 73-62 (Modifications of Bulk Regulations for

Buildings Containing Residences), 74-00 (Powers of the City Planning Commission), and 74-30 (Special Permits Uses and Bulk Modifications) of the Zoning Resolution.

Within geographies established through future actions as MIH areas, the proposed text amendment would require permanently affordable housing set-asides for all developments over 10 units or 12,500 zoning square feet, or, as an additional option for developments between 10 and 25 units (or 12,500 and 25,000 square feet), a payment into an affordable housing fund. A citywide zoning text amendment to authorize an MIH program is necessary to implement the proposal, which would require permanently affordable housing within new residential developments, enlargements, and conversions from non-residential to residential use within subsequently mapped MIH areas. In cases of hardship, where these requirements would make development financially infeasible, developers may apply to the Board of Standards and Appeals for a special permit to reduce or modify the requirements. Developments, enlargements or conversions that do not exceed either 10 units or 12,500 square feet of residential floor area would be exempt from the requirements of the program.

The proposed MIH program would not affect existing provisions in the Zoning Resolution that apply to the regulation and administration of the Inclusionary Housing Program within existing Inclusionary Housing Designated Areas (IHDAs) or R10 or R10 equivalent districts— also collectively referred to as Voluntary Inclusionary Housing (VIH). Any changes to the VIH program would occur at a later date and would be the subject of separate review and analysis.

Applicability

The text amendment would have no effect until mapped through subsequent discretionary actions of the City Planning Commission and City Council. These actions include zoning map and zoning text amendments, each of which would be subject to a public review process and separate environmental review. As with zoning actions generally, MIH areas may be mapped through City-initiated actions or as part of private applications.

The MIH program would apply to developments, enlargements or conversions on zoning lots within mapped MIH areas. Since floor area bonuses for affordable housing would not apply in the MIH program, as they do in the VIH program, alternate definitions are proposed in ZR Section 23-91 for zoning lots and developments affected by MIH. Affordable or supportive housing developments that meet the requirements of the MIH program are called “MIH sites,” while developments that generate the MIH requirements are called “MIH developments.” A zoning lot with an MIH development is called an “MIH zoning lot.”

The first establishment of an MIH area would occur as part of the proposed zoning map (C 160035 ZMK) and text amendment (N 160036 ZRK) for East New York, to facilitate implementation of the East New York Community Plan. That rezoning proposal is the subject of a separate but concurrent land use and environmental review process.

Additionally, MIH would be applied as part of future neighborhood rezonings and private applications that facilitate the development of a substantial amount of new housing. In both instances, MIH would be applied where such action serves the program’s objectives to promote

neighborhood economic diversity and to encourage housing production at a range of income levels. The program would be applied consistently and programmatically in a way that supports broader housing and land use objectives and the feasibility of private development.

The MIH program is anticipated to be applied in areas outside of MIH areas as a condition of the granting of future special permits for use or bulk modifications that facilitate the creation of a significant number of additional dwelling units. The CPC could reduce, modify or waive the MIH requirements for such special permits where it finds that the project would facilitate significant investments in public infrastructure or public facilities that address broader community needs that are not generated by the proposed development. The requirements could also be modified for special permits for sites subject to special provisions regarding the transfer of development rights pursuant to the Hudson River Park Act.

Affordability Requirements

The proposed MIH program includes two primary options that pair set-aside percentages with different affordability levels to reach a range of low and moderate incomes while accounting for the financial feasibility tradeoff inherent between income levels and size of the affordable set-aside. When MIH is applied, the applicant, CPC and City Council would choose one or both of the two primary options, as described below, based on a consideration of information identified through the public review process, including on area housing conditions, community needs and income levels.

The proposed options are as follows:

Option 1: At least 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent of the Area Median Income index (AMI), with no affordable unit exceeding 130 percent of AMI.

Option 2: At least 30 percent of the residential floor area shall be provided as housing affordable to households at an average of 80 percent of AMI, with no affordable unit exceeding 130 percent of AMI.

In addition, in areas where market conditions are anticipated to support new construction, but not the feasibility of reaching low-income levels without the use of subsidy, and where the creation of moderate-income housing would contribute to neighborhood housing affordability, the applicant, CPC and City Council may choose to apply a Workforce Option, described below, in addition to Options 1 and/or 2.

Workforce Option: This option would require that at least 30 percent of the residential floor area shall be provided as housing affordable to households at an average of 120 percent AMI, with no unit targeted to a household exceeding 130 percent of AMI, and with no public funding as defined in ZR 23-90, except where HPD determines that public funding is necessary to support other affordable housing within the development beyond the applicable set-aside. This option would only be made applicable in any area in conjunction with one or both of Options one and two, and would not be available in the Manhattan Core, which encompasses Community Districts 1 through 8. The workforce option may be appropriate in emerging or mid-market

areas where local market conditions do not support without subsidy the skewing of rents to reach low incomes, as contemplated in Options 1 and 2.

Location

Same building. In all instances, MIH affordable units may be located in the same building as market-rate units incurring the affordability obligation under the MIH program. The affordable units must share a common primary entrance with the market-rate units and must be distributed on at least 50 percent of the building's floors. These distribution requirements would not apply to MIH sites containing supportive housing or affordable senior housing because the programmatic requirements of such facilities may be supported by the clustering of units. In recognition of the challenges of mixing tenures within a building, the distribution requirements would not apply when all market-rate units in the building are condominiums and the affordable units are rentals. These requirements may also be waived for affordable floor area created in an MIH site through enlargement because the distribution of affordable units may be impracticable due to existing building configurations and occupancy. As in the VIH program, HPD may also waive the distribution requirements for any new construction affordable housing that cannot comply with the requirements of Federal, State or City programs because of the distribution requirements.

Same zoning lot. Affordable units may be located in a separate building on the same zoning lot that contains a market-rate building incurring the affordability obligation under the MIH program, provided that the buildings are independent from the street grade to the sky. Affordable and market-rate buildings that do not share a common entrance must have their primary entrances on a common street frontage, and may only front on a different street if HPD determines that an alternative configuration does not stigmatize occupants of the affordable housing.

Separate zoning lot. As with the City's VIH program, affordable units may also be located on a separate zoning lot within the same community district or within a half-mile of the market-rate development incurring the affordability obligation under the MIH program. (Notably, under the legislative framework enacted by the State in 2015, market-rate developments where MIH units are provided on a separate zoning lot would not be eligible for an exemption under Section 421-a of New York's Real Property Tax Law.)

Method of Calculating Floor Area

The MIH text would permit HPD, through its guidelines, to specify a method for calculating affordable floor area and the size of affordable units on MIH sites that is consistent with the standard procedure methodologies used by the New York City Department of Buildings (DOB) for calculating floor area. This method is more straightforward than the method described in the current VIH program, which requires floor area to be measured from within the perimeter walls of a building or unit. The method described in the current VIH program is inconsistent with standard DOB procedure and creates unnecessary additional work that adds to the process costs faced by developers of affordable housing.

Bedroom Mix

The bedroom mix for an MIH site would be the same as is currently required for affordable housing that generates bonus floor area under the VIH program (currently defined in the Zoning Resolution as a “generating site”). Under these requirements, the bedroom mix must match the market-rate units or be at least 50 percent two-bedroom or more and 75 percent one-bedroom or more. However, the bedroom mix would not apply to affordable senior housing to allow senior housing to meet the needs of its target population.

Unit Size

The size of affordable units developed under the MIH program would be consistent with the minimum unit sizes currently set forth in the Zoning Resolution for the VIH program, except that where market-rate units have a smaller average size than the specified minimum size for a dwelling unit with a particular bedroom count, the smaller average size may apply. These sizes are:

- 400 square feet of floor area for a zero-bedroom unit; or
- 575 square feet of floor area for a one-bedroom unit; or
- 775 square feet of floor area for a two-bedroom unit; or
- 950 square feet of floor for a three-bedroom unit.

Payment in Lieu Option

In recognition that the creation, administration, and oversight of small numbers of units poses a challenge for developers, administering agents and the City, a payment in lieu option would be available on a limited basis to small developments to ensure that smaller projects can proceed while supporting the objectives of the MIH program.

The payment-in-lieu option would be available for developments that do not exceed 25 units or 25,000 zoning square feet of residential development. The payment would be based on the cost of providing a permanently affordable unit in the vicinity of the MIH development and would be established through HPD’s guidelines.

Any funds collected could be used by HPD for a range of housing affordability measures, including new construction, rehabilitation, preservation and other affordable housing purposes set forth by HPD in its guidelines (as discussed further below). Consistent with the geographic nexus of the MIH program, the funds would be made available for use within the same Community District. If the funds cannot be spent within a number of years as set forth in HPD’s guidelines, the funds may be made available for use over a wider geography. This ensures that the funds will be used for purposes consistent with the objectives of the MIH program.

BSA Special Permit

The program would establish a special permit by which the Board of Standards and Appeals may reduce the amount of affordable floor area required or modify or waive affordability requirements for developments made infeasible by the requirements of MIH. The program is designed with the intent that reductions and waivers would only be necessary in exceptional circumstances and would only be available where the requirements of MIH, rather than other

factors, are the source of the hardship. The recourse enabled by this provision is important to the legal viability of the MIH program, and also ensures that the program would not adversely affect housing creation in the event of unforeseen economic shifts.

Additional Program Provisions

Homeownership option. Developments may satisfy affordability obligations with a homeownership option. The MIH homeownership option would be substantially similar to that currently available through the VIH program, except that the method for establishing the eligible initial price that can be charged for a homeownership affordable unit based on the income level required under MIH will be established in HPD’s guidelines.

No preservation option. The current VIH program permits property owners that use bonus floor area for a “compensated development” to fulfill VIH affordable housing obligations through the permanent renewal of affordability requirements in buildings where existing regulatory agreements that limit rents may expire. This option would not be available to MIH developments.

Supportive housing. Supportive housing units that fulfill the affordable housing requirements under the VIH program must be located in a separate building from the market rate units. This restriction would not apply in the MIH program, allowing for supportive housing to be located in mixed-income buildings.

Grandfathered tenants. An occupant of an affordable housing unit may include a tenant of a building on an MIH site that has been demolished for construction of an MIH development, even if the tenant’s household income exceeds the income qualifications for the new affordable unit.

Simplified regulatory agreements for MIH sites. The current VIH program requires a regulatory agreement between HPD and the owner of a generating site that outlines compliance with all of the provisions of the program. The regulatory agreement must be approved by HPD and closing on all financing must occur before a DOB permits can be issued for a compensated development¹.

A streamlined process for administration of the MIH program would be necessary given its broad applicability. Therefore, although a regulatory agreement would still be required for MIH sites, it would have modified requirements to allow for greater predictability and efficiency in the administration of requirements for MIH sites. In lieu of the affordable housing plan currently required of VIH sites, the regulatory agreement would contain an MIH application, a standardized form that would be required for all MIH sites that would specify compliance with the MIH guidelines. The MIH application would require information about asking rents for affordable units; building plans; zoning calculations showing affordable floor area; and unit size,

¹ A “generating site” and a “compensated development” are defined in ZR Section 23-91. A generating site is an affordable or supportive housing development that meets the requirements of the VIH program and can be used to generate bonus floor area for compensated developments within IHDA or R10 Districts.

distribution and bedroom mix of the affordable units. These requirements could be modified in HPD's guidelines.

A restrictive declaration that includes the MIH application must be recorded against the MIH development and site outlining compliance with the MIH program. Unlike the VIH program, HPD approval of an MIH application, which typically accompanies closing on financing, would not be required prior to issuance of a permit notice.

The MIH application would, like the affordable housing plan in VIH, designate an administering agent to monitor compliance of the rental of the affordable units; and require sufficient reserves for the maintenance, operation and administration of the affordable units. A copy of the application must be delivered to the applicable community board concurrent with submission to HPD.

Administering agents. The MIH program would allow HPD to establish a list of pre-qualified administering agents who may monitor MIH units for compliance with the regulatory agreement. Alternatively, where appropriate, HPD may monitor MIH units in lieu of an administering agent, as stipulated in their administrative guidelines.

HPD guidelines. The Inclusionary Housing program is administered by HPD pursuant to guidelines that set forth requirements in addition to those established through zoning. The current guidelines are found in the Rules of the City of New York, Title 28, Chapter 41. The guidelines are established through a separate rule-making process at HPD pursuant to the City Administrative Procedures Act (CAPA). The administration of a new MIH program, which would differ from the existing VIH program in its structure and in the range of participating developers, requires sufficient flexibility for HPD to modify certain administrative aspects of the program based on the experience of implementing the program. While the essential structure and requirements of the MIH program would be established in the zoning text itself, the text would authorize HPD to establish through the guidelines provisions including:

Provisions regarding the use of the "Affordable Housing Fund." Any funds collected could be used for a range of housing affordability measures, including new construction, rehabilitation, preservation and other affordable housing purposes set forth in HPD's guidelines. Consistent with the geographic nexus of the MIH program, the funds would be made available for use within the same Community District or within a half-mile radius of the development generating the funds. If the payment cannot be spent within a number of years as set forth in HPD's guidelines, the funds would become available for use over a wider geography. This ensures that the funds could be used for purposes consistent with the objectives of the MIH program.

Changes to the distribution requirements allowed when there are not enough units to meet the standards described in zoning. In unusual instances, such as where buildings are small or unusually configured, it may not be possible for a developer to meet the distribution requirements in the Zoning Resolution. In such instances, the guidelines would specify how the distribution requirements would be administered.

Method of measuring the floor area of affordable housing units. In the VIH program, the Zoning

Resolution specifies a specific method of measuring the floor area of affordable units that differs from standard DOB methodology. These requirements have been both unnecessary to administering the program and cumbersome to affordable housing developers who must submit additional floor area calculations to demonstrate compliance with the requirements. The zoning text would exempt affordable units in an MIH site from these requirements and allow HPD to specify the method through the guidelines that is consistent with standard DOB practices. This would remove an unnecessary burden faced by affordable housing developers.

Requirements for qualifying “administering agents.” The Inclusionary Housing program requires a designated administering agent for affordable housing that is responsible for ensuring that units are rented to qualifying households pursuant to the terms of the regulatory agreement. In the VIH program, the administering agent must be a not-for-profit and may not be the owner or managing agent of the site that is generating the affordable requirement. The MIH program also grants a public entity the ability to monitor affordable units in lieu of an administering agent, pursuant to their guidelines. More flexibility in the requirements for eligible administering agents may be necessary for MIH given its broader applicability.

Provisions regarding how to set the initial price for homeownership units. The ZR describes a specific method that HPD must use to establish the initial price of a homeownership affordable unit. The proposed zoning text provides for additional flexibility to be specified in the guidelines for MIH homeownership units, to account for the broader range of incomes that are served under the MIH options.

Additional requirements for rental affordable housing. As in the VIH program, owners of MIH sites must register affordable housing units with the regulatory agency or agencies responsible for administering the program or programs covering the units in question. The MIH zoning text would allow alternate provisions to be established in the regulatory agreement in the event of future unanticipated changes to applicable regulations that affect the administration of the MIH program.

Proposed Changes Related to Building Envelope Controls

The Zoning for Quality and Affordability (ZQA) proposal (N 160049 ZRY) addresses many zoning bulk envelope impediments to the construction of affordable housing under contemporary best practices. These changes include addressing bulk issues in the VIH program. However, since the ZQA proposal does not assume adoption of an MIH program, the MIH text amendment includes a limited number of changes to building envelope controls that would be applicable only in certain districts when MIH areas are mapped in the future. These changes are intended to address similar bulk envelope constraints that would be addressed by the ZQA proposal for the VIH program.

Create a new non-contextual building envelope for MIH developments in R6-R8 districts.

While contextual zoning is frequently mapped in new rezonings, there remain certain areas where it may not be appropriate to apply contextual zoning. For example, parcels located adjacent to rail lines, freeways and within areas without a consistent height context may continue to warrant non-contextual zoning designations.

Height factor (also known as tower-in-the-park) regulations, which is one of two as-of-right building options in these non-contextual districts, allow a building to shift away from such physical constraints or to have a wider range of height variations. However, where MIH would be applied within an area where R6, R7-1, R7-2 or R8 zoning is appropriate, there exists no practical mechanism to incorporate the Inclusionary Housing floor area into height factor floor area and open space regulations. Additionally, the tower-in-the-park building form typically requires more expensive construction methods and is not the optimal bulk configuration for many MIH developments.

The lack of a non-contextual building envelope option for an Inclusionary Housing development would result in a de facto requirement for all MIH buildings to comply with the optional contextual building envelope, sometimes forcing residential units to be located directly against physical constraints such as an elevated rail line, or requiring developments to leave a significant portion of their permitted floor area unused.

In order to maintain a non-contextual development option in areas of the city that warrant additional flexibility, such as parcels abutting rail lines, freeways and areas without a consistent height context, the proposal would create an alternative building envelope available to MIH developments for non-contextual R6-R8 districts to facilitate the development of affordable housing.

The proposed height limits are set forth in Figure 1 below.

Figure 1: Proposed maximum heights for non-contextual building envelope for MIH developments

Proposed Alternate Bulk Envelopes for Non-Contextual Districts			
Zoning District	Maximum Base Height	Maximum Overall Height	Maximum Number of Stories
R6	65'	115'	11
R7	75'	135'	13
R8	105'	215'	21

Maximum Floor Area. Typically, where affordable housing is provided in IHDAs under the VIH program, the maximum floor area ratio for the applicable zoning district is higher than the same district maximum outside of IHDAs. Under the MIH program, the maximum floor area ratios available under the VIH program would apply to developments subject to MIH requirements.

There is currently no difference between the maximum floor area in R7X and R7-3 districts outside and within IHDAs.

In order to ensure the availability of zoning districts with a range of maximum floor areas that

can be accommodated within the building forms allowed by their respective height and setback limits, the proposal would increase the maximum permitted floor area ratio from 5.0 to 6.0 for developments utilizing MIH regulations. This change would aid in filling a gap in incremental density increases between R7D (5.6 FAR) and R8A (7.2 FAR) districts.

Under the ZQA proposal, the maximum building height of a development within future R7X districts mapped within an MIH area would be increased from the current 125' to 145'. This would accommodate the additional floor area proposed under the MIH text amendment. The maximum building height for R7-3 would remain at 185', as permitted under current regulations.

ENVIRONMENTAL REVIEW

This application (N 160051 ZRY) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 16DCP028Y. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 21, 2015.

On January 29, 2016, a Technical Memorandum (Technical Memorandum 001) was issued, which analyzed the proposed modifications to the Proposed Text Amendment described below in the Consideration section of this report. The Technical Memorandum concluded that the proposed modifications would not alter the basis of the environmental analysis or the conclusions of the Negative Declaration.

PUBLIC REVIEW

The application (N 160051 ZRY) was duly referred on September 21, 2015, to all Community Boards, Borough Boards, and Borough Presidents for information and review, in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Fifty-five Community Boards adopted resolutions or provided comments regarding the proposed zoning text amendment, many of which included extensive comment on the proposal and recommendations for modifications. The complete recommendations received from all Community Boards are attached to this report. A summary of the Community Board votes and of comments received in their recommendations follows.

Bronx

On October 28, 2015, Community Board 2 voted unanimously to recommend disapproval, with comments.

On November 10, 2015, Community Board 3 voted to recommend disapproval, with comments.

On October 27, 2015, Community Board 4 voted to recommend disapproval, with comments.

On November 17, 2015, Community Board 7 voted 19 in favor, 0 in opposition and 8 abstentions on a resolution to recommend disapproval, with comments.

On November 10, 2015, Community Board 8 voted 35 in favor, 0 in opposition and 2 abstentions on a resolution to recommend disapproval, with comments.

On November 18, 2015, Community Board 9 voted unanimously in favor of a resolution to recommend disapproval, with comments.

On October 27, 2015, Community Board 10 voted to recommend disapproval, with comments.

On October 22, 2015, Community Board 11 voted unanimously to recommend disapproval, with comments.

On October 22, 2015, Community Board 12 voted unanimously to recommend disapproval, with comments.

Brooklyn

On January 12, 2016, Community Board 1 voted 19 in favor, 6 in opposition and 0 abstentions to approve a resolution to recommend disapproval, with comments.

On November 10, 2015, Community Board 2 voted unanimously to recommend approval.

On November 2, 2015, Community Board 3 voted 32 in favor, 3 in opposition and 0 abstentions on a resolution to recommend disapproval.

On November 18, 2015, Community Board 4 voted to recommend approval, with conditions.

On November 18, 2015, Community Board 5 voted 6 in favor, 16 in opposition and 1 abstention to recommend disapproval.

On November 10, 2015, Community Board 6 voted 24 in favor, 5 in opposition and 2 abstentions to recommend approval, with conditions.

On November 18, 2015, Community Board 7 voted 15 in favor, 11 in opposition and 8 abstentions on a resolution to recommend approval. As no position received a majority vote, Community Board 7 did not take a position on the matter.

On November 12, 2015, Community Board 8 voted 30 in favor, 2 in opposition and 1 abstention to recommend approval.

On November 24, 2015, Community Board 9 voted 6 in favor, 26 in opposition and 0 abstentions to recommend disapproval.

On November 16, 2015, Community Board 10 voted 36 in favor, 1 in opposition and 1 recusal on a resolution to recommend disapproval, with comments.

On November 24, 2015, Community Board 12 voted 26 in favor, 2 in opposition and 2 abstentions to recommend approval, with conditions.

On November 18, 2015, Community Board 13 voted 26 in favor, 0 in opposition and 1 abstention on a resolution to recommend disapproval.

On November 9, 2015, Community Board 14 voted 2 in favor, 29 in opposition and 3 abstentions to recommend disapproval with conditions.

On October 27, 2015, Community Board 15 voted unanimously to recommend disapproval.

On November 24, 2015, Community Board 16 voted 0 in favor, 23 in opposition and 5 abstentions to recommend disapproval, with conditions.

Community Board 17 submitted an undated letter containing comments on the proposal.

On November 18, 2015, Community Board 18 voted unanimously to recommend disapproval, with comments.

Manhattan

On November 19, 2015, Community Board 1 voted unanimously to recommend disapproval, with conditions.

On November 20, 2015, Community Board 2 voted unanimously to recommend approval, with conditions.

On November 18, 2015, Community Board 3 voted to recommend disapproval, with conditions.

On November 4, 2015, Community Board 4 voted unanimously to recommend approval with conditions.

On November 12, 2015, Community Board 5 voted 30 in favor, 0 in opposition and 2 abstentions on a resolution to recommend disapproval, with conditions.

On November 18, 2015, Community Board 6 voted 33 in favor, 0 in opposition and 3 abstentions on a resolution to recommend disapproval, with conditions.

On November 4, 2015, Community Board 7 voted unanimously on a resolution to recommend disapproval, with conditions.

On November 25, 2015, Community Board 8 submitted a letter describing opposition to the proposal, with comments.

On November 19, 2015, Community Board 9 voted 28 in favor, 1 in opposition and 3 abstentions on a resolution to recommend disapproval with conditions.

On November 6, 2014, Community Board 10 submitted a letter describing a number of comments on and concerns about the proposal.

On November 23, 2015, Community Board 11 voted 29 in favor, 1 in opposition and 2 abstentions on a resolution to recommend disapproval, with conditions.

On November 24, 2015, Community Board 12 voted unanimously on a resolution to recommend disapproval, with conditions.

Queens

On November 10, 2015, Community Board 1 voted unanimously to recommend approval, with conditions.

On November 5, 2015, Community Board 2 voted 28 in favor, 1 in opposition and 4 abstentions on a resolution to recommend disapproval, with conditions.

On November 10, 2015, Community Board 4 voted 17 in favor, 3 in opposition, with 8 abstentions on a resolution to recommend disapproval.

On November 12, 2015, Community Board 6 voted 8 in favor, 16 in opposition, and 3 abstentions to recommend disapproval.

On November 9, 2015, Community Board 7 voted 35 in favor, 1 in opposition, and 1 abstention, on a resolution to recommend disapproval.

On November 12, 2015, Community Board 8 voted to recommend disapproval.

On November 10, 2015, Community Board 9 voted unanimously to recommend disapproval.

On October 5, 2015, Community Board 11 voted to recommend disapproval.

On October 21, 2015, Community Board 12 voted unanimously in favor of a resolution to recommend disapproval.

On October 26, 2015, Community Board 13 voted 32 in favor, 7 in opposition on a resolution to recommend disapproval.

On November 10, 2015, Community Board 14 voted unanimously in favor of a resolution to recommend disapproval, with comments.

Staten Island

On December 8, 2015, Community Board 1 voted 28 in favor, 1 in opposition and 0 abstentions on a resolution to recommend disapproval, with comments.

On December 9, 2015, Community Board 2 voted unanimously in favor of a resolution to recommend disapproval, with comments.

On November 24, 2015, Community Board 3 voted unanimously in favor of a resolution to recommend disapproval, with comments.

In all boroughs, Community Boards that recommended disapproval as well as approval supported the establishment of a zoning requirement to mandate affordable housing in new developments. Many Community Boards also sought assurances that the program would work for the neighborhoods they represent. In particular, Community Boards wanted the income levels reached by the program to reflect existing income levels in their neighborhoods, to ensure that new housing opportunities would be accessible to existing community residents, and wanted to ensure long-term compliance with program requirements.

The most common issue raised in these recommendations was the income levels proposed under the program. Roughly one third of Community Boards expressed concerns that the income levels targeted by the program were not low enough to meet the affordable housing needs of their district or the city in general. Many Community Boards noted that the proposed average income thresholds – 60 percent of AMI for Option 1 and 80 percent of AMI for Option 2 – are higher than the median household incomes in their districts. A number of Community Boards requested that the thresholds be modified to target income levels closer to 30 or 40 percent of AMI.

Many Manhattan Community Boards expressed concern that the proposed zoning text would not allow the Workforce Option to be made applicable in Manhattan Community Districts 1 through 8. They indicated that the availability of housing affordable to moderate income families is an important need in these neighborhoods, and expressed concern that the program would not create housing for these families. These Community Boards requested that the Workforce Option be made available in their districts.

Several boards recommended that the number of income and set-aside options available under the program be increased to address the concerns of individual neighborhoods. A number of Community Boards expressed a desire that the program require a larger share of new units, ranging from 40 to 70 percent, to be set aside as permanently affordable housing.

A number of Community Boards expressed concerns about the options available under the proposed program to provide affordable housing in buildings or at locations other than that of the market-rate units. Concerns included that off-site development would be so attractive that on-site development would rarely occur. Approximately 20 percent of Community Boards recommended that the off-site option be eliminated, while a similar percentage suggested requiring more affordable housing if it is provided off-site.

Several boards expressed appreciation that the program would not allow a building containing both market-rate and affordable rental units to have separate entrances based on income. However, approximately 20 percent of boards objected to the fact that the proposal would allow affordable units to be provided in a separate building on the same zoning lot as market-rate units. Several Community Boards commented on the proposed requirements for the distribution of units within a mixed-income building, typically requesting that the program require affordable units on a higher percentage of floors. A few Community Boards also recommended requiring

affordable units to have the same finishes as market-rate units and the same access to building amenities.

Most Community Boards acknowledged the role of a payment-in-lieu option in addressing conditions where provision of affordable units in small developments would be impractical or difficult. Roughly a quarter of the boards indicated a desire to have more specific information about how fees would be set and how and where the funds would be used, with a preference that funds be used locally.

Many boards expressed concern that the proposed BSA special permit to provide relief from affordable housing requirements in the case of hardship could be too permissive, or that the special permit could become a “loophole” enabling developers to avoid affordable housing requirements. About 10 percent of boards recommended that the BSA special permit be removed entirely.

Many Community Board recommendations included comments that extended well beyond the scope of the proposed zoning text amendment. The proposed text amendment would not change permitted densities or make the MIH program applicable in any specific geography; applicability of such changes would be determined by subsequent land use actions, each of which will be subject to its own full public land use review process. However, nearly a third of boards expressed concerns about the adequacy of the infrastructure in their districts to support increased new development at increased densities. Some Community Boards took issue with the environmental assessment done for the proposal, suggesting that the proposal would have environmental impacts when applied in particular areas, and that these impacts should be considered as part of the present environmental review.

Another frequently raised subject was concerns about the loss of existing rent-regulated housing, and the possibility that the proposed zoning text amendment would contribute to incentives to demolish this housing. Approximately one third of boards expressed concerns about the time available to them during the land use review process to consider the proposed changes, though many noted appreciation of the Department of City Planning’s efforts to meet with them and provide requested information.

Borough Board Review

The complete Borough Board resolutions are appended to this report, and summarized below.

Bronx

The Bronx Borough Board voted on November 19, 2015, to adopt a resolution recommending disapproval of the application by a vote of 19 in the affirmative, 0 in the negative, and 1 abstention. The Bronx Borough Board resolution did not include comments or conditions.

Brooklyn

The Brooklyn Borough Board voted on December 1, 2015, to adopt a resolution recommending

disapproval of the application, by a vote of 20 in the affirmative, 0 in the negative, and 3 abstentions, with the following conditions:

- The program should ensure a portion of units at 40 percent of AMI, determine income levels based on AMIs in each individual Community District, and enable below-income rent-burdened families to qualify for units that reduce their existing rent;
- The program should include an option to preserve existing affordable units rather than create new affordable units, to minimize displacement of existing residents;
- The applicability threshold for MIH requirements should be lowered to three units;
- The program should require a minimum proportion of two- and three-bedroom units in Brooklyn Community District 12; and
- The conditions for granting the BSA special permit should be tightened, the text should include limits on the relief that may be granted, applicants for such special permits should be required to demonstrate that the City is not prepared to provide additional subsidies to meet MIH requirements, and BSA should reduce permitted floor area and heights when it provides relief in the form of reduced requirements.

Manhattan

The Manhattan Borough Board voted on November 30, 2015, to adopt a resolution recommending disapproval of the application by a vote of 12 in the affirmative, 0 in the negative, and 4 abstentions, with the following conditions:

- The proposal should be amended to provide greater clarity regarding on-site, separate buildings and off-site provisions to ensure equal access to amenities and a higher standard of affordability when providing units off-site;
- The menu of AMI options should be wider to cater to community preference when a project is otherwise ineligible for 421a benefits or when MIH is established through a special permit;
 - Expanded options should include the Workforce Option and an extremely low AMI band option that captures lower average income levels, with the overall percentage of affordable units adjusted up or down according to the cross-subsidy required;
 - Projects that use the offsite provision should be required to build at deeper levels of affordability unless they receive a special permit allowing them to build using the standard menu option;
 - An option should be established that would allow for increased affordable housing in stronger real estate markets, adjusted up according to the cross subsidy provided.
- The program should ensure that the requirements for affordable housing are sufficient given benefits, incentives, and options provided to developers and multiple incentives result in additive benefits;
- Requirements for distribution of affordable units in a mixed-income building should be increased from 50 to 65 percent of floors;

- The minimum thresholds that will trigger application of MIH to future actions should be clearly specified;
- The payment-in-lieu applicability threshold should be lowered and the text clarified to reflect, especially given the larger new construction unit sizes in our communities, that the threshold is the lesser of the square footage or unit count;
- The zoning text should set a new standard for housing development monies by enshrining specific frameworks for governance, baselines, transparency, and strategy for the use of the payment-in-lieu funds, thus eliminating the possibility that future administrations may have different priorities and can unilaterally change the nature of such funds;
- Because the fund is allowed to be used for preservation and rehabilitation of units, there should be no sunset clause that allows those funds to be used elsewhere; and the text should elaborate that HPD will report on the strategy and usage of each fund to the relevant Community Board and elected officials, with all funds generated through the payment-in-lieu supplementing, not replacing, other City capital dollars for affordable housing;
- The text should be amended to encapsulate a community referral process that establishes how much time the Community Board has to review the documents, and an acknowledgement that those concerns will be taken under advisement and that HPD will not act before their review timeframe is completed;
- The BSA “loophole” must be tightened so that it will only be used in the presence of real hardship and not as the path of least resistance for developers who do not wish to build affordable housing; this could be achieved by adding specificity as to what might be considered “unique conditions” under which developers could seek BSA approval;
- The program should encourage a reasonable mix of unit sizes;
- A central plan should be created, including recordkeeping, for monitoring or oversight over affordable units including their re-leasing.
- Anti-harassment and anti-displacement provisions should be established; and
- The program should include improved monitoring of affordable units.

Queens

The Queens Borough Board voted on November 16, 2015, to adopt a resolution recommending disapproval of the application, by a vote of 12 in the affirmative, 2 in the negative, and 6 abstentions, with the following conditions:

- It is unclear how effective this proposal would be in generating enough affordable and senior housing to meaningfully address the shortages;
- Overall concerns that the proposed AMIs do not reflect income levels in many Queens neighborhoods;
- There are concerns that the proposed new Mandatory Inclusionary Housing may replace existing affordable housing with housing deemed affordable that is not within reach to the current residents and lead to displacement of longtime residents;
- Dissatisfaction with mechanisms that would be in place to assure that any payments in lieu of affordable housing are used to benefit the generating/host Community District;

- Concerns that the existing and future housing programs and subsidies would not be enough to be able to generate affordable housing; and
- Concerns that the proposal would not withstand Fair Housing Act challenges.

Staten Island

The Staten Island Borough Board voted on December 10, 2015, to adopt a resolution recommending disapproval of the application by a unanimous vote.

Borough President Review

The complete recommendations sent by Borough Presidents pursuant to public review are appended to this report. A summary of their comments and recommendations follows.

Bronx

The Bronx Borough President issued a letter dated November 30, 2015, recommending disapproval of the application, with the following conditions:

- Community Boards did not have enough time to consider this complex proposal;
- The amount of FAR increase in MIH should be based on levels of affordability in addition to the architectural context of a potentially rezoned area;
- Set-asides and income levels should be negotiated on a project-by-project and neighborhood-by-neighborhood basis;
- The program should include more options and more flexibility for communities, including a lower-income option and a Workforce Option supported by city subsidies;
- The program is based on increases in density but neighborhoods lack the infrastructure, such as parks, school seats, transportation, and senior housing, to support more people; and
- The program should support good jobs that go to local residents and contracts that go to women- and minority-owned firms.

Brooklyn

The Brooklyn Borough President issued a letter dated December 14, 2015, reiterating the borough board's comments.

Manhattan

The Manhattan Borough President issued a letter dated December 11, 2015, recommending approval of the application, with the following conditions:

- The City should improve the existing voluntary R10 and Designated Areas Inclusionary Housing programs to achieve more affordable housing and eliminate problematic and stigmatizing outcomes such as separate entrances for market-rate and affordable units;
- DCP and HPD should review the threshold for application of MIH to special permits in certain neighborhoods in Manhattan;
- The program should encourage on-site affordable housing whenever possible, with any

in-lieu payments collected reserved for use in the Community District for at least 10 years, and to only allow them to be used outside the district after consultation with the Community Board and Borough President, with no funds used outside the borough in which they were generated, and with annual reporting on the funds and the uses to which they are being put, broken down by Community District;

- The City should establish zoning or other provisions to protect tenants from potential harassment, and should study how density increases can be tied to local hiring provisions, good jobs and acceptable labor standards;
- The text should be revised to ensure limited availability of waivers under the BSA special permit, provide more structure for the review of such requests and require consultation with HPD before a waiver can be granted;
- The requirement that where affordable units and market rate units are found in the same building, access must be by way of a common entrance is laudable, but the program should strive to require affordable units to be distributed over 65 to 75 percent of floors;
- On-site, mixed-income buildings should be given priority, and the use of the off-site or adjacent building used only as a relief valve under limited circumstances or if there is a greater gain in the number of affordable units, with HPD unable to sign off on the project's MIH requirements before the end of a review period during which HPD and the community consider whether an integrated project would be feasible;
- A higher percentage of units or deeper affordability should be required when a developer utilizes the option to build affordable units offsite;
- The program should mandate substantially similar appliances and finishes for affordable and market rate units;
- HPD should adjust the rules for referring Voluntary Inclusionary Housing affordable housing plans to Community Boards to clarify what the boards can weigh in on, and similar clarity and consistency should be provided for MIH application referrals; and
- Additional MIH affordability options should be available, reflecting AMI bands that target families of very limited means or middle-class families that are often left out of affordable housing programs in Manhattan below 96th Street;

Queens

The Queens Borough President issued a letter dated November 12, 2015, recommending disapproval of the application, with the following conditions:

- Currently, in every rezoning application there are discussions in consultation with the local councilmembers to fine tune the proposals to address the concerns of each neighborhood's unique populations and conditions, including the numbers and levels of affordable housing that would be appropriate for that community;
- Overall concerns that the proposed AMIs do not reflect income levels in many Queens neighborhoods;
- There are concerns that the proposed new Mandatory Inclusionary Housing may replace

existing affordable housing with housing deemed affordable that is not within reach to the current residents and lead to displacement of longtime residents;

- Dissatisfaction with mechanisms that would be in place to assure that any payments in lieu of affordable housing are used to benefit the generating/host Community District;
- Concerns that the existing and future housing programs and subsidies would not be enough to be able to generate affordable housing;
- Concerns that the proposal would withstand Fair Housing Act challenges; and
- The proposal does not address a requirement that affordable housing be built by the most skilled and professional workers to assure the quality, durability, and safety of the construction.
-

Staten Island

The Staten Island Borough President issued a letter dated December 15, 2015, recommending disapproval of the application, with the following conditions:

- Establish a clear and predictable framework for the application of special floor area provisions for zoning lots in Mandatory Inclusionary Housing areas;
- Clarify program criteria and administration for neighborhoods with an existing diverse spectrum of income levels;
- Provide guidelines for the application of future “City Neighborhood Planning” efforts and processes to be undertaken to determine feasibility of MIH applications;
- Identify strategies and funding streams to implement long-term planning associated with new potential MIH zones, to address infrastructure, public services, schools and public transportation options;
- A community-based review should be added to the MIH process to obtain feedback ensuring that decisions are being made with an appropriate level of local neighborhood input; and Restrict all BSA filings to conditions that exhibit real, practical difficulties or true unnecessary hardship.

CITY PLANNING COMMISSION PUBLIC HEARING

On December 2, 2015 (Calendar No. 1), the City Planning Commission scheduled December 16, 2015, for a public hearing on this application (N 160051 ZRY). The hearing was duly held on December 16, 2015 (Calendar No. 22). There were 45 speakers in favor of the application and 45 speakers in opposition.

Speakers in favor included the Deputy Mayor for Housing and Economic Development; the Commissioner of the Department of Housing Preservation and Development; the Manhattan Borough President; affordable and senior housing developers and supporting organizations including New York State Association for Affordable Housing; Enterprise Community Partners, Bedford-Stuyvesant Restoration Corporation, Ridgewood-Bushwick Senior Citizens Council, Community Preservation Corporation, Phipps Housing, L+M Development Partners, Selfhelp

Community Services, Settlement Housing Fund, Dunn Development, and many others; housing and urban policy experts from the National Housing Conference, Abt Associates, the Furman Center for Real Estate and Urban Policy, and the New School; business and civic organizations such as the Partnership for New York City, the Downtown Brooklyn Partnership, and the Municipal Arts Society; architecture and planning firms such as Marvel Architects, Dattner Architects, WXY Studios, and Michael Kwartler and Associates; the Real Estate Board of New York; the New York Building Conference; AARP; 32BJ SEIU; attorneys and land use consultants; and other individuals.

Speakers in opposition included the Bronx Borough President; the Queens Borough President; the State Assemblymember from District 66; the City Council Members from Districts 2 and 5; members of Manhattan Community Boards 7 and 9; historic preservation and neighborhood associations including the Greenwich Village Society for Historic Preservation, New York Landmarks Conservancy, West End Preservation Society, Society for the Architecture of the City, Coalition for a Livable West Side, Auburndale Improvement Association, Broadway Community Alliance, Riverdale Community Coalition, Friends of Bushwick Inlet Park, and Northshore Waterfront Greenway; members of construction trade unions, and housing advocates including the Building and Construction Trades Council, the NYC Community Alliance for Workers Justice, the Association for Neighborhood and Housing Development, members of the Real Affordability for All coalition, Make the Road NY, Coalition for Community Advancement, the Metropolitan Council on Housing, Urban Homesteading Assistance Board, Cypress Hills Local Development Corporation, and National Mobilization Against Sweatshops; the NY Metro Chapter of the American Planning Association; and other individuals.

Speakers both in favor and in opposition generally attested to the need for more affordable housing in New York City. Many of them, even if speaking in opposition, referenced a housing crisis that makes it increasingly difficult for many New Yorkers to remain in the city and in their neighborhoods, and endorsed the establishment of a Mandatory Inclusionary Housing requirement.

The Deputy Mayor for Housing and Economic Development and Commissioner of the Department of Housing Preservation and Development described Mandatory Inclusionary Housing as a key initiative under the Mayor's housing plan, and noted how MIH would complement the record levels of City investment in affordable housing under this plan and enable public subsidies to be used more effectively, and where they are most needed. These speakers also noted City efforts to maintain the existing stock of affordable housing, including monitoring of affordable units, funding for tenant legal services, and a joint city-state Tenant Protection Unit to litigate tenant harassment issues proactively. The Deputy Mayor noted that underlying market pressures would continue to exist even if the City did not take action, exacerbating the affordability crisis, and that failure to enact this program would result in new development with less affordable housing.

Speakers in favor frequently spoke about the need to guarantee affordable housing as part of new development in growing New York City neighborhoods. These speakers described inclusionary zoning, particularly mandatory programs, as a key tool to create affordable housing, and noted

that units required through MIH would be required to remain permanently affordable, something that cannot generally be achieved through subsidies or other mechanisms.

Speakers from national housing organizations and academic institutions described the importance of programs that secure a share of new housing as affordable while supporting overall housing production, both to increase the supply of affordable housing and to offset market pressures that drive up housing prices generally. Speakers among this group commented that mandatory inclusionary zoning has been used successfully in many jurisdictions across the country, and that the proposed program for New York City would establish the most rigorous requirements of any program in the United States. The Executive Director of the Center for Housing Policy at the National Housing Conference referenced recent research that shows that growing up in high-opportunity areas has a positive effect on economic mobility and future life prospects. This speaker, along with a professor of urban policy analysis and management at the New School, noted that off-site provision of affordable housing within the same general neighborhood can also capture these benefits. These speakers also indicated that the most effective inclusionary zoning programs offer a measure of flexibility and link affordability requirements to increased development to support the feasibility of providing affordable units. The Executive Director of the NYU Furman Center for Real Estate and Urban Policy emphasized the importance that an MIH program avoid adverse effects on the production of housing, which in the face of high demand would cause rents to rise more quickly. He noted that the proposed Workforce Option is intended to help avoid such adverse effects, and may also add value by locking in regulated rents where unregulated rents would increase in the future.

The President and CEO of the Partnership for New York City testified in support of the application, describing the importance of affordable housing to the city's economic competitiveness. This speaker suggested that mandating affordability in zoning is more important today than in previous decades when federal funds were more abundant, the City had a large supply of in-rent property on which affordable housing could be developed, and locations elsewhere in the region provided a supply of new housing affordable to the workforce. She also indicated her opposition to stringent requirements for the mixing of affordable and market rate units, and the importance of retaining flexibility for development.

Approximately 20 developers of affordable housing and affordable senior housing, community development corporations, trade organizations, and technical service providers commented in support of the program. Speakers among these described the growing housing crisis and the need to pass the program, despite criticisms and the need for further action to address housing affordability and reach lower incomes, in the name of the greater good. Another developer spoke of the program as a hedge against future potential for displacement pressure in rezoned neighborhoods. Yet another expressed an expectation that the imposition of a zoning requirement would result in pricing of land that is more conducive to the creation of affordable housing, because it would take into account the requirement to provide affordable housing, rather than premising prices on the potential for market-rate condominiums without affordability.

A prominent theme in the comments of developers of affordable housing was the need to balance predictability and flexibility to enable projects to be realized in the range of physical,

geographical, and financial environments in which it would be applied, and to avoid complexity that would make administration and utilization of the program difficult. Several of these speakers noted that if the program were too rigid, it could conflict with the requirements of existing subsidy programs or fail to account for the vicissitudes of the market, while too much uncertainty in the options available to developers could deter investment and make it difficult to secure private financing, among other problems.

A representative of the Bedford-Stuyvesant Restoration Corporation noted that the absence of mandatory affordability requirements in recent rezonings in Bedford-Stuyvesant and Fort Greene had resulted in missed opportunities to achieve affordable housing there, and that among the consequences of the affordability crisis in these neighborhoods is an increase in overcrowding within the lower-income population. This speaker also remarked on the importance of reaching both low and moderate incomes within neighborhoods.

The President and Chief Executive Officer of the Community Preservation Corporation, also a former Commissioner of the Department of Housing Preservation and Development, outlined the history of City support for affordable housing over the last several decades, and said that a mandatory program was appropriate in light of the dwindling supply of public land and increasing market pressures. He also noted that the program would change the nature of negotiation between the City and developers of subsidized housing by setting a baseline for the amount of affordable housing required in new developments in rezoned areas.

A representative from Phipps Houses, a nonprofit housing developer, noted favorably that the program would create affordable housing at a range of incomes including levels ranging from 60 to 90 percent of AMI, which are difficult to reach because they generate little revenue and are not supported by existing subsidy programs like Low Income Housing Tax Credits. This speaker also observed that the provision of units at incomes as low as 30 percent of AMI should not be expected to be possible through a zoning requirement, since rents at that level do not support the operating costs of the affordable units and require operating subsidies.

Speakers on behalf of unions for building maintenance workers and hotel workers expressed their support for the program, noting that the availability of housing at affordable prices is a key challenge for their members.

The Manhattan Borough President testified in favor of the proposal, while describing a number of desired modifications to the proposal and steps to address related issues. These included application of the program to future applications for City Planning Commission special permits that increase permitted residential floor area, increasing the share of affordable units at income levels both above and below the proposed average income requirements, establishing a sufficiently long period during which collected in-lieu payments are reserved for use within the Community District, tightening the description of the BSA special permit, imposing stricter distribution requirements for on-site affordable housing and discouraging the provision of affordable housing off-site, strengthening anti-displacement provisions, and a commitment by the Department to revisit the existing voluntary Inclusionary Housing programs to produce more affordable housing.

A representative from the Municipal Art Society spoke generally in support of the program, recommending modifications to encourage on-site affordable units and reach lower income levels.

A representative of the Real Estate Board of New York expressed measured support for the program, concurring that the program as proposed can in many conditions support neighborhood economic diversity without chilling housing production, but expressed concern about the feasibility of some program options in some neighborhood or market conditions, and recommended that all options be made available to developers in all areas where the program is applied. The speaker also recommended that eligibility for the payment in lieu option should be extended to developments of up to 50 units or 50,000 square feet of residential floor area. This speaker also indicated concerns about how the Commission will apply the program to future private applications, noting concern that not all private applications may result in sufficient increased development capacity to support the cost of providing the required affordable housing, particularly applications for special permits granting density bonuses for other improvements, and that the BSA should not consider the fact that a private party initiated a land use application that applies MIH to constitute self-created hardship in the context of a BSA special permit application.

A land use attorney and former general counsel of the Department of City Planning, testifying on his own behalf, commented that he views the program as proposed to be structured as a land use regulation that preserves the feasibility of development and supports a valid land use objective, rather than an exaction in which the requirement is based on capturing value generated by development, which could be vulnerable to legal challenge. He noted the necessity of the BSA special permit as a “safety valve” for projects that would not be feasible under the program requirements, and recommended that the Department of Housing Preservation and Development be made a party to review of applications for the BSA special permit. This speaker also raised questions about how the program would be applied consistently within the Commission’s review of special permits.

The Commission also heard testimony in support of the program from several planning consultants and other practitioners speaking on their own behalf, and from unaffiliated members of the public. Many of these speakers attested to the supply constraints that are driving up the price of housing, indicating the importance of creating both new supply overall and new affordable housing. One speaker spoke favorably of the binding nature of the program and the imposition of standards through a consistently applied zoning requirement, rather than through non-binding or difficult-to-enforce agreements that make communities wary.

Most speakers in opposition spoke in favor of establishing a zoning requirement for affordable housing, but took issue with specific aspects of the proposal. Many speakers raised concerns about the income levels targeted by the program, suggested that the program’s standards would not allow sufficient latitude to be adjusted to the needs and priorities of different neighborhoods, or expressed an opinion that developers could afford to provide affordability beyond the proposed requirements. Speakers also raised concerns that the proposal could increase risks of

displacement for existing residents, or that the proposal would create a need for more infrastructure to support increased density.

The Bronx Borough President spoke in opposition, stating a preference for establishing affordable set-asides and income levels on a neighborhood-by-neighborhood or project-by-project basis, rather than through a citywide program. He recommended that subsidies be made permissible in conjunction with the Workforce Option, to create more moderate-income housing in the Bronx. He also expressed concerns about additional density, and that additional facilities and infrastructure be provided to support such density.

The Queens Borough President testified in opposition to the proposal, also expressing a preference for addressing affordable housing concerns on a neighborhood-by-neighborhood basis, and voicing support for apprenticeship programs and the construction of new affordable units by qualified professionals.

The Council Member for District 2 voiced support for the goals of the program but testified in opposition to the proposal, citing an objection to the BSA special permit, which she suggested be eliminated or fine-tuned, and recommending the establishment of anti-harassment and anti-eviction provisions, elimination of the off-site option or disqualifying off-site affordable units from receiving subsidies, and tying income levels to neighborhood incomes rather than the Area Median Income established by HUD.

The Assemblymember for District 66 also advocated neighborhood-based income levels for the program, and recommended lowering the applicability threshold to include smaller developments and tightening the geographic area within which in-lieu payments could be used. She recommended elimination of the option to provide affordable housing in a separate building on the same zoning lot, and clarification and tightening of the requirements to receive relief via BSA special permit.

Representatives of Manhattan Community Board 7 expressed a desire for greater detail on when and to what actions the proposed program would be applied. They also expressed skepticism that the BSA would be able to administer properly the special permit process, and recommended that HPD instead be the entity that determines whether hardship exists. A member of Manhattan Community Board 9, speaking in his individual capacity, testified that the program should be modified to create a greater number of units at lower incomes.

Over a dozen speakers testified from organizations affiliated with the Real Affordability for All (RAFA) campaign, including members of tenant associations, community and housing advocacy organizations, faith-based groups, and construction trade unions. These speakers criticized the proposal for not reaching sufficiently low income levels, for not including labor standards for new construction projects, and for setting insufficient conditions on the granting of increased density. A director of the campaign testified that “density is a big bargaining chip we can use with developers,” and that “we shouldn’t give this away for free,” advocating instead for a bonus-based program that would allow increased density only when developers agree to meet a 50 percent affordable housing requirement, with at least 20 percent of housing at or below 30 percent of AMI, and to meet standards for local hiring and career-track jobs. Other speakers

affiliated with the campaign called for case-by-case negotiation with developers to achieve maximum affordability in each development. A speaker from the Metropolitan Council on Housing noted that the lowest incomes targeted by the proposed MIH program are not as low as the most pressing needs identified in the Mayor's housing plan, and suggested that rents for the Workforce Option would be above market-rate rents in many neighborhoods.

A speaker from the Coalition for Community Advancement expressed concerns that rezoning with MIH in East New York will lead to displacement, gentrification, and less affordable housing than the City is indicating will be created. This speaker advocated eliminating the Workforce Option and introducing a 15 percent set-aside at 30 percent of AMI in each other option. She also urged the city to increase the number of options to fit a wider range of New York City neighborhoods. A project manager from Cypress Hills Local Development Corporation noted that East New York is the first community where the program will apply, and recommended that the MIH program be modified to provide a greater share of lower income units, to reflect existing incomes in that community.

The Deputy Director of the Association for Neighborhood and Housing Development spoke in opposition, stating that the program should include more stringent requirements in strong and very strong markets, which she suggested could support higher set-asides and deeper affordability. In particular, she advocated for an option with 30 percent set-aside at 30 percent AMI, to be made available only in such markets, and urged the Commission to include a 15 percent set-aside at 30 percent of AMI as part of all other options. The speaker recommended eliminating the Workforce Option, and requiring a larger set-aside for developers who choose to provide affordable housing off-site. While acknowledging that the program as proposed would be the most stringent in the country, she argued that New York City has much wider income stratification than anywhere else in the country, with large populations of very wealthy and very poor people, so the program should include more units at lower incomes.

More than 15 representatives from historic preservation organizations and neighborhood associations spoke in opposition to the proposed text amendment. Seven of these speakers represented the Greenwich Village Society for Historic Preservation (GVSHHP). While most testimony from many of these speakers pertained to the proposed Zoning for Quality and Affordability text amendment, some comments also related to the proposed MIH program. The executive director of GVSHHP and others testified that making the MIH program contingent on large-scale upzonings would create too much luxury housing and make neighborhoods less affordable while harming their scale and character. Another speaker from GVSHHP referenced prior City-sponsored rezonings, which have resulted in substantial market-rate development as well as affordable housing.

The first Vice President from the Auburndale Improvement Association spoke in opposition with a concern that the proposal would encourage spot zoning that would undermine the character of neighborhoods. A speaker from the Broadway Community Alliance, a civic group based in Riverdale, Bronx, opposed the program based on concerns that the BSA special permit would enable developers to evade the MIH requirement, that units required to be permanently affordable would somehow begin to lapse in as little as 25 years, and that paying for the program

and associated infrastructure would lead to higher taxes. Speakers from the West End Preservation Society and the Coalition for a Livable West Side criticized the off-site and payment in lieu options and expressed concern that the program would pose administrative difficulties for the City.

A speaker from the New York Landmarks Conservancy referred to the program as a “one-size-fits-all upzoning” that could fuel gentrification and teardowns of existing rent-regulated housing.

Other speakers, including representatives of Friends of Bushwick Inlet Park, testified about broader concerns about future rezonings.

There were no other speakers, and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 15-101. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The City Planning Commission believes that the application for the text amendment, as modified herein, is appropriate.

The Commission’s consideration of the establishment of a Mandatory Inclusionary Housing program marks a milestone in the City’s approach to promoting affordable housing and neighborhood economic diversity. The necessity for establishing such a program has been demonstrated in the city’s severe housing crisis and the decreasing availability of affordable housing in neighborhoods that provide ready access to centers of employment and opportunity. The Commission recognizes that the establishment of zoning requirements for affordable housing must not only promote the creation of affordable housing but also support the overall production of housing, in order to avoid exacerbating supply constraints that drive up the price of housing.

The Commission notes the existence of broad support for mandating affordability in conjunction with zoning changes that promote new housing creation. This view has been expressed by Community Boards, elected officials, affordable housing advocates, as well as developers, civic and business organizations during the public review process. As many commenters noted, the city cannot sustain its thriving economy, support a growing population, or serve the needs of its citizens if it cannot provide opportunities for its residents and workforce to find housing in neighborhoods that offer them access to economic opportunities and quality services.

Upon careful consideration of the extensive and thoughtful feedback during public review, and supported by the policy and planning analysis provided by the Department of City Planning and

the Department of Housing Preservation and Development, the Commission believes that the Mandatory Inclusionary Housing program, as modified, represents a valuable tool that complements other programs and resources to address the city's housing crisis and to further the objective of neighborhood economic diversity. It would provide new permanently affordable housing, an important long-term resource for neighborhoods, and prioritize the delivery of new affordable housing units rather than the contribution of funds. The Commission notes that by virtue of these features, and the set-asides and income levels targeted, this program would be the most stringent zoning requirement for affordable housing of any major U.S. city.

The Commission believes that the program represents – as a key component of a comprehensive City strategy for affordable housing, which also includes support for new construction, preservation, prevention of tenant displacement, and the Zoning for Quality and Affordability text amendment, among its many initiatives – not only a vigorous response to the affordability crisis, but also a thoughtfully designed and adaptable policy well suited to achieve its objectives across the city's diverse range of neighborhoods and housing market conditions, so more affordable housing can be created without stifling residential development overall. As outlined by the Department, this program would be applied in conjunction with future land use actions that promote significant new housing creation.

The Commission notes the extensive testimony both in favor and in opposition at the Commission's public hearing. All people who signed in to speak were called over the course of the hearing, which lasted over 13 hours. Ninety of those spoke, and a number who were not present to testify when called submitted written comments. The Commission notes these and other written comments it has received regarding this proposed text amendment. This includes comments from community and civic organizations, both local and citywide; affordable housing advocates and industry representatives; independent practitioners; and individuals. The Commission has reviewed these comments and weighed them alongside the other recommendations and testimony in its consideration of the proposed zoning text amendment.

Concerns about displacement and the loss of existing affordable housing, including the decline in the number of rent-regulated units, were prominent in recommendations received throughout public review. The Commission takes these concerns extremely seriously, and notes that the frequency with which these concerns have been raised is a testament to the severity of the housing crisis. The Commission notes that these pressures and increases in housing prices are responding to underlying population and economic trends, which will continue whether or not zoning changes occur. The proposed text amendment would have a beneficial effect on housing affordability by ensuring that future zoning changes result in the creation of permanently affordable housing and thereby promote neighborhood economic diversity. The imposition of affordable housing requirements would not encourage teardowns of existing housing or the displacement of existing residents; rather, the imposition of an MIH requirement in conjunction with zoning changes would encourage prospective purchasers of property to factor the cost of providing affordable housing into the price of properties for which additional development is being made possible, which would encourage the resulting land prices to support the creation of mixed-income housing, not solely market-rate housing. In addition, the Commission notes the

numerous initiatives being undertaken by HPD and other City agencies to aid New Yorkers in remaining in their homes, and the extensive cooperation between HPD and DCP as part of neighborhood planning initiatives to address the needs of existing residents.

Similarly, the Commission notes that the proposed text amendment would not itself increase density in any neighborhood or impose additional burdens on infrastructure or facilities. This could only occur through subsequent zoning changes, each of which will be subject to its own environmental review and public land use review process, during which these issues would be evaluated.

Income Levels and Set-Asides

The Commission heard a great deal of testimony on the income levels served by the options available under the program, as well as some testimony on set-aside percentages. Many communities, particularly low-income communities, seek requirements to reach very low and extremely low incomes, which they see as the area of greatest need in their neighborhoods. Some testimony requested that the program include requirements to serve extremely low incomes of 30 percent of AMI or lower. On the other hand, Community Boards and elected officials representing neighborhoods within Manhattan Community Districts 1 through 8 sought to make available in these areas the Workforce Option, which serves moderate-income rather than low-income households, and the Bronx Borough President testified that subsidies should be allowed in conjunction with the Workforce Option in some neighborhoods in the Bronx. Testimony from elected officials and Community Boards advocated for giving individual communities latitude to opt for a wider variety of requirements specifically geared to their needs, with some suggesting that all requirements should be determined on a case-by-case basis, while developers testified that they need predictability as well as flexibility to make development feasible in a wide range of circumstances and using a variety of financing tools.

Testimony from an affordable housing advocate recommended that the Commission treat permitted densities as a “bargaining chip” to extract commitments from developers on affordable housing and labor practices. The Commission observes that such an approach – which is distinct from the proposed MIH program’s approach, based on the land use goal of fostering neighborhood economic diversity – is characteristic of programs that have been construed by the courts as exactions, and would be unlikely to withstand legal challenge in a mandatory framework. The Commission also notes that the establishment of standards for labor practices and wages is not within its purview to regulate land use and zoning.

The Commission notes comments from several Borough Presidents, Community Boards, and others suggesting that affordable housing requirements should be determined on a neighborhood-by-neighborhood or project-by-project basis. While the Commission recognizes the desire of each community to determine appropriate levels of affordability, it also must acknowledge the imperative to create a consistent citywide framework, which derives from the program’s structure as a land use regulation, and the legal risks inherent in an ad-hoc, case-by-case approach, or one that is premised on how much affordable housing a particular developer can “afford.” In addition, as noted in testimony from affordable housing developers and in

information provided by HPD, a program with too many variations would be extremely difficult to administer and for practitioners to use. The Commission believes that the proposed program strikes an important balance, establishing a set of options that enable a range of community needs to be addressed while maintaining a manageable and consistent framework that is anchored to the land use objective of promoting neighborhood economic diversity and recognizes the tradeoffs inherent in the development of affordable housing.

As evidenced in the financial feasibility assessment that has informed the proposed MIH program, in order to reach lower incomes, the affordable housing set-aside must be lower, while higher set-asides can be achieved if somewhat higher incomes are targeted. By establishing requirements that incorporate the averaging of incomes, the proposal can both serve a wider range of incomes and allow a degree of flexibility for individual developments to address neighborhood needs as well as financing imperatives. For instance, a development utilizing Option 1 could provide 10 percent of housing at 40 percent of AMI, plus 10 percent at 60 percent of AMI, plus five percent at 100 percent of AMI, reaching very low, low, and moderate incomes. In this manner, the Commission believes the proposed program will contribute to neighborhood economic diversity and to meeting the needs of a broader range of New Yorkers than has been achieved under the existing, voluntary Inclusionary Housing program. As discussed below, the Commission also recognizes that City subsidies can be used in conjunction with the MIH program to achieve deeper and broader affordability in individual developments.

With respect to recommendations that the MIH program target a share of units to households at or below 30 percent of AMI, the Commission notes the testimony of affordable housing developers and analysis provided by the Department of Housing Preservation and Development following the public hearing, both of which indicated that it would not be practical to provide permanently affordable housing at these income levels through the MIH program. The rents for units reserved for households at 30 percent of AMI are insufficient to support the basic operating expenses for such buildings, so these units require operating subsidy from the day they are constructed. Rental subsidies such as Section 8 vouchers are the most common means of supporting these operating deficits, but these resources are scarce and subject to Federal sequestration or budget cuts. As such, they cannot be committed on a permanent basis. The Commission notes that *Housing New York* includes a commitment to increasing the share of housing affordable at such income levels by a factor of more than four, and that the City and State have made significant commitments to fund supportive housing that will reach extremely low-income populations and match those tenants with on-site social services, which is not something that the MIH program can offer.

A number of commenters recommended the elimination of the Workforce Option, arguing that rents affordable to households at 120 percent of AMI would be higher than market rents in some neighborhoods, and would not serve populations of greatest need in these neighborhoods. At the same time, the Commission heard testimony from higher-income communities in Manhattan that wish to see the Workforce Option made available in their neighborhoods.

The Workforce Option is intended to address issues highlighted in the feasibility analysis that informed the creation of the Mandatory Inclusionary Housing program. Certain housing market

conditions may support private housing construction at moderate rents that are not sufficient to support the internal subsidy of units affordable at low incomes. In these emerging and middle-market conditions, the application of Option 1 or Option 2 alone could prevent the creation of moderate-income housing, resulting in less housing creation overall. Housing development would only be feasible in such a circumstance if scarce affordable housing subsidies were redirected from other areas. The purpose of the Workforce Option is to allow the creation of unsubsidized moderate-income housing, which is an important component of the housing stock in many New York City neighborhoods. The requirement provides that a share of these units must be reserved as permanently affordable for moderate incomes residents. This provision would also preserve the availability of housing subsidies that can be used instead to reach lower-income households in these and other neighborhoods. The Commission also notes the testimony of the Furman Center and others documenting the need for and benefits from permanently affordable housing that locks in moderate rents in areas that may experience housing cost increases in the future.

The Commission does not find these same issues at play in conditions where market rents would support internal subsidy of low-income housing. In such conditions, which exist in Manhattan Community Districts 1 through 8 as well as in other locations within the city, the Commission views it as appropriate to require the creation of housing opportunities for low-income households in higher-opportunity neighborhoods. In addition, the Commission notes that income averaging enables the creation of moderate income units in these areas by skewing to both higher and lower incomes, and expects that development subject to the program in these areas will include units affordable at incomes ranging up to the maximum threshold of 130 percent of AMI. Ultimately, the program options available within a particular area will be shaped by input from Community Boards and Borough Presidents and subject to review by the Commission and City Council in each individual land use action, enabling community needs and priorities to be considered.

With respect to comments from several Community Boards and speakers at the public hearing who requested significantly higher set-asides under the proposed program, the Commission notes that the MIH program is one of many tools the City uses to create new affordable housing, and will work together with the strategic use of housing subsidies. In weak housing markets, it is anticipated that new housing will require public subsidies, and HPD's use of subsidies will achieve broader and deeper affordability than would be required by zoning alone. In the strongest housing markets, it is anticipated that new development would meet MIH requirements without subsidy, enabling public funds to be directed to locations where they are most needed. Moreover, the set-asides and income levels under the proposed program represent the most rigorous requirements of any inclusionary zoning program in the country. The Commission further notes the City's efforts under *Housing New York* to support broader and deeper affordability through a record commitment to subsidies, as well as detailed planning for affordable housing as part of neighborhood-based planning initiatives.

The Commission received testimony from housing advocates expressing concern that the proposed program would only be applied within low-income communities such as East New

York. The Commission observes that nothing in the subject text amendment would impose such a limitation, and notes that the Department has announced its intent to apply the proposed MIH program within current and future neighborhood planning initiatives in communities of widely varying incomes, in which zoning changes would be accompanied by public investments in infrastructure and services that would serve current and future residents at a range of incomes. In addition, the proposed MIH program would be applied to future privately initiated land use applications that encourage substantial new housing; the Commission notes that such applications occur more frequently in stronger market conditions.

Options for Providing Affordable Housing

The Commission received feedback from several Community Boards and from the Manhattan Borough President, among others, on requirements for the distribution of units within mixed-income buildings, as well as access to amenities and apartment finishes within such buildings. These comments urged the Commission to increase the percentage of floors over which affordable units must be distributed above the proposed 50 percent, to the 65 percent requirement of the existing voluntary Inclusionary Housing program, or to a higher level. Some commenters also urged requirements for equal access to building amenities for residents of affordable units and equal finishes for affordable units.

The Commission appreciates the objective of encouraging economic integration and the desire to provide the residents of affordable housing with quality apartments and amenities. However, the Commission is also mindful of the costs associated with meeting the program's requirements, and the necessity that requirements be grounded in the land use rationale for the program. As described in the Department's policy report, *Mandatory Inclusionary Housing: Promoting Economically Diverse Neighborhoods*, and noted by national housing experts during the public hearing, substantial research exists to document the benefits to lower income families of living in economically diverse neighborhoods where they can access quality public services and amenities. By requiring affordable housing to be located in proximity to development triggering the MIH requirement, the proposal would further this objective. Elements that increase the cost of providing affordable housing or diminish the revenues that can be realized from market-rate housing erode the ability to provide the required affordable housing without the need for public subsidy. The proposed requirement to include affordable units on 50 percent of floors is intended to prevent the concentration of affordable units within a single portion of a building while allowing sufficient flexibility for the configuration of different tenures within a building and generation of market-rate revenue that can support the cross-subsidy for the creation and operation of the affordable units. With respect to the suggestion of requirements regarding amenities and finishes, these have never been a subject of the zoning, and while the Commission acknowledges that Community Boards and Borough Presidents engage with developers about these issues in the context of individual developments, it does not believe it has a sound basis to include such requirements in the zoning text.

The Commission received recommendations that the option to provide affordable units off-site be eliminated or discouraged by increasing the amount of affordable housing required for this option. There were also recommendations from Community Boards and the Assemblymember

for District 66 that the program not allow affordable units to be provided in a separate building on the same zoning lot. Constraints on the availability of sites sufficient to accommodate significant numbers of affordable units, the geographic constraints of the program's locational requirements, and the requirement that affordable units be permitted and delivered prior to permitting and occupancy of market-rate units all limit the attractiveness of the off-site option. As noted in the testimony of the Director of the Center for Housing Policy at the National Housing Conference, the difference in land costs for on-site and off-site development is constrained by the limited geographic area within which the program would allow off-site affordable units. In addition, under a mandatory program, the availability of options to provide affordable units in an independent building or off-site is of increased importance, because of the necessity of accommodating homeownership developments for which on-site affordability may be impractical.

The proposed program would not permit a mixed-income building to provide separate entrances based on incomes, which has been construed as stigmatizing the affordable units. In New York City, it is the norm for buildings consisting entirely of affordable housing and of market-rate housing to exist in close proximity. Neighboring buildings are served by common public services and amenities, and it is common practice for the City to subsidize buildings that consist entirely of affordable housing yet are surrounded by private market-rate buildings. While it would be ideal to achieve higher degrees of economic integration, the Commission considers it reasonable to allow such configurations for buildings complying with Mandatory Inclusionary Housing requirements.

Following the Commission's public hearing, HPD analyzed the utilization of the off-site option under the existing Inclusionary Housing designated areas program. They found that in areas where off-site affordable units could not earn tax benefits for a market-rate building, no projects used this off-site option, and that utilization elsewhere was limited. The Commission expects the off-site option to be limited in its utilization, and considers the ability to provide affordable units in an independent building on the same site that does not stigmatize its residents a reasonable and necessary accommodation to provide flexibility for a full range of building types and tenures.

While most commenters during the public review process acknowledged the need for a payment in lieu option for some projects, the Commission received a number of requests to modify these provisions and for clarification of how the fees would be established and administered. The Real Estate Board of New York offered testimony that the payment in lieu threshold should be raised to 50 units or 50,000 square feet of residential floor area, while some Community Boards, the Brooklyn Borough Board, and the Assemblymember from District 66 recommended lowering the threshold for projects eligible for this option.

The Commission believes that the payment in lieu provision is an important but limited feature to ensure reasonable avenues for small developments to contribute to the program's affordable housing goals. The Commission further believes that the proposed threshold strikes an appropriate balance between requiring direct provision of units when generally practical and addressing constraints specific to a limited class of small builders and developments. The Commission understands that the types of developers who build small projects in locations

throughout the city often do not have the experience and capacity to meet income certification, re-rental, marketing, and reporting requirements for affordable housing. There are also challenges (both for the City and for the nonprofit administering agents who assist in monitoring compliance with MIH) in the administration and oversight of small numbers of affordable units scattered across many sites. The Commission believes that while optimal outcomes generally include the delivery of affordable units by private developers, making limited accommodations for these smaller projects is necessary in the context of a mandatory program. As noted during public review, payment-in-lieu provisions are a near-universal feature of inclusionary zoning programs in other jurisdictions, though other programs generally place no upper limit on the size of developments eligible to make such a payment.

Following the public hearing, HPD described in further detail how it plans to administer the payment in lieu provision. As set forth in the proposal, upon adoption of the zoning text HPD would be authorized to promulgate rules for the collection of in-lieu payments for eligible projects. As described by HPD, the fee will be based on the cost of providing an affordable unit within the general area of the contributing development, and translated to a per-square-foot figure. This calculation will be based on publicly available Department of Finance data, and will therefore be higher in stronger markets than in weaker ones, reflecting the different costs of providing affordable housing in such areas. To provide predictability for builders, a fee schedule would be established and updated periodically.

As outlined in the zoning text, permitted uses of collected fees would include the new construction, rehabilitation, or preservation of affordable housing, or other affordable housing purposes specified in HPD rules. HPD will reserve funds for use within the Community District of the contributing development for a period of no less than 10 years, after which, following consultation with the Community Board and Borough President, they could be released for use elsewhere within the same borough. HPD will track in-lieu fee deposits as they are received, and report annually about the funds generated, programmed, and spent. The Commission finds such uses of the fund to be consistent with the purpose of the Inclusionary Housing program, by supporting affordable housing within the neighborhood while ensuring that funds do not go unused, and also consistent with HPD's approach to administering other housing funds.

Regarding the recommendation from the Brooklyn Borough Board that the MIH program include an option to preserve existing affordable housing as an alternative to the creation of new affordable housing, the Commission notes that preservation of existing affordable housing is one of the purposes to which in-lieu payments collected under MIH can be directed, to complement the substantial investments HPD is making in affordable housing preservation under *Housing New York*.

The Commission also notes comments from the Manhattan and Staten Island Borough Presidents, as well as some Community Boards, requesting clarity regarding the community referral process for the MIH applications required of individual developments under the program. Development under an MIH program would be as-of-right, and participation in the program would be compulsory, rather than elective as under the existing Voluntary Inclusionary Housing program. Therefore, the delivery of MIH applications to Community Boards, as

required in the proposed text amendment, would be for informational purposes, and would provide transparency for the community.

Applicability of MIH Requirements

The Commission received a number of comments and questions during public review related to the applicability thresholds in the proposed zoning text, as well as the manner in which the Commission is expected to apply the program to future applications. Some Community Boards and Borough Boards recommended lowering the applicability threshold of 10 units or 12,500 square feet to impose requirements on smaller projects, while other commenters requested that this threshold be increased, to ease the burden on smaller developers and avoid challenges associated with the administration of small numbers of affordable units. The Commission finds the proposed threshold to be both inclusive of substantial developments and sufficient to afford flexibility to a range of smaller building types. Small developments and small builders often have limited ability to provide units or navigate complex regulatory or financing environments. These projects nevertheless represent important additions to the housing stock in many areas around the city. While allowing an in-lieu payment represents a reasonable alternative to the requirement to deliver new affordable units, the Commission would be concerned about imposing requirements for a fee on a category of developments for which delivery of such units would often be impractical.

The Commission also notes that the proposed text includes provisions that will prevent developers from subdividing a zoning lot to build two or more buildings that together would exceed the applicability threshold. The proposed text also provides that projects that do not exceed the applicability threshold would be subject to the zoning requirements applicable if the area were not subject to MIH, receiving the standard FAR for the applicable zoning district, rather than the higher FAR that applies in MIH areas. For example, a development not exceeding 10 units or 12,500 square feet in an MIH area within an R7A district would be subject to a maximum FAR of 4.0, rather than 4.6 FAR.

The Commission received written comments from the New York City Bar Association's Land Use Planning and Zoning and Cooperative and Condominium Law committees requesting that the proposal be modified such that MIH requirements would not apply to the reconstruction of demolished floor area or reconfigured floor area within an enlargement. While MIH requirements would not apply to projects that renovate without enlarging existing residential buildings, the Commission finds it appropriate to apply them to conversions from nonresidential to residential use and to enlargements that also include demolition or reconfiguration of existing housing, regardless of the prior use of such space.

Other testimony raised questions about how the Commission will decide whether or not to apply MIH in conjunction with future land use applications, and the criteria that would be used to determine which options should be applicable within an MIH area. The Manhattan Borough President endorsed the application of MIH within future special permit projects in Manhattan. The Real Estate Board of New York, a land use attorney, and others inquired specifically about how the Commission would apply the program's requirements to special permits, and how this

relates to the other objectives that informed the creation of these special permits. The Commission anticipates applying the MIH program to, for instance, zoning map changes that encourage the creation of substantial new housing in medium- and high-density districts, and to special permits that increase residential capacity. However, it also recognizes that the program should not discourage types of actions with a valid land use rationale that may facilitate residential development but would not themselves increase residential capacity. The program is not expected to be applied in conjunction with special permit applications that would reconfigure residential floor area that is already permitted under zoning, without increasing the amount of residential floor area permitted. Under this policy, for instance, a special permit that facilitates the transfer of floor area from one zoning lot to another without increasing FAR would not be subjected to an MIH requirement, while a special permit that converts non-residential floor area to residential floor area would be. The Commission notes that special permits that provide floor area bonuses generally increase non-residential, rather than residential floor area. The zoning text also authorizes the Commission to consider as a factor in the application of MIH requirements whether the project would facilitate significant public infrastructure or facilities that address needs not generated by the proposed project. In addition, where the anticipated result of a land use action would not include the creation of new housing in amounts that exceed the applicability thresholds of the program, the Commission would not in general anticipate applying the program. The Commission will make such determinations in a consistent manner based on relevant land use considerations, as it does for all applications it reviews.

BSA Special Permit

Many Community Boards and elected officials expressed concern that the proposed BSA special permit is too open-ended, and could create in the near or long term a “loophole” or potential avenue for developers to evade the requirements of the MIH program. A land use attorney and former general counsel for the Department of City Planning, speaking on his own behalf, suggested that HPD be assigned a formal role in the review of applications for this special permit. While the Commission observes that the availability of relief through this special permit process is important to the validity of this land use regulation, it also finds legitimate concerns that this special permit should provide enough specificity and structure to ensure that it supports the purpose of the MIH program, rather than undermining it. Accordingly, the Commission is making a number of modifications to address these concerns.

As proposed, the BSA special permit would only be available to projects that demonstrate that the MIH requirements, and not other factors, create a hardship, and that this hardship may not be self-created. HPD may provide assistance to BSA in evaluating details of housing finance related to an application, and may, within its discretion, make subsidies available to a development that might otherwise seek special permit relief. To clarify and strengthen the role HPD plays in this process, the Commission is modifying the application to establish that HPD may testify before the Board with respect to an application’s achievement of the findings. This modification will ensure that HPD’s expertise on affordable housing finance can be brought to bear on the review of any application. In addition, the Commission is modifying the proposal to require the applicant for the special permit to deliver the application to HPD concurrently with their

submission to BSA. This will make possible discussions, as appropriate, about the potential for use of public subsidies and programs to support affordable housing and to obviate the need for special permit relief.

Several commenters expressed concern that the reduction of MIH requirements as originally proposed was open-ended, and could encourage special pleading by applicants seeking to reduce program requirements. To address this concern, the Commission is modifying the application to establish additional structure to the process by which the BSA evaluates alternative MIH requirements. Upon finding of a hardship with respect to the applicable MIH option or options, the BSA would first consider whether Options 1 or 2 of the program, if not already available, would be feasible. If not, then the BSA would consider whether the Workforce Option would be feasible. If not, only then could the BSA, in consultation with HPD, consider what further modifications to program requirements would be the minimum necessary to render the project feasible. In addition, the BSA may require evaluation of alternative forms of tenure (e.g., rental housing instead of homeownership housing) or other permitted uses in determining whether a hardship exists. The Commission is also modifying the application to provide that in the event BSA deems a complete waiver of MIH requirements to be necessary, the project will be treated as if no provisions related to MIH apply, and the project will therefore be subject to the standard FAR and height for the district, rather than the more generous provisions otherwise applicable in MIH areas.

The Commission believes that this more explicitly structured process, together with the identification of HPD's role in the review of applications, will ensure that relief is granted only where warranted.

The Commission also notes that BSA special permits expire after a period of four years if they are not exercised, and that the Department will coordinate with BSA to ensure that renewal of any application will entail reexamination of the findings to ensure that they remain valid based on current market conditions.

In response to concerns expressed by the Real Estate Board of New York, in the event that MIH is applied in conjunction with approval of a private land use application, the Commission observes that this fact alone would not dictate that a hardship be deemed self-created.

The Commission is also modifying the proposed text amendment to correct minor errors and incorporate technical changes that ensure that the provisions function as intended and described in the original application. For instance, modifications clarify that where a BSA special permit modifies MIH requirements, these modified requirements replace the underlying requirements for purposes of the program, and that in-lieu payments will be maintained in a fund held by a designee of HPD, consistent with the way other similar housing funds are administered.

The Commission received testimony from the Manhattan Borough President and others requesting that the existing voluntary Inclusionary Housing program be revisited with the goal of producing more affordable housing, and notes that the Department has committed to such a review of the existing program following the completion of public review of the MIH text amendment.

The Commission notes that as of January 15, 2016, pursuant to the State legislation adopted in 2015, the 421-a tax exemption program has been suspended, with no new applications being accepted at present. During a 421-a suspension, it is expected that the construction of rental housing in general will be less feasible, with condominium construction more likely, and that affordable housing developments can utilize other tax exemptions. As noted earlier, the MIH program incorporates a number of provisions, including options for affordable units to be located off-site or in an independent building, that provide latitude for developments of a variety of tenures and configurations. While there have been temporary lapses in the 421-a program in the past, availability of this or a similar benefit has long been an important factor in supporting the construction of affordable rental housing in New York City, and both the Mayor and Governor have publicly recognized the need for such a tax program.

The Commission is pleased to approve this landmark zoning text amendment, which will provide a new tool to ensure that future land use actions promoting new housing creation will promote vibrant, economically diverse neighborhoods. Together with the other initiatives of *Housing New York*, the creation of a Mandatory Inclusionary Housing program will reach a wider range of incomes than has been achieved in years past, and enable public resources to go further to address the city's serious affordable housing challenges.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10 and Section 23-91, inclusive;

* * * indicates where unchanged text appears in the Zoning Resolution

[NOTE: Cross-references to Sections and Section titles may reflect the proposed text amendment, Zoning for Quality and Affordability (ZQA – ULURP No. N 160049 ZRY). Sections 23-154, paragraphs (a) through (c), and 23-664, paragraphs (a)(1) through (a)(3), are provided for information purposes and are part of ZQA. Sections 23-154, paragraph (d) and 23-664, paragraph (a)(4), are proposed in this MIH Zoning Text Amendment.]

**ARTICLE I
GENERAL PROVISIONS**

**Chapter 2
Construction of Language and Definitions**

* * *

**12-10
DEFINITIONS**

* * *

Incidental alteration – see Alteration, incidental

Inclusionary Housing area, Mandatory – see Mandatory Inclusionary Housing area

Inclusionary Housing designated area

An “Inclusionary Housing designated area” is a specified area in which the Inclusionary Housing Program is applicable, pursuant to the regulations set forth for such areas in Section 23-90 (INCLUSIONARY HOUSING), inclusive. The locations of ~~such~~ #Inclusionary Housing designated areas# are identified in APPENDIX F of this Resolution or in Special Purpose Districts, as applicable.

* * *

Lower density growth management area

* * *

In the Borough of the Bronx, in Community District 10, #lower density growth management areas# shall also include any R6, R7, C1 or C2 Districts for the purposes of applying the parking provisions of Article II, Chapter 5, and Article III, Chapter 6.

Mandatory Inclusionary Housing area

A “Mandatory Inclusionary Housing area” is a specified area in which the Inclusionary Housing Program is applicable, pursuant to the regulations set forth for such areas in Section 23-90 (INCLUSIONARY HOUSING), inclusive. The locations of #Mandatory Inclusionary Housing areas# are identified in APPENDIX F of this Resolution or in Special Purpose Districts, as applicable.

Manhattan Core

The “Manhattan Core” is the area within Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8.

* * *

23-154

Inclusionary Housing

For #developments# or #enlargements# providing #affordable housing# pursuant to the Inclusionary Housing Program, as set forth in Section 23-90, inclusive, the maximum #floor area ratio# permitted in R10 Districts outside of #Inclusionary Housing designated areas# shall be as set forth in paragraph (a) of this Section, and the maximum #floor area ratio# in the #Inclusionary Housing designated areas# existing on (date of adoption) shall be as set forth in paragraph (b) of this Section. Special provisions for specified #Inclusionary Housing designated areas# are set forth in paragraph (c) of this Section. Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# are set forth in paragraph (d) of this Section. The maximum #lot coverage# shall be as set forth in Section 23-153 (For Quality Housing buildings) for the applicable zoning district. For the purpose of this Section, defined terms include those set forth in Section 12-10 and Section 23-911.

(a) R10 Districts outside of #Inclusionary Housing designated areas#

The #residential floor area ratio# of a #compensated zoning lot# may be increased from a base #floor area ratio# of 10.0 to a maximum #floor area ratio# of 12.0 at the rate set forth in this Section, if such #compensated zoning lot# provides #affordable housing# that is restricted to #low income floor area#.

For each square foot of #floor area# provided for a type of #affordable housing# listed in the table in this Section, the #floor area# of the #compensated zoning lot# may be increased by the number of square feet set forth in the table of this paragraph (a), as applicable. Any #generating site# for which #public funding# has been received within the 15 years preceding the #regulatory agreement date#, or for which #public funding# is

committed to be provided subsequent to such date, shall be deemed to be provided with #public funding#.

OPTIONS

<u>Without #public funding#</u>	<u>#New construction affordable housing# or #substantial rehabilitation affordable housing#</u>	<u>3.5</u>
	<u>#Preservation affordable housing#</u>	<u>2.0</u>
<u>With #public funding#</u>	<u>#New construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#</u>	<u>1.25</u>

(b) #Inclusionary Housing designated areas#

The #residential floor area# of a #zoning lot# may not exceed the base #floor area ratio# set forth in the table in this Section, except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the table of this paragraph (b), as applicable. However, the amount of #low income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, or any #floor area# increase for the provision of a #FRESH food store#, on the #compensated zoning lot#.

Maximum #Residential Floor Area Ratio#

<u>District</u>	<u>Base #floor area ratio#</u>	<u>Maximum #floor area ratio#</u>
<u>R6B</u>	<u>2.00</u>	<u>2.20</u>
<u>R6¹</u>	<u>2.20</u>	<u>2.42</u>
<u>R6² R6A R7-2¹</u>	<u>2.70</u>	<u>3.60</u>
<u>R7A R7-2²</u>	<u>3.45</u>	<u>4.60</u>
<u>R7-3</u>	<u>3.75</u>	<u>5.0</u>
<u>R7D</u>	<u>4.20</u>	<u>5.60</u>
<u>R7X</u>	<u>3.75</u>	<u>5.00</u>
<u>R8</u>	<u>5.40</u>	<u>7.20</u>

<u>R9</u>	<u>6.00</u>	<u>8.00</u>
<u>R9A</u>	<u>6.50</u>	<u>8.50</u>
<u>R9D</u>	<u>7.5</u>	<u>10.0</u>
<u>R9X</u>	<u>7.3</u>	<u>9.70</u>
<u>R10</u>	<u>9.00</u>	<u>12.00</u>

¹ for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#

² for #zoning lots#, or portions thereof, within 100 feet of a #wide street#

(c) Special provisions for specified #Inclusionary Housing designated areas#

(1) Optional provisions for #large-scale general developments# in C4-6 or C5 Districts

Within a #large-scale general development# in a C4-6 or C5 District, the special optional regulations as set forth in this paragraph (c)(1) inclusive, modify the provisions of paragraph (b) of this Section:

(i) The #residential floor area# of a #development# or #enlargement# may be increased by 0.833 square feet for each one square foot of #moderate income floor area#, or by 0.625 square feet for each one square foot of #middle income floor area#, provided that for each square foot of such #floor area compensation#, there is one square foot of #floor area compensation#, pursuant to paragraph (b) of this Section;

(ii) However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified in this paragraph, (c)(1)(ii). If #affordable housing# is provided for both #low income# and #moderate income households#, the amount of #moderate income floor area# need not exceed 15 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#. If #affordable housing# is provided for both #middle income households# and #low income households#, the amount of #middle income floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at

least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#.

For the purposes of this paragraph, (c)(1), inclusive, #low income floor area# may be considered #moderate income floor area# or #middle income floor area#, and #moderate income floor area# may be considered #middle income floor area#.

(2) Special provisions for #large-scale general developments# in Community District 1 in the Borough of Queens

Special provisions shall apply to #zoning lots# within a #large-scale general development# that contains R6B, R7A and R7-3 Districts within an #Inclusionary Housing designated area#, as follows:

- (i) For #zoning lots#, or portions thereof, that are located within R6B, R7A or R7-3 Districts, the base #floor area ratio# set forth in paragraph (b) of this Section shall not apply. No #residential development# or #enlargement# shall be permitted unless #affordable floor area# is provided pursuant to the provisions of this paragraph. The amount of #low-income floor area# provided shall equal no less than 10 percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store# and the amount of #moderate-income floor area# provided shall equal no less than 15 percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store#. For the purposes of this paragraph (c)(2)(i), inclusive, #low income floor area# may be considered #moderate income floor area#; and
- (ii) The amount of #affordable floor area# utilizing #public funding# that may count toward satisfying the #affordable floor area# required in paragraph (c)(2)(i) of this Section shall be determined in accordance with procedures prescribed by the City Planning Commission pursuant to the provisions of Section 74-743 (Special provisions for bulk modification).

(3) Special provisions for #compensated zoning lots#

Special provisions shall apply to #compensated zoning lots# located within:

- (i) R6, R7-3 and R8 Districts on waterfront blocks in Inclusionary Housing designated areas within Community District 1, Borough of Brooklyn, as set forth in Section 62-352; or
 - (ii) the Special Hudson Yards District, Special Clinton District and Special West Chelsea District, as set forth in Sections 93-23, 96-21 and 98-26, respectively.
- (d) Special floor area provisions for zoning lots in Mandatory Inclusionary Housing areas

For zoning lots in Mandatory Inclusionary Housing areas, the following provisions shall apply:

- (1) Except where permitted by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements), or as provided in paragraph (d)(4) of this Section 23-154, no residential development, enlargement, or conversion from non-residential to residential use shall be permitted unless affordable housing, as defined in Section 23-911 (General definitions) is provided or a contribution is made to the affordable housing fund, as defined in Section 23-911, pursuant to the provisions set forth in paragraph (d)(3)(i) through (d)(3)(iv) of this Section, inclusive.
- (2) Except in R7-3 or R7X districts, the maximum floor area ratio for the applicable zoning district in Inclusionary Housing designated areas set forth in paragraph (b) of this Section shall apply to any development, enlargement or conversion from non-residential to residential use that complies with the requirements set forth in paragraph (d)(3) of this Section or to any MIH site for which a reduction or modification of such requirements is permitted by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). In an R7-3 or R7X district, the maximum floor area ratio shall be 6.0 for any development, enlargement, conversion or MIH site as specified in this paragraph (d) (2).

In addition, in R6, R7-1, R7-2, R8 and R9 Districts without a letter suffix, where the basic height and setback requirements are utilized pursuant to paragraph (c) of Section 23-952, the maximum floor area ratio shall be determined in accordance with the provisions of Section 23-151 (Basic regulations for R6 through R9 Districts).

- (3) Options for compliance with the special floor area requirements of paragraph (d) of this Section are set forth in the following paragraphs (d)(3)(i) through (d)(3)(iv). Option 1 and Option 2 may be applicable in Mandatory Inclusionary

Housing areas# singly or in combination, as set forth in Appendix F. The Workforce Option shall be applicable in #Mandatory Inclusionary Housing areas# only in combination with Option 1 or Option 2, as set forth in Appendix F. When a #building# containing #residences# is #enlarged#, the following shall be considered part of the #enlargement# for the purposes of this paragraph (d)(3), inclusive: #residential floor area# that is reconstructed, or #residential floor area# that is located within a #dwelling unit# where the layout has been changed.

- (i) In #Mandatory Inclusionary Housing areas# where Option 1 applies, as set forth in Appendix F, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 25 percent of the #residential floor area# within such #development#, #enlargement#, or #conversion# from non-#residential# to #residential use#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 60 percent of the #income index#, and no #income band# shall exceed 130 percent of the #income index#.
- (ii) In #Mandatory Inclusionary Housing areas# where Option 2 applies, as set forth in Appendix F, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 30 percent of the #residential floor area# within such #development#, #enlargement#, or #conversion# from non-#residential# to #residential use#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 80 percent of the #income index#, and no #income band# shall exceed 130 percent of the #income index#.
- (iii) In #Mandatory Inclusionary Housing areas# where the Workforce Option applies, as set forth in Appendix F, as an alternative to Option 1 or Option 2, an amount of #affordable floor area# may be provided for #qualifying households# that is equal to at least 30 percent of the #residential floor area# within such #development#, #enlargement#, or #conversion# from non-#residential# to #residential use#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 120 percent of the #income index#, and no #income band# shall exceed 130 percent of the #income index#. Such #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# may not utilize #public funding# except where #HPD# determines that such #public funding# is necessary to support #affordable housing# other than #affordable floor area# satisfying the requirements of this Section. However, the Workforce Option shall not be permitted to be utilized for any #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# within the #Manhattan Core#.

(iv) A #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that increases the number of #dwelling units# by no more than 25, and increases #residential floor area# on the #zoning lot# by less than 25,000 square feet, may satisfy the requirements of this Section by making a contribution to the #affordable housing fund#. The amount of such contribution shall be related to the cost of constructing an equivalent amount of #affordable floor area#, as set forth in the #guidelines#.

(4) The requirements of this Section shall not apply to:

(i) A single #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# of not more than 10 #dwelling units# and not more than 12,500 square feet of #residential floor area# on a #zoning lot# that existed on the date of establishment of the applicable #Mandatory Inclusionary Housing area#; or

(ii) a #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# containing no #residences# other than #affordable independent residences for seniors#.

* * *

23-664

Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors

R6 R7 R8 R9 R10

In the districts indicated, the provisions of this Section shall apply to #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of this Section. For the purposes of this Section, defined terms include those set forth in Sections 12-10 and 23-911.

(a) Eligible #buildings#

The additional heights and number of #stories# permitted through this Section shall apply to:

(1) #buildings# on #zoning lots# where at least 20 percent of the #floor area# of the #zoning lot# contains #affordable independent residences for seniors#;

(2) #buildings# on #zoning lots# in R10 Districts outside of #Inclusionary Housing designated areas#, where:

- (i) In accordance with the provisions of paragraph (a) of Section 23-154 (Inclusionary Housing), the #zoning lot# achieves a #floor area ratio# of at least 11.0; and
 - (ii) such #zoning lot# includes a #compensated development# that contains #affordable floor area#; or
- (3) #buildings# on #zoning lots# in #Inclusionary Housing designated areas#, where:
- (i) 50 percent or more of the #floor area# of the #zoning lot# contains #residential uses#; and
 - (ii) at least 20 percent of such #residential floor area# is #affordable floor area# provided in accordance with the provisions of paragraph (b) of Section 23-154.
- (4) #buildings# on #MIH zoning lots# that contain #MIH sites#, where:
- (i) such #buildings# contain #residential floor area# within a #development#, #enlargement# or #conversion# subsequent to the mapping of such #Mandatory Inclusionary Housing area#; and
 - (ii) such #zoning lot# contains all #affordable floor area# required for such #development#, #enlargement# or #conversion# to comply with the applicable options set forth in paragraphs (d)(3)(i) through (d)(3)(iii) of Section 23-154, including any modification of such options by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

* * *

**23-90
INCLUSIONARY HOUSING**

**23-91
Definitions**

For the purposes of this Section, inclusive, matter in italics is defined either in Section 12-10 (DEFINITIONS) or in this Section.

23-911

General definitions

The following definitions shall apply throughout Section 23-90 (INCLUSIONARY HOUSING), inclusive:

Administering agent

An “administering agent” is the entity responsible for ensuring, pursuant to a #regulatory agreement#, that:

- (a) each subject rental #affordable housing unit# is rented in compliance with such #regulatory agreement# at #rent-up# and upon each subsequent vacancy; or
- (b) each subject #homeownership affordable housing unit# is owned and occupied in compliance with such #regulatory agreement# at #sale# and upon each #resale#.

Affordable floor area

- (a) Where all of the #dwelling units#, #rooming units# and #supportive housing units# in a #generating site# or #MIH site#, other than any #super’s unit#, are #affordable housing units#, all of the #residential floor area#, or #community facility floor area# for a #supportive housing project#, in such #generating site# or #MIH site# is “affordable floor area.”
- (b) Where one or more of the #dwelling units# or #rooming units# in a #generating site#, other than any #super’s unit#, are not #affordable housing units#, the #affordable floor area# in such #generating site# is the sum of:
 - (1) all of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site#; plus
 - (2) a figure determined by multiplying the #residential floor area# of the #eligible common areas# in such #generating site# by a fraction, the numerator of which is all of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site# and the denominator of which is the sum of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site# plus the #residential floor area# within the perimeter walls of the #dwelling units# or #rooming units# in such

#generating site#, other than any #super's unit#, that are not #affordable housing units#.

- (c) Where one or more of the #dwelling units# or #rooming units# in an #MIH site#, other than any #super's unit#, are not #affordable housing units#, the #affordable floor area# in such #MIH site# is the sum of:
- (1) all of the #residential floor area# of the #affordable housing units# in such #MIH site#; plus
 - (2) a figure determined by multiplying the #residential floor area# of the #eligible common areas# in such #MIH site# by a fraction, the numerator of which is all of the #residential floor area# of the #affordable housing units# in such #MIH site# and the denominator of which is the sum of the #residential floor area# of the #affordable housing units# in such #MIH site# plus the #residential floor area# of the #dwelling units# or #rooming units# in such #MIH site#, other than any #super's unit#, that are not #affordable housing units#.

Affordable housing

“Affordable housing” consists of:

- (a) #affordable housing units#; and
- (b) #eligible common areas#.

Affordable housing fund

In a #Mandatory Inclusionary Housing area#, the “affordable housing fund” is a fund administered by a designee of #HPD#, all contributions to which shall be used for development, acquisition, rehabilitation, or preservation of affordable housing, or other affordable housing purposes as set forth in the #guidelines#. Each contribution into such fund shall be reserved, for a minimum period of time as set forth in the #guidelines#, for use in the same Community District in which the #MIH development# making such contribution is located, or within a half-mile of such #MIH development# in an adjacent Community District. Further provisions for the use of such funds may be set forth in the #guidelines#.

Affordable housing plan

An “affordable housing plan” is a plan approved by #HPD# to #develop#, rehabilitate or preserve rental or #homeownership affordable housing# on a #generating site#, pursuant to the provisions of Section 23-90, inclusive.

Affordable housing unit

An “affordable housing unit” is:

- (a) a #dwelling unit#, other than a #super’s unit#, that is used for class A occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a #regulatory agreement#, to occupancy by:
 - (1) #low income households#;
 - (2) where permitted by paragraph (c) of Section 23-154 (Inclusionary Housing) 23-953 (Special floor area compensation provisions in specified areas), either #low income households# or a combination of #low income households# and #moderate income households# or #middle income households#; ~~or~~
 - (3) upon #resale# of #homeownership affordable housing units#, other #eligible buyers#, as applicable; or
 - (4) in #Mandatory Inclusionary Housing areas#, #qualifying households#;
- (b) a #rooming unit#, other than a #super’s unit#, that is used for class B occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a #regulatory agreement#, to occupancy by #low income households#; or
- (c) a #supportive housing unit# within a #supportive housing project#.

#Affordable housing units# that are restricted to #homeownership#, as defined in Section 23-913, pursuant to a #regulatory agreement#, must be #dwelling units#.

Capital element

“Capital elements” are, with respect to any #generating site# or #MIH site#, the electrical, plumbing, heating and ventilation systems in such #generating site#, any air conditioning system in such #generating site# and all facades, parapets, roofs, windows, doors, elevators, concrete and masonry in such #generating site# and any other portions of such #generating site# or #MIH site# specified in the #guidelines#.

Compensated development

In areas other than #Mandatory Inclusionary Housing areas#, A a “compensated development” is a #development#, an #enlargement# of more than 50 percent of the #floor area# of an existing #building# or, where permitted by the provisions of Section 98-262 (Floor area increase), a #conversion# of a #building#, or portion thereof, from non-#residential use# to #dwelling units#, that is located within a #compensated zoning lot#.

Compensated zoning lot

A “compensated zoning lot” is a #zoning lot# not located in a #Mandatory Inclusionary Housing area# that contains a #compensated development# and receives an increased #floor area ratio#, pursuant to the provisions of Section 23-154 (Inclusionary Housing) and Section 23-90, inclusive.

Completion notice

A “completion notice” is a notice from #HPD# to the Department of Buildings stating that the #affordable housing# in all or a portion of any #generating site# or #MIH site# is complete and stating the #affordable floor area# of such #affordable housing#.

Eligible common area

In a #generating site#, “Eligible eligible common area” includes any #residential floor area# in a #generating site# that is located within the perimeter walls of a #super’s unit#, and also includes any #residential floor area# in such #generating site# that is not located within the perimeter walls of any other #dwelling unit# or #rooming unit#, except any #residential floor area# for which a user fee is charged to residents of #affordable housing units#.

In an #MIH site#, an #eligible common area# includes any #residential floor area# that is located within a #super’s unit#, and any #residential floor area# in such #MIH site# that is not located within any other #dwelling unit# or #rooming unit#, but shall not include any #residential floor area# for which a user fee is charged to residents of #affordable housing units#.

Floor area compensation

“Floor area compensation” is any additional #residential floor area# permitted in a #compensated development#, pursuant to the provisions of Section 23-154 (Inclusionary Housing) and Section 23-90, inclusive.

Generating site

A “generating site” is a #building# or #building segment# containing either #residential affordable floor area# or a #supportive housing project#, which generates #floor area compensation#. Non-#residential floor area# on a #generating site#, other than a #supportive housing project#, may not generate #floor area compensation#.

A #generating site# may also be an #MIH site#, provided that no #floor area# that satisfies the requirements of paragraphs (d)(3)(i) through (d)(3)(iii) of Section 23-154 (Inclusionary Housing) may also generate #floor area compensation#.

Grandfathered tenant

A “grandfathered tenant” is any #household# that:

- (a) occupied an #affordable housing unit# in #preservation affordable housing# or #substantial rehabilitation affordable housing# on the #regulatory agreement date#, pursuant to a lease, occupancy agreement or statutory tenancy under which one or more members of such #household# was a primary tenant of such #affordable housing unit#; and
- (b) has not been certified by the #administering agent# to have an annual income below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such #affordable housing unit#; or
- (c) in #homeownership preservation affordable housing# or #homeownership substantial rehabilitation affordable housing#, has been certified by the #administering agent# to have an annual income below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such #affordable housing unit#, but has elected not to purchase such #affordable housing unit#.

In #Mandatory Inclusionary Housing areas#, #grandfathered tenants# may include tenants of #buildings# on an #MIH site# that have been or will be demolished, as set forth in the #guidelines#.

Guidelines

The “guidelines” are the #guidelines# adopted by #HPD#, pursuant to paragraph (k) of Section 23-96 (Requirements for Generating Sites or MIH Sites).

Household

Prior to #initial occupancy# of an #affordable housing unit#, a “household” is, collectively, all of the persons intending to occupy such #affordable housing unit# at #initial occupancy#. After #initial occupancy# of an #affordable housing unit#, a #household# is, collectively, all of the persons occupying such #affordable housing unit#.

HPD

“HPD” is the Department of Housing Preservation and Development or its successor agency or designee, acting by or through its Commissioner or his or her designee.

Income band

An “income band” is a percentage of the #income index# that is the maximum income for a #qualifying household# at #initial occupancy# of an #affordable housing unit#.

Income index

The “income index” is 200 percent of the Very Low-Income Limit established by the U.S. Department of Housing and Urban Development (HUD) for Multifamily Tax Subsidy Projects (MTSPs) in accordance with Internal Revenue Code Sections 42 and 142, as amended by Section 3009(a) of the Housing and Economic Recovery Act of 2008, as adjusted for household size. #HPD# shall adjust such figure for the number of persons in a #household# in accordance with such methodology as may be specified by HUD or in the #guidelines#. #HPD# may round such figure to the nearest 50 dollars or in accordance with such methodology as may be specified by HUD or in the #guidelines#. If HUD ceases to establish, or changes the standards or methodology for the establishment of, such income limit for MTSPs or ceases to establish the methodology for adjusting such figure for #household# size, the standards and methodology for establishment of the #income index# shall be specified in the #guidelines#.

Initial occupancy

“Initial occupancy” is:

- (a) in rental #affordable housing#, the first date upon which a particular #household# occupies a particular #affordable housing unit# as a tenant, and shall not refer to any subsequent renewal lease of the same #affordable housing unit# to the same tenant #household#; or
- (b) in #homeownership affordable housing#, the first date upon which a particular #household# occupies a particular #affordable housing unit# as a #homeowner#.

For any #household# occupying an #affordable housing unit# of #preservation affordable housing# or #substantial rehabilitation affordable housing# on the #regulatory agreement date#, #initial occupancy# is the #regulatory agreement date#.

Low income floor area

The “low income floor area” is the #affordable floor area# that is provided for #low income households# or, upon #resale# as defined in Section 23-913, for #eligible buyers#.

Low income household

A “low income household” is a #household# having an income less than or equal to the #low income limit# at #initial occupancy#, except that, with regard to #low income floor area# within #preservation affordable housing# or #substantial rehabilitation affordable housing#, a #grandfathered tenant# shall also be a #low income household#.

Low income limit

The “low income limit” is 80 percent of the #income index#.

Middle income floor area

The “middle income floor area” is the #affordable floor area# that is provided for #middle income households# or, upon #resale# as defined in Section 23-913, for #eligible buyers#.

Middle income household

A “middle income household” is a #household# having an income greater than the #moderate income limit# and less than or equal to the #middle income limit# at #initial occupancy#, except

that, with regard to #middle income floor area# within #substantial rehabilitation affordable housing#, a #grandfathered tenant# shall also be a #middle income household#.

Middle income limit

The “middle income limit” is 175 percent of the #income index#.

MIH application

An “MIH application” is an application submitted to #HPD# that specifies how #affordable housing# will be provided on an #MIH site#, in compliance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), inclusive.

MIH development

In #Mandatory Inclusionary Housing areas#, an “MIH development” is a #development#, #enlargement#, or #conversion# that complies with the provisions of paragraphs (d)(3)(i) through (d)(3)(iv) of Section 23-154 (Inclusionary Housing), or provides #affordable housing# or a contribution to the #affordable housing fund# pursuant to such provisions as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

MIH site

An “MIH site” is a #building# containing #affordable floor area#, that satisfies either the special #floor area# provisions for #zoning lots# in #MIH areas# in paragraphs (d)(3)(i) through (d)(3)(iii), as applicable, of Section 23-154 (Inclusionary Housing) for an #MIH development# in a #Mandatory Inclusionary Housing area#, or such provisions as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

An #MIH site# may also be a #generating site#, provided that no #floor area# that satisfies the requirements of paragraphs (d)(3)(i) through (d)(3)(iii) of Section 23-154 may also generate #floor area compensation#.

MIH zoning lot

An “MIH zoning lot” is a #zoning lot# that contains an #MIH development#.

Moderate income floor area

The “moderate income floor area” is the #affordable floor area# that is provided for #moderate income households# or, upon #resale# as defined in Section 23-913, for #eligible buyers#.

Moderate income household

A “moderate income household” is a #household# having an income greater than the #low income limit# and less than or equal to the #moderate income limit# at #initial occupancy#, except that, with regard to #moderate income floor area# within #substantial rehabilitation affordable housing#, a #grandfathered tenant# shall also be a #moderate income household#.

Moderate income limit

The “moderate income limit” is 125 percent of the #income index#.

New construction affordable housing

“New construction affordable housing” is #affordable housing# that:

- (a) is located in a #building# or portion thereof that did not exist on a date which is 36 months prior to the #regulatory agreement date#;
- (b) is located in #floor area# for which the Department of Buildings first issued a temporary or permanent certificate of occupancy on or after the #regulatory agreement date#; and
- (c) complies with such additional criteria as may be specified by #HPD# in the #guidelines#.

Permit notice

For #compensated developments#, ~~A~~ a “permit notice” is a notice from #HPD# to the Department of Buildings stating that building permits may be issued to a #compensated development# to utilize #floor area compensation# from all or a portion of the #affordable floor area# on a #generating site#. Any #permit notice# shall:

- (a) state the amount of #low income floor area#, #moderate income floor area# or #middle income floor area# attributable to such #generating site#;

- (b) state whether the #affordable housing# comprising such #low income floor area#, #moderate income floor area# or #middle income floor area# is #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#;
- (c) state whether the #affordable housing# comprising such #low income floor area#, #moderate income floor area# or #middle income floor area# has utilized #public funding#; and
- (d) specify the amount of such #affordable housing# that the #compensated development# may utilize to generate #floor area compensation#.

For #MIH developments#, a #permit notice# is a notice from #HPD# to the Department of Buildings stating that building permits may be issued for any #development#, #enlargement# or #conversion# subject to the special #floor area# requirements of paragraph (d) of Section 23-154 (Inclusionary Housing), or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). Such #permit notice# shall state the amount of #affordable floor area# provided on an #MIH site# or the amount of #floor area# for which a contribution to the #affordable housing fund# has been made.

Preservation affordable housing

“Preservation affordable housing” is #affordable housing# that:

- (a) is a #generating site# that existed and was legally permitted to be occupied on the #regulatory agreement date#, except as permitted in the #guidelines#; and
- (b) complies with the provisions of Section 23-961, paragraph (e) (Special requirements for rental preservation affordable housing) or Section 23-962, paragraph (f) (Special requirements for #homeownership preservation affordable housing#), as applicable.

Public funding

“Public funding” is any grant, loan or subsidy from any Federal, State or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits. #Public funding# shall not include the receipt of rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, or an exemption or abatement of real property taxes pursuant to Section 420-

a, Section 420-c, Section 421-a, Section 422, Section 488-a or Section 489 of the Real Property Tax Law, Article XI of the Private Housing Finance Law or such other programs of full or partial exemption from or abatement of real property taxation as may be specified in the #guidelines#.

Qualifying household

In a #Mandatory Inclusionary Housing area#, a “qualifying household” is a #low income household#, #moderate income household#, or #middle income household# with an income not exceeding the applicable #income band# as specified in paragraphs (d)(3)(i) through (d)(3)(iii) of Section 23-154 (Inclusionary Housing) or as provided by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

Regulatory agreement

A “regulatory agreement” is an agreement between #HPD# and the owner of the #affordable housing# or, for #MIH sites#, a restrictive declaration or other document as provided in the #guidelines#, that requires compliance with all applicable provisions of an #affordable housing plan# or #MIH application#, Section 23-90, inclusive, other applicable provisions of this Resolution, and the #guidelines#.

Regulatory agreement date

The “regulatory agreement date” is, with respect to any #affordable housing#, the date of execution of the applicable #regulatory agreement#. If a #regulatory agreement# is amended at any time, the #regulatory agreement date# is the original date of execution of such #regulatory agreement#, without regard to the date of any amendment.

Regulatory period

The “regulatory period” is, with respect to any #generating site#, the entire period of time during which any #floor area compensation# generated by the #affordable floor area# on such #generating site# is the subject of a permit, temporary certificate of occupancy or permanent certificate of occupancy issued by the Department of Buildings, or is otherwise under construction or in use in a #compensated development#.

With respect to any #MIH site#, the #regulatory period# is the entire period of time during which #affordable floor area# on such #MIH site# satisfies the requirements of the special #floor area# provisions for #zoning lots# in #MIH areas# in paragraph (d) of Section 23-154 (Inclusionary

Housing) for an #MIH development# or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements), is the subject of a permit, temporary certificate of occupancy or permanent certificate of occupancy issued by the Department of Buildings, or is otherwise under construction or in use.

Substantial rehabilitation affordable housing

“Substantial rehabilitation affordable housing” is #affordable housing# that:

- (a) is a #generating site# that existed on the #regulatory agreement date#; and
- (b) complies with the provisions of Section 23-961, paragraph (f) (Special requirements for rental #substantial rehabilitation affordable housing#), or Section 23-962, paragraph (g) (Special requirements for #homeownership substantial rehabilitation affordable housing#), as applicable.

Super’s unit

A “super’s unit” is, in any #generating site# or MIH site, not more than one #dwelling unit# or #rooming unit# that is reserved for occupancy by the superintendent of such #building#.

23-912

Definitions applying to rental affordable housing

The following definitions shall apply to rental #affordable housing#:

Legal regulated rent

A “legal regulated rent” is, with respect to any #affordable housing unit#, the initial #monthly rent# registered with the Division of Housing and Community Renewal at #rent-up# in accordance with paragraph (b) of Section 23-961 (Additional requirements for rental affordable housing).

Maximum monthly rent

The “maximum monthly rent” is:

- (a) 30 percent of the #low income limit# for an #affordable housing unit# restricted to occupancy by #low income households#, divided by 12, minus the amount of any applicable #utility allowance#;
- (b) 30 percent of the #moderate income limit# for an #affordable housing unit# restricted to occupancy by #moderate income households#, divided by 12, minus the amount of any applicable #utility allowance#; and
- (c) 30 percent of the #middle income limit# for an #affordable housing unit# restricted to occupancy by #middle income households#, divided by 12, minus the amount of any applicable #utility allowance#.

For #MIH sites#, the #maximum monthly rent# for an #affordable housing unit# restricted to occupancy by a #qualifying household# is 30 percent of the #income band# applicable to that unit, divided by 12, minus any applicable utility allowance.

Monthly rent

The “monthly rent” is the monthly amount charged, pursuant to paragraph (b) of Section 23-961 (Additional requirements for rental affordable housing), to a tenant in an #affordable housing unit#.

Rent stabilization

“Rent stabilization” is the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974 and all regulations promulgated pursuant thereto or in connection therewith. If the Rent Stabilization Law of 1969 or the Emergency Tenant Protection Act of 1974 is repealed, invalidated or allowed to expire, #rent stabilization# shall be defined as set forth in the #guidelines#.

Rent-up

“Rent-up” is the first rental of vacant #affordable housing units# on or after the #regulatory agreement date#, except that, where one or more #affordable housing units# in #preservation affordable housing# or #substantial rehabilitation affordable housing# were occupied by #grandfathered tenants# on the #regulatory agreement date#, #rent-up# shall have the same meaning as #regulatory agreement date#.

Rent-up date

The “rent-up date” is the date upon which leases for a percentage of vacant #affordable housing units# set forth in the #guidelines# have been executed, except that, where one or more #affordable housing units# in #preservation affordable housing# or #substantial rehabilitation affordable housing# were occupied by #grandfathered tenants# on the #regulatory agreement date#, the #rent-up date# is the #regulatory agreement date#.

Supportive housing project

A “supportive housing project” is a non-profit institution with sleeping accommodations, as specified in Section 22-13 (Use Group 3), where:

- (a) 100 percent of the #supportive housing units# within such #generating site#, have been restricted to use as #affordable housing# for persons with special needs pursuant to a #regulatory agreement#;
- (b) such #generating site# does not contain any #dwelling unit# or #rooming unit# that is not #accessory#; and
- (c) such #generating site# is not a #compensated development#.

However, in a #Mandatory Inclusionary Housing area#, a #supportive housing project# is a #building# or a portion thereof that is a non-profit institution with sleeping accommodations, as specified in Section 22-13 restricted to use as #affordable housing# for persons with special needs pursuant to a #regulatory agreement#.

Supportive housing unit

A “supportive housing unit” is #floor area# in a #supportive housing project# that consists of sleeping quarters for persons with special needs and any private living space appurtenant thereto.

Utility allowance

A “utility allowance” is a monthly allowance set by #HPD# for the payment of utilities where the tenant of an #affordable housing unit# is required to pay all or a portion of the utility costs with respect to such #affordable housing unit# in addition to any payments of #monthly rent#.

23-913

Definitions applying to homeownership affordable housing

The following definitions shall apply to #homeownership affordable housing#, where #homeownership# is as defined in this Section:

Appreciated price

The “appreciated price” for any #homeownership affordable housing unit# is the product of the #sale# or #resale# price of such #homeownership affordable housing unit# on the previous #sale date# and the #appreciation index# applicable at #resale# as specified in the #guidelines#.

Appreciation cap

The “appreciation cap” is the #resale# price at which the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes to be paid by the #homeowner# would be equal to 30 percent of:

- (a) 125 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #low income households# at #sale#; or
- (b) 175 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #moderate income households# at #sale#; or
- (c) 200 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #middle income households# at #sale#.

For #MIH sites#, the multiple of the #income index# for #homeownership affordable housing units# occupied by #qualifying households# shall be as specified in the #guidelines#.

Appreciation index

The “appreciation index” is 100 until August 1, 2010. On or after August 1, 2010, the #appreciation index# shall be a number greater than 100, representing the cumulative increase in #resale# price of a #homeownership affordable housing unit# permitted pursuant to the annual rates of increase established by #HPD#.

#HPD# shall set the annual rate of increase at the same rate as the percentage change in the Consumer Price Index for all urban consumers, as defined by the U.S. Bureau of Labor Statistics, for the 12 months ended on June 30 of that year, plus one percent per year, but the annual rate of increase shall be no less than one percent per year. #HPD# shall adjust the Consumer Price Index

component of the #appreciation index# on August 1 of each calendar year, commencing on August 1, 2010, based on the percentage change in the Consumer Price Index for the 12 months ended on June 30 of that calendar year. For a fraction of a year, the components of the #appreciation index# shall be set as specified in the #guidelines#. #HPD# may adjust the methodology for calculating the #appreciation index# not more than once every two years in accordance with the #guidelines#.

Commencement date

The “commencement date” is the date upon which #sales# for a percentage of #homeownership affordable housing units# in a #generating site# or #MIH site# set forth in the #guidelines# have been completed, except that, where one or more #homeownership affordable housing units# in #preservation affordable housing# or #substantial rehabilitation affordable housing# were occupied by #grandfathered tenants# on the #regulatory agreement date#, the #commencement date# is the #regulatory agreement date#.

Condominium association

A “condominium association” is an organization of condominium #homeowners#, with a form of governance specified in the #guidelines#, that manages the common areas and #capital elements# of a #generating site# or #MIH site#.

Cooperative corporation

A “cooperative corporation” is any corporation organized exclusively for the purpose of providing housing accommodations to shareholders who are persons or families entitled, by reason of ownership of shares in such corporation, to residential occupancy.

Down payment

The “down payment” is a payment that is not secured by any form of debt, made on or before the #sale date# by the #eligible buyer# approved by the #administering agent# to purchase a #homeownership affordable housing unit#.

Eligible buyer

An “eligible buyer” is a #household# that qualifies to buy a specific #homeownership affordable housing unit#. Such a #household# shall:

- (a) except in the case of #succession#:
- (1) be, at the time of application for an initial #sale#, a #low income household#, #moderate income household#, ~~or~~ #middle income household# or #qualifying household# for which, at the #initial price#, the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes that would be paid for a #homeownership affordable housing unit# is not more than 35 percent and not less than 25 percent of such #household's# income. However, for a #household# that resided on a #generating site# or #MIH site# on the date of submission of an #affordable housing plan#, #HPD# may waive the requirement that housing costs be not less than 25 percent of such #household's# income;
 - (2) be, at the time of application for a #resale#, in the case of an #affordable housing unit# initially limited to #sale# to a #low income household#, #moderate income household#, ~~or~~ #middle income household#, or #qualifying household#, any #household# for which, at the #maximum resale price#, the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes that would be paid for a #homeownership affordable housing unit# is not more than 35 percent and not less than 25 percent of such #household's# income;
 - (3) have cash or equivalent assets that are at least equal to the required #down payment# for such #affordable housing unit#. However, #HPD# may waive this requirement for a #household# that resided on a #generating site# or #MIH site# on the date of submission of an #affordable housing plan# to #HPD#; and
 - (4) meet such additional eligibility requirements as may be specified in the #guidelines#.
- (b) in the case of #succession#:
- (1) be, at the time of application, a #household# for which, at the #maximum resale price#, the combined cost of #monthly fees#, #imputed mortgage payments#, utilities and property taxes for the subject #homeownership affordable housing unit# is not less than 25 percent of such #household's# income; and
 - (2) meet such additional eligibility requirements as may be specified in the #guidelines#.

A #grandfathered tenant# is not an #eligible buyer# unless such #grandfathered tenant# has been certified by the #administering agent# to have an annual income at or below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such

#homeownership affordable housing unit# or, for #MIH sites#, meets such qualifications for eligibility specified in the #guidelines#.

Family member

“Family member” shall have the meaning set forth in the #guidelines#.

Homeowner

A “homeowner” is a person or persons who:

- (a) owns a condominium #homeownership affordable housing unit# and occupies such condominium #homeownership affordable housing unit# in accordance with owner occupancy requirements set forth in the #guidelines#; or
- (b) owns shares in a #cooperative corporation#, holds a proprietary lease for an #homeownership affordable housing unit# owned by such #cooperative corporation# and occupies such #homeownership affordable housing unit# in accordance with owner occupancy requirements set forth in the #guidelines#.

Homeownership

“Homeownership” is a form of tenure for housing, including #dwelling units# occupied by either the owner as a separate condominium, a shareholder in a #cooperative corporation# pursuant to the terms of a proprietary lease, a #grandfathered tenant# or an authorized sublettor pursuant to the #guidelines#.

Imputed mortgage payment

An “imputed mortgage payment” is the maximum #mortgage payment# at prevailing interest rates for a qualifying #mortgage# that could be paid to purchase a #homeownership affordable housing unit# at the #maximum resale price#, calculated in accordance with the #guidelines#.

Initial price

The “initial price” is the price at which a #homeownership affordable housing unit# may be offered for #sale# for the first time, pursuant to a #regulatory agreement#.

Maximum resale price

The “maximum resale price” for a #homeownership affordable housing unit# is the lesser of the #appreciated price# or the #appreciation cap# for such #homeownership affordable housing unit#.

Monthly fees

The “monthly fees” are any payments charged to a #homeowner# by a #cooperative corporation# or #condominium association# to provide for the reimbursement of the applicable #homeownership affordable housing unit’s# share of the expenses of such #cooperative corporation# or #condominium association#, as permitted by the #regulatory agreement#.

Mortgage

A “mortgage” is a mortgage loan, or a loan to purchase shares in a #cooperative corporation#, that has been approved by the #administering agent# and that has a fixed rate of interest, a term of at least 30 years at every #sale# and #resale#, a value not exceeding 90 percent of the #sale# price of such #homeownership affordable housing unit# at the time of the initial #sale# or 90 percent of the #maximum resale price# of such #homeownership affordable housing unit# at any time after the initial #sale#, and that is otherwise in compliance with the #guidelines#.

Mortgage payment

The “mortgage payment” is any monthly repayment of principal and interest on a #mortgage#.

Resale

A “resale” is any transfer of title to a condominium #homeownership affordable housing unit# after the first #sale# or any transfer of ownership of the shares in a #cooperative corporation# which are appurtenant to an #homeownership affordable housing unit# after the first #sale#.

Sale

A “sale” is the first transfer of title to a condominium #homeownership affordable housing unit# or the first transfer of ownership of the shares in a #cooperative corporation# which are

appurtenant to an #homeownership affordable housing unit# on or after the #regulatory agreement date#.

Sale date

A “sale date” is the date of the #sale# or #resale# of any #homeownership affordable housing unit#. However, for #homeownership affordable housing units# in #preservation affordable housing# or #substantial rehabilitation affordable housing# occupied by #grandfathered tenants# on the #regulatory agreement date#, the initial #sale date# shall be the #regulatory agreement date#.

Succession

“Succession” is a #resale# from a #homeowner# to a #family member# of such #homeowner#.

23-92

General Provisions

The Inclusionary Housing Program is established to promote the creation and preservation of housing for residents with varied incomes in redeveloping neighborhoods and to enhance neighborhood economic diversity and thus to promote the general welfare. The requirements of this program are set forth in Section 23-90 (INCLUSIONARY HOUSING), inclusive.

Wherever the provisions of Section 23-90, inclusive, provide that approval is required, #HPD# may specify the form of such approval in the #guidelines#.

23-93

Applicability

23-931

Lower income housing plans approved prior to July 29, 2009

Any #lower income housing plan#, as defined by Section 23-93 prior to July 29, 2009, that has been approved by #HPD# prior to such date, and results, within one year after such approval, in the execution of a restrictive declaration pursuant to Section 23-95, paragraph (e), as such Section existed prior to July 29, 2009, shall be governed solely by the regulations in effect prior to July 29, 2009, unless a #regulatory agreement# with respect thereto specifically provides to the contrary. However, Section 23-95~~53~~3 (Additional requirements for compensated

developments and MIH developments) shall apply to any permits or certificates of occupancy for ~~#compensated developments#~~ issued on or after July 29, 2009.

The ~~#floor area ratio#~~ of a ~~#compensated development#~~ may be increased in exchange for ~~#lower income housing#~~, pursuant to a ~~#lower income housing plan#~~, as both terms were defined by Section 23-93 prior to July 29, 2009, provided such ~~#lower income housing#~~ complies with all applicable provisions of Section 23-90 (INCLUSIONARY HOUSING) in effect prior to July 29, 2009, except as provided in this Section. Where such a ~~#compensated development#~~ is located in an R10 District outside of ~~#Inclusionary Housing designated areas#~~, the provisions of ~~Section 23-951 (Floor area compensation in R10 Districts other than Inclusionary Housing designated areas)~~ paragraph (a) of Section 23-154 (Inclusionary Housing) shall not apply, and Section 23-941 (In R10 Districts other than Inclusionary Housing designated areas) as such Section existed prior to July 29, 2009, shall apply.

Any ~~#lower income housing plan#~~, as such term was defined prior to July 29, 2009, that has been approved by ~~#HPD#~~ prior to such date, and any legal document related thereto, may be modified by ~~#HPD#~~, to apply the provisions of paragraph (b), (Monthly rent), of Section 23-961 to such ~~#lower income housing plan#~~.

23-932

R10 districts

The Inclusionary Housing Program shall apply in all R10 Districts located in ~~#Inclusionary Housing designated areas#~~, subject to the provisions of paragraph (b) of Section 23-154 (Inclusionary Housing), and in all R10 districts located in ~~#Mandatory Inclusionary Housing areas#~~, pursuant to the provisions of paragraph (d) of such Section. The Inclusionary Housing Program shall apply in all other R10 Districts, subject to the provisions of paragraph (a) of Section 23-154 ~~Section 23-951 (Floor area compensation in R10 Districts other than Inclusionary Housing designated areas)~~, as applicable.

23-933

Inclusionary Housing designated areas and Mandatory Inclusionary Housing areas

The Inclusionary Housing Program shall apply in ~~#Inclusionary Housing designated areas#~~, and #Mandatory Inclusionary Housing areas#.

The Inclusionary Housing Program shall also apply in special purpose districts when specific zoning districts or areas are defined as ~~#Inclusionary Housing designated areas#~~ or #Mandatory Inclusionary Housing areas# within the special purpose district.

The Inclusionary Housing Program shall also apply as a condition of City Planning Commission approval of special permits as set forth in Section 74-32 (Additional Considerations for Special Permit Use and Bulk Modifications), in Special Purpose Districts as set forth in Section 23-934 (Special permit approval in Special Purpose Districts), and in waterfront areas as set forth in Section 62-831 (General Provisions).

#Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas#, with the applicable income mix options for each #Mandatory Inclusionary Housing area#, are listed in APPENDIX F of this Resolution.

23-934

Special permit approval in Special Purpose Districts

Where a special purpose district includes a provision to grant modification of #use# or #bulk# by special permit of the City Planning Commission, and an application for such special permit would allow a significant increase in #residential floor area# where the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-92 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, or where the area affected by the special permit is eligible to receive transferred development rights pursuant to the Hudson River Park Act, as amended, the Commission may modify the requirements of such paragraph (d).

23-94

Methods of Providing Affordable Housing

- (a) Except in #Mandatory Inclusionary Housing areas#, #Affordable housing# shall be either #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#. In #Mandatory Inclusionary Housing areas#, #affordable housing# shall be either #new construction affordable housing# or a #conversion# from non-#residential# to #residential use#. Such #conversions# shall comply with the requirements of Section 23-90, inclusive, applicable to #new construction affordable housing#.
- (b) When determining whether #affordable housing# is #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing# in order to calculate #floor area compensation#, or when making a

determination of which #building# or #building segment# constitutes a #generating site#, #HPD# may separately consider each #building# or #building segment# on a #zoning lot#. Where any such #building# consists of two or more contiguous sections separated by walls or other barriers, #HPD# may consider all relevant facts and circumstances when determining whether to consider the sections of such #building# separately or collectively, including, but not limited to, whether such sections share systems, utilities, entrances, common areas or other common elements and whether such sections have separate deeds, ownership, tax lots, certificates of occupancy, independent entrances, independent addresses or other evidence of independent functional use.

- (c) The amount of #affordable floor area# in any #generating site# or #MIH site# shall be determined based upon plans for such #generating site# or #MIH site# which have been approved by the Department of Buildings and which indicate thereon the amount of #floor area# devoted to #affordable housing# and the amount of #floor area# devoted to other #residential uses#. However, for #generating sites# where the Department of Buildings does not require #floor area# calculations, the amount of #affordable floor area# shall be determined by methods specified in the #guidelines#.
- (d) The amount of #low income#, #moderate income# and #middle income floor area# in a #generating site#, and the amount of qualifying #floor area# for any #income band# in an #MIH site#, shall be determined in by the same manner method as the calculation of #affordable floor area#.
- (e) #Affordable housing units# shall be either rental #affordable housing# or #homeownership affordable housing#.
- (f) An #MIH site# that is part of an #MIH zoning lot# and contains no #dwelling units# other than #affordable housing units# shall be either a #building# that:
 - (1) shares a common #street# entrance with another #building# on the #zoning lot# that contains #dwelling units# other than #affordable housing units#; or
 - (2) is independent, from grade at the #street wall line# to the sky, of any other #building# on the #zoning lot# containing #dwelling units# other than #affordable housing units#. Such #building# shall have its primary entrance on a #street# frontage that has primary entrances for other #residential buildings#, except where #HPD# determines that the primary entrance is located in a manner that does not stigmatize occupants of #affordable housing units#.

23-95

Compensated Zoning Lots and MIH Zoning Lots

The residential floor area ratio of a compensated zoning lot may be increased, and the residential floor area ratio of an MIH zoning lot shall be determined, in accordance with the applicable provisions of Section 23-154 (Inclusionary Housing).

[THE FOLLOWING SECTIONS 23-951 THROUGH 23-953 HAVE BEEN MOVED TO PARAGRAPHS (a) THROUGH (c) OF SECTION 23-154]:

23-951

~~Floor area compensation in R10 Districts other than Inclusionary Housing designated areas~~

~~The residential floor area ratio of a compensated zoning lot may be increased from 10.0 to a maximum of 12.0 at the rate set forth in this Section, if such compensated zoning lot provides affordable housing that is restricted to low income floor area.~~

~~For each square foot of floor area provided for a type of affordable housing listed in the table in this Section, the floor area of the compensated zoning lot may be increased by the number of square feet set forth in the table, as applicable. Any generating site for which public funding has been received within the 15 years preceding the regulatory agreement date, or for which public funding is committed to be provided subsequent to such date, shall be deemed to be provided with public funding.~~

OPTIONS

Without public funding	#New construction affordable housing or #substantial rehabilitation affordable housing	3.5
	#Preservation affordable housing	2.0
With public funding	#New construction affordable housing, #substantial rehabilitation affordable housing or #preservation affordable housing	1.25

23-952

~~Floor area compensation in Inclusionary Housing designated areas~~

~~The provisions of this Section shall apply in Inclusionary Housing designated areas set forth in APPENDIX F of this Resolution.~~

~~The residential floor area of a zoning lot may not exceed the base floor area ratio set forth in the table in this Section, except that such floor area may be increased on a compensated~~

zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the table. However, the amount of #low income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non #residential floor area#, or any #floor area# increase for the provision of a #FRESH food store#, on the #compensated zoning lot#.

————— Maximum #Residential Floor Area Ratio#

District	Base #floor area ratio#	Maximum #floor area ratio#
R6B	2.00	2.20
R6 ¹	2.20	2.42
R6 ² R6A R7-2 ¹	2.70	3.60
R7A R7-2 ²	3.45	4.60
R7-3	3.75	5.0
R7D	4.20	5.60
R7X	3.75	5.00
R8	5.40	7.20
R9	6.00	8.00
R9A	6.50	8.50
R9D	7.5	10.0
R9X	7.3	9.70
R10	9.00	12.00

¹ ——— for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#

² ——— for #zoning lots#, or portions thereof, within 100 feet of a #wide street#

23-953

Special floor area compensation provisions in specified areas

(a) ——— Optional provisions for #large scale general developments# in C4-6 or C5 Districts

~~Within a #large-scale general development# in a C4-6 or C5 District, the special optional regulations as set forth in this paragraph, (a), inclusive, modify the provisions of Section 23-952 (Floor area compensation in Inclusionary Housing designated areas):~~

- ~~(1) The #residential floor area# of a #development# or #enlargement# may be increased by 0.833 square feet for each one square foot of #moderate income floor area#, or by 0.625 square feet for each one square foot of #middle income floor area#, provided that for each square foot of such #floor area compensation#, there is one square foot of #floor area compensation#, pursuant to Section 23-952;~~
- ~~(2) However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified in this paragraph, (a)(2). If #affordable housing# is provided for both #low income# and #moderate income households#, the amount of #moderate income floor area# need not exceed 15 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#. If #affordable housing# is provided for both #middle income households# and #low income households#, the amount of #middle income floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#.~~

~~For the purposes of this paragraph, (a), inclusive, #low income floor area# may be considered #moderate income floor area# or #middle income floor area#, and #moderate income floor area# may be considered #middle income floor area#.~~

- ~~(b) Special provisions for #large-scale general developments# in Community District 1 in the Borough of Queens~~

~~Special provisions shall apply to #zoning lots# within a #large-scale general development# that contains R6B, R7A and R7-3 Districts within an #Inclusionary Housing designated area#, as follows:~~

- ~~(1) For #zoning lots#, or portions thereof, that are located within R6B, R7A or R7-3 Districts, the base #floor area ratio# set forth in Section 23-952 shall not apply. No #residential development# or #enlargement# shall be permitted unless #affordable floor area# is provided pursuant to the provisions of this paragraph. The amount of #low income floor area# provided shall equal no less than 10~~

~~percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store# and the amount of #moderate income floor area# provided shall equal no less than 15 percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store#. For the purposes of this paragraph (b)(1), inclusive, #low income floor area# may be considered #moderate income floor area#; and~~

~~(2) — The amount of #affordable floor area# utilizing #public funding# that may count toward satisfying the #affordable floor area# required in paragraph (b)(1) of this Section shall be determined in accordance with procedures prescribed by the City Planning Commission pursuant to the provisions of Section 74-743 (Special provisions for bulk modification).~~

~~(c) — Special provisions for #compensated zoning lots#~~

~~— Special provisions shall apply to #compensated zoning lots# located within:~~

~~(1) — R6, R7-3 and R8 Districts on #waterfront blocks# in #Inclusionary Housing designated areas# within Community District 1, Borough of Brooklyn, as set forth in Section 62-352; or~~

~~(2) — the #Special Hudson Yards District#, #Special Clinton District# and #Special West Chelsea District#, as set forth in Sections 93-23, 96-21 and 98-26, respectively.~~

23-954-23-951

Height and setback for compensated developments in Inclusionary Housing designated areas

In #Inclusionary Housing designated areas#, the #compensated development# shall comply with the height and setback regulations of Sections 23-66 or 35-65 (Height and Setback Requirements for Quality Housing Buildings)~~23-633 (Street wall location and height and setback regulations in certain districts) or 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts)~~, as applicable, except that:

(a) in #Special Mixed Use Districts#, the #compensated development# shall comply with the provisions of paragraphs (a) or (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations), as applicable. However, where the #Residence District# designation is an R6 District without a letter

suffix, the #compensated development# shall comply with the height and setback regulations of Section 23-66 ~~Section 23-633~~, regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program;

- (b) in R10 Districts without a letter suffix, the #compensated development# shall comply with the underlying height and setback regulations for such district; and
- (c) on #waterfront blocks# and in R7-3 Districts, the #compensated development# shall comply with the special regulations applying in the #waterfront area# set forth in Section 62-30 (SPECIAL BULK REGULATIONS), inclusive.

23-952

Height and setback in Mandatory Inclusionary Housing areas

In #Mandatory Inclusionary Housing areas#, the provisions of Section 23-951 shall apply to #MIH developments#, except as modified in this Section.

- (a) In R6, R7 and R8 Districts without a letter suffix, the alternative height and setback regulations for certain #Quality Housing buildings# in non-contextual districts as set forth in paragraph (c) of Section 23-664 may apply to any #building# on a #zoning lot# located within an #MIH area#. Such #zoning lot# need not be located within 150 feet of: an open railroad right-of-way in active use; a limited-access expressway, freeway, parkway or highway, all of which prohibit direct vehicular access to abutting land; or an elevated #street# located on a bridge that prohibits direct vehicular access.
- (b) In R9 Districts without a letter suffix, the regulations of Section 23-651 (Tower-on-a-base) may apply, provided such #MIH development# is on a #zoning lot# that meets the requirements set forth in paragraph (a) of Section 23-65 (Tower Regulations).
- (c) In R6-R9 Districts without a letter suffix within #Mandatory Inclusionary Housing areas#, the height and setback regulations of Section 23-64 (Basic Height and Setback Regulations) may apply. In addition, for R9 Districts that do not meet the requirements of paragraphs (a) and (c) of Section 23-65 (Tower Regulations), the tower provisions of Section 23-652 (Standard tower) may apply, subject to the #lot coverage# provisions of Section 23-65. However, when the height and setback and tower regulations specified in this paragraph are utilized, the maximum #floor area ratio# on an #MIH zoning lot# shall be determined in accordance with the provisions of Section 23-151 (Basic regulations for R6 through R9 Districts).

23-955 953

Additional requirements for compensated developments and MIH developments

- (a) #Compensated development# or #MIH development# building permits
- (1) #HPD# may issue a #permit notice# to the Department of Buildings at any time on or after the #regulatory agreement date#. The Department of Buildings may thereafter issue building permits to a #compensated development# that utilizes #floor area compensation#, or an #MIH development#, based on the #affordable housing# or contribution to the #affordable housing fund# described in such #permit notice#.
 - (2) If #HPD# does not receive confirmation that the #regulatory agreement# has been recorded within 45 days after the later of the #regulatory agreement date# or the date upon which #HPD# authorizes the recording of the #regulatory agreement#, #HPD# shall suspend or revoke such #permit notice#, notify the Department of Buildings of such suspension or revocation and not reinstate such #permit notice# or issue any new #permit notice# until #HPD# receives confirmation that the #regulatory agreement# has been recorded or any applicable alternate procedure has been completed. Upon receipt of notice from #HPD# that a #permit notice# has been suspended or revoked, the Department of Buildings shall suspend or revoke each building permit issued pursuant to such #permit notice# which is then in effect for any #compensated development# or #MIH development#.
- (b) #Compensated development# or #MIH development# certificates of occupancy
- (1) The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area compensation# or #MIH development# until #HPD# has issued a #completion notice# with respect to the #affordable housing# that generates such #floor area compensation#, or satisfies the requirements of paragraph (d) of Section 23-154 (Inclusionary Housing) or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). However, where any #story# of a #compensated development# or #MIH development# contains one or more #affordable housing units#, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such #story# if such temporary or permanent certificate of occupancy either includes each #affordable housing unit# located in such #story# or only includes #dwelling units# or #rooming units# that are #affordable housing units#. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary or permanent certificate of occupancy for a #super's unit#.
 - (2) #HPD# shall not issue a #completion notice# with respect to any portion of any #generating site# or #MIH site# unless:

- (i) the Department of Buildings has issued temporary or permanent certificates of occupancy for all #affordable housing# described in such #completion notice# and such certificates of occupancy have not expired, been suspended or been revoked; or
- (ii) where a #generating site# contains #affordable housing# that had a valid certificate of occupancy on the #regulatory agreement date# and no new temporary or permanent certificate of occupancy is thereafter required for the creation of such #affordable housing#, #HPD# has determined that all renovation and repair work required by the applicable #regulatory agreement# has been completed and all obligations with respect to the creation of such #affordable housing# have been fulfilled in accordance with the applicable #regulatory agreement#.

23-96

Requirements for Generating Sites or MIH Sites

#Affordable housing# in a #generating site# or #MIH site# shall meet each of the requirements set forth in this Section for the entire #regulatory period#.

- (a) Location of #generating site# or #MIH site# and #compensated zoning lot# or #MIH zoning lot#

Where a #generating site# or #MIH site# is not located within the #compensated zoning lot# for which it generates #floor area compensation# or the #MIH zoning lot#, as applicable:

- (1) the #generating site# or #MIH site# and the #compensated zoning lot# or the #MIH zoning lot#, as applicable, shall be located within the same Community District; or
- (2) the #generating site# or #MIH site# and the #compensated zoning lot# or the #MIH zoning lot#, as applicable, shall be located in adjacent community districts and within one-half mile of each other, measured from the perimeter of each #zoning lot#.

However, special rules for the location of a #generating site# and a #compensated zoning lot# apply in Community District 1, Borough of Brooklyn, where the provisions of paragraph (a)(2) of this Section shall apply only to adjacent community districts located in the Borough of Brooklyn; in the #Special Clinton District#, pursuant to the provisions of Section 96-21 (Special Regulations for 42nd Street Perimeter Area); in the #Special

Downtown Jamaica District#, pursuant to the provisions of Section 115-211 (Special Inclusionary Housing regulations); and in the #Special Southern Hunters Point District#, pursuant to the provisions of Section 125-22 (Newtown Creek Subdistrict).

(b) Distribution of #affordable housing units#

In #new construction affordable housing# or #substantial rehabilitation affordable housing#, where one or more of the #dwelling units# or #rooming units# in a #generating site#, other than any #super's unit#, are not #affordable housing units#:

- (1) the #affordable housing units# shall be distributed on not less than 65 percent of the #residential stories# of such #generating site# or, if there are insufficient #affordable housing units# to comply with this requirement, the distribution of #affordable housing units# shall be as specified in the #guidelines#; and
- (2) not more than one-third of the #dwelling units# and #rooming units# on any #story# of such #generating site# shall be #affordable housing units#, unless not less than one-third of the #dwelling units# and #rooming units# on each #residential story# of such #generating site# are #affordable housing units#. However, on a #residential story# with fewer than three #dwelling units# or #rooming units#, only one #dwelling unit# or #rooming unit# may be an #affordable housing unit#, unless not less than one #dwelling unit# or #rooming unit# on each floor is an #affordable housing unit#.

In an #MIH site#, where one or more of the #dwelling units# or #rooming units#, other than any #super's unit#, are not #affordable housing units#, the #affordable housing units# shall share a common primary entrance with the other #dwelling units# or #rooming units#.

In addition, except where all #affordable housing units# are rental #affordable housing# and all other #dwelling units# are #homeownership# housing, any #affordable housing units# other than #supportive housing units# or #affordable independent residences for seniors# shall be distributed on at least 50 percent of the #residential stories# of such #MIH site# or, if there are insufficient #affordable housing units# to comply with this requirement, the distribution of #affordable housing units# shall be as specified in the #guidelines#.

However, #HPD# may waive such distribution requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing#, or for #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

(c) Bedroom mix of #affordable housing units#

(1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, where one or more of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, are not #affordable housing units#, either:

(i) the #dwelling units# in the #generating site# or #MIH site# that are #affordable housing units# shall contain a bedroom mix at least proportional to the bedroom mix of the #dwelling units# in the #generating site#, other than any #super's unit#, that are not #affordable housing units#; or

(ii) not less than 50 percent of the #dwelling units# in the #generating site# or #MIH site# that are #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of the #dwelling units# in the #generating site# or #MIH site# that are #affordable housing units# shall contain one or more bedrooms.

However, such bedroom mix requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#. #HPD# may also waive such ~~distribution-bedroom mix~~ requirements for any #new construction affordable housing# that either is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section, or is located on an #interior lot# or #through lot# with less than 50 feet of frontage along any #street#. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

(2) Where all of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, in #new construction affordable housing# and #substantial rehabilitation affordable housing# are #affordable housing units#, not less than 50 percent of such #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of such #affordable housing units# shall contain one or more bedrooms. However, such bedroom mix requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#. #HPD# may also waive these requirements for any #affordable housing# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for

#substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

- (3) All of the #supportive housing units# in a #generating site# or #MIH site# shall be #affordable housing units# and shall contain such configuration as #HPD# shall require.
 - (4) For purposes of this paragraph, (c), inclusive, fractions equal to or greater than one-half resulting from any calculation shall be considered to be one #dwelling unit#.
- (d) Size of #affordable housing units#
- (1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, an #affordable housing unit# in a #generating site# shall contain not less than:
 - (i) 400 square feet of #floor area# within the perimeter walls for a zero bedroom #dwelling unit#; or
 - (ii) 575 square feet of #floor area# within the perimeter walls for a one bedroom #dwelling unit#; or
 - (iii) 775 square feet of #floor area# within the perimeter walls for a two bedroom #dwelling unit#; or
 - (iv) 950 square feet of #floor area# within the perimeter walls for a three bedroom #dwelling unit#.

For an #MIH site#, #HPD# may specify the method of measuring #floor area# within #affordable housing units# in the #guidelines#, compliant with Department of Buildings practice; and the average size of #affordable housing units# of a particular bedroom count shall be not less than the average size of #dwelling units# that are not #affordable housing units# with the same number of bedrooms, but need not exceed the minimum size specified above for a #dwelling unit# of a particular bedroom count. In addition, these unit size requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#.

However, #HPD# may also waive such ~~distribution-unit size~~ requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation

affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

(2) Where all of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, in #new construction# or #substantial rehabilitation affordable housing# are #affordable housing units#, #HPD# may waive such square footage requirements for any #affordable housing unit# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive such square footage requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

(3) #Supportive housing units# shall comply with the size requirements specified by #HPD#.

(e) #Administering agent#

(1) #HPD# shall approve each #administering agent# and may revoke such approval at any time before or during the #regulatory period#.

(2) For #generating sites#, Aan #administering agent# shall be a not-for-profit entity and shall not be, or be an affiliate of, an owner or managing agent of the #generating site#, unless #HPD# approves such owner, managing agent or affiliate to serve as the #administering agent# upon a determination that either:

(i) the #affordable housing# is participating in a Federal, State or local program that provides adequate independent means of ensuring compliance with the #regulatory agreement#; or

(ii) the owner and any such managing agent or affiliate are not-for-profit entities and there are adequate safeguards to ensure that such entities comply with the #regulatory agreement#.

(3) For #MIH sites#, the #administering agent# may be selected as provided for #generating sites#, or #HPD# may require that the #administering agent# be selected from a list of qualified not-for-profit or public entities as specified in the #guidelines#.

(4) For a period of time specified in the #guidelines#, the #administering agent# shall maintain all records setting forth the facts that form the basis of any affidavit submitted to #HPD#. The #administering agent# shall maintain such records, and such other records as #HPD# may require, at the offices of the #administering

agent# or at such other location as may be approved by #HPD#. The #administering agent# shall make such records, and all facets of the operations of the #administering agent#, available for inspection and audit by #HPD# upon request.

(f) #Regulatory agreement#

The following provisions shall apply to #generating sites#.

- (1) The #regulatory agreement# shall require compliance with and shall incorporate by reference the #affordable housing plan# and the applicable provisions of this Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary.
- (2) The #regulatory agreement# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# or #substantial rehabilitation affordable housing#, such documentation shall include, but shall not be limited to, plans meeting the requirements of Section 23-94, paragraph (c).
- (3) The #regulatory agreement# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #generating site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #affordable housing plan# for the entire #regulatory period#.
- (4) #Affordable housing# may serve to secure debt with the prior approval of #HPD#. Any lien securing such debt shall be subordinated to the #regulatory agreement#.
- (5) The #regulatory agreement# may, but shall not be required to, provide that such #regulatory agreement# may be terminated prior to the issuance of a temporary or permanent certificate of occupancy for any #compensated development# by the Department of Buildings.
- (6) Where all of the #dwelling units#, #rooming units# or #supportive housing units# in a #generating site#, other than any #super's unit#, are #affordable housing units#, the #regulatory agreement# shall provide that, following a default and any applicable opportunity to cure, #HPD# may, in addition to any other remedies provided therein or by applicable law:
 - (i) appoint a receiver to manage such #generating site#; or

- (ii) take control of the board of directors of any housing development fund company or not-for-profit corporation that owns, controls or operates such #generating site#.
- (7) Where applicable in accordance with paragraph (b), (Monthly rent), of Section 23-961, the #regulatory agreement# shall provide that certain obligations shall survive the #regulatory period#.

For #MIH sites#, the following provisions shall apply:

- (8) The #regulatory agreement# shall require compliance with and shall incorporate by reference the #MIH application# and the applicable provisions of this Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary.
- (9) The #regulatory agreement# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# such documentation shall include, but shall not be limited to, plans meeting the requirements of paragraph (c) of Section 23-94.
- (10) The #regulatory agreement# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #MIH site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #MIH application# for the entire #regulatory period#.
- (11) Where applicable in accordance with paragraph (b) (Monthly rent) of Section 23-961, the #regulatory agreement# shall provide that certain obligations shall survive the #regulatory period#.

(g) Housing standards

Upon the date that #HPD# issues the #completion notice#, the #generating site# or #MIH site# shall be entirely free of violations of record issued by any City or State agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and this Zoning Resolution, except as may be otherwise provided in the #guidelines# with respect to non-hazardous violations in occupied #affordable housing units# of #preservation affordable housing# or #substantial rehabilitation affordable housing#.

(h) Insurance

The #affordable housing# in a #generating site# or #MIH site# shall at all times be insured against any damage or destruction in an amount not less than the replacement value of such #affordable housing#. Any insurance proceeds resulting from damage or destruction of all or part of the #generating site# or #MIH site# containing such #affordable housing# shall be used first to restore any damaged or destroyed #affordable housing#, except that #HPD# may provide priority for lenders participating in the financing of #affordable housing# that is assisted under City, State or Federal programs.

(i) Duration of obligations

The obligation to provide and maintain a specified amount of #affordable housing# on a #generating site# or #MIH site# shall run with the #zoning lot# containing such #generating site# or #MIH site# for not less than the #regulatory period#. If any portion of such #affordable housing# is damaged or destroyed, no #floor area# shall be #developed#, reconstructed or repaired on such #zoning lot#, and no #development#, #enlargement#, extension or change of #use# shall occur on such #zoning lot#, unless

- (1) the amount of such #floor area# devoted to #affordable housing# is not less than the #floor area# of the #affordable housing# that was damaged or destroyed; or
- (2) 100 percent of such #developed#, reconstructed or repaired #floor area# is #affordable housing#.

(j) One #generating site# or #MIH site# may satisfy requirements for multiple #compensated zoning lots# or #MIH zoning lots#, as applicable.

Any #generating site# or #MIH site# may contain #affordable housing# that satisfies the requirements of Section 23-90, inclusive, for more than one #compensated development# or #MIH development#, as applicable, provided that no #affordable floor area# shall be counted more than once in determining the amount of #floor area compensation# for such #compensated developments# or in satisfying the #floor area# provisions for #zoning lots# in paragraph (d) of Section 23-154 (Inclusionary Housing).

(k) #Guidelines#

#HPD# shall adopt and may modify #guidelines# for the implementation of the provisions of Section 23-90, inclusive.

23-961

Additional requirements for rental affordable housing

The additional requirements of this Section shall apply to rental #affordable housing# on a #generating site# or #MIH site# for the entire #regulatory period#.

(a) Tenant selection

- (1) Upon #rent-up# and any subsequent vacancy for the entire #regulatory period#, #affordable housing units# shall only be leased to and occupied by #low income households#, #moderate income households# and #middle income households#, as applicable for #generating sites#, or to #qualifying households#, as applicable, for #MIH sites#. No lease or sublease of an #affordable housing unit# shall be executed, and no tenant or subtenant shall commence occupancy of an #affordable housing unit#, without the prior approval of the #administering agent#.
- (2) A tenant may, with the prior approval of the #administering agent#, sublet an #affordable housing unit# for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the #monthly rent# that could be charged to the sublessor in accordance with the #regulatory agreement#.
- (3) A #low income household# or #qualifying household# may rent an #affordable housing unit# that is restricted to occupancy by #moderate income# or #middle income households# or by #qualifying households# of higher income levels, provided that the #administering agent# determines that such #low income household# or #qualifying household# is able to utilize rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, to afford the applicable #monthly rent#.

(b) Monthly rent

- (1) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, ~~T~~the #regulatory agreement# shall provide that each #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD# within 60 days following the #rent-up date# and shall thereafter remain subject to #rent stabilization# for the entire #regulatory period# and thereafter until vacancy. However, the #regulatory agreement# may permit an alternative date by which any #affordable housing units# that are vacant on the #rent-up date# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD#.
 - (i) However, any #affordable housing unit# of #preservation affordable housing# or #substantial rehabilitation affordable housing# that is both

occupied by a #grandfathered tenant# and subject to the Emergency Housing Rent Control Law on the #regulatory agreement date# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy following the #regulatory agreement date# and shall thereafter be subject to #rent stabilization# as provided herein.

- (ii) The #regulatory agreement# shall provide that upon each annual registration of an #affordable housing unit# with the Division of Housing and Community Renewal, the #legal regulated rent# for such #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at an amount not exceeding the #maximum monthly rent#. However, the #regulatory agreement# shall provide that this requirement shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant# until the first vacancy after the #regulatory agreement date#.

- (2) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, the #regulatory agreement# shall provide that the #monthly rent# charged to the tenant of any #affordable housing unit# at #initial occupancy# and in each subsequent renewal lease shall not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#. However, the #regulatory agreement# shall provide that these requirements shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant#, until the first vacancy after the #regulatory agreement date#.

However, for #supportive housing units# or #affordable independent residences for seniors# on #MIH sites#, the #monthly rent# may exceed the #maximum monthly rent#, provided that it does not exceed the HUD Fair Market Rent for such unit, and that the #monthly rent#, less rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, does not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#.

- (3) Within 60 days following the #rent-up date#, the #administering agent# shall submit an affidavit to #HPD# attesting that the #monthly rent# registered and charged for each #affordable housing unit# complied with the applicable #monthly rent# requirements at the time of #initial occupancy#.
- (4) Each year after #rent-up#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each lease or sublease of an #affordable housing unit# or renewal thereof during the preceding year complied with the applicable #monthly rent# requirements at the time of execution of the lease or sublease or renewal thereof.

- (5) For any #affordable housing unit# subject to #rent stabilization#, the applicable ~~The~~ #regulatory agreement# shall provide that the lessor of an #affordable housing unit# shall not utilize any exemption or exclusion from any requirement of #rent stabilization# to which such lessor might otherwise be or become entitled with respect to such #affordable housing unit#, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of #rent stabilization#, due to:
- (i) the vacancy of a unit where the #legal regulated rent# exceeds a prescribed maximum amount;
 - (ii) the fact that tenant income or the #legal regulated rent# exceeds prescribed maximum amounts;
 - (iii) the nature of the tenant; or
 - (iv) any other reason.
- (6) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, ~~T~~the #regulatory agreement# and each lease of an #affordable housing unit# shall contractually require the lessor of each #affordable housing unit# to grant all tenants the same rights that they would be entitled to under #rent stabilization# without regard to whether such #affordable housing unit# is statutorily subject to #rent stabilization#. If any court declares that #rent stabilization# is statutorily inapplicable to an #affordable housing unit#, such contractual rights shall thereafter continue in effect for the remainder of the #regulatory period#.
- (7) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, ~~t~~the #regulatory agreement# shall provide that each #affordable housing unit# that is occupied by a tenant at the end of the #regulatory period# shall thereafter remain subject to #rent stabilization# for not less than the period of time that such tenant continues to occupy such #affordable housing unit#, except that any occupied #affordable housing unit# that is subject to the Emergency Housing Rent Control Law at the end of the #regulatory period# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy.
- (c) Income
- (1) Each #affordable housing unit# on a #generating site# shall be leased to and occupied by #low income households#, #moderate income households# or

#middle income households#, as applicable, for the entire #regulatory period#. Each #affordable housing unit# on an #MIH site# shall be leased to and occupied by #qualifying households# for the entire #regulatory period#.

- (2) The #administering agent# shall verify the #household# income of the proposed tenant prior to leasing any vacant #affordable housing unit# in order to ensure that it is a #low income household#, #moderate income household#, ~~or~~ #middle income household#, or #qualifying household#, as applicable.
 - (3) Within 60 days following the #rent-up date#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #household# occupying an #affordable housing unit# complied with the applicable income eligibility requirements at the time of #initial occupancy#.
 - (4) Each year after #rent-up#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #household# that commenced occupancy of a vacant #affordable housing unit# during the preceding year, and each #household# that subleased an #affordable housing unit# during the preceding year, complied with the applicable income eligibility requirements at the time of #initial occupancy#.
- (d) #Affordable housing plan# and #MIH application#

The following shall apply to #affordable housing plans#:

- (1) An #affordable housing plan# shall designate the initial #administering agent#, include the agreement with the initial #administering agent#, state how #administering agents# may be removed, state how a new #administering agent# may be selected upon the removal or other departure of any #administering agent#, include the building plans, state the number and bedroom mix of the #affordable housing units# to be #developed#, rehabilitated or preserved, indicate how tenants will be selected at #rent-up# and upon each subsequent vacancy of an #affordable housing unit#, indicate how the #household# income of each prospective tenant will be verified prior to such #household#'s #initial occupancy# of an #affordable housing unit# and include such additional information as #HPD# deems necessary.
- (2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #affordable housing# in accordance with Section 23-90 (INCLUSIONARY HOUSING), inclusive, including that:

- (i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;
 - (ii) #affordable housing units# will be leased to eligible #households# by a responsible #administering agent# at #rent-up# and upon each subsequent vacancy; and
 - (iii) tenants will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.
- (3) A copy of any proposed #affordable housing plan# shall be delivered to the affected Community Board, which may review such proposal and submit comments to #HPD#. #HPD# shall not approve a proposed #affordable housing plan# until the earlier of:
- (i) the date that the affected Community Board submits comments regarding such proposal to #HPD# or informs #HPD# that such Community Board has no comments; or
 - (ii) 45 days from the date that such proposal was submitted to the affected Community Board.

The following shall apply to #MIH applications#:

- (4) An #MIH application# shall designate the initial #administering agent#, where applicable, and include the building plans, state the number, bedroom mix and #monthly rents# of the #affordable housing units# to be #developed# or #converted#, and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 23-90, inclusive.
 - (5) A copy of any #MIH application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.
- (e) Special requirements for rental #preservation affordable housing#

The additional requirements of this paragraph (e), shall apply to rental #preservation affordable housing#:

- (1) all of the #dwelling units#, #rooming units# and #supportive housing units# in the #generating site#, other than any #super's unit#, shall be #affordable housing units# that are leased to and occupied by #low income households# for the entire #regulatory period#;

- (2) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
 - (3) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
 - (4) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;
 - (5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #generating site#, even though such increases may be permitted by other laws; and
 - (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.
- (f) Special requirements for rental #substantial rehabilitation affordable housing#

The additional requirements of this paragraph, (f), shall apply to rental #substantial rehabilitation affordable housing#:

- (1) such #affordable housing# shall be created through the rehabilitation of a #generating site# at a cost per completed #affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;
- (2) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;

- (3) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
- (4) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;
- (5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #generating site#, even though such increases may be permitted by other laws; and
- (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

23-962

Additional requirements for homeownership affordable housing

The additional requirements of this Section shall apply to #homeownership affordable housing# on a #generating site# or #MIH site# for the entire #regulatory period#.

- (a) Homeowner selection
 - (1) Upon #sale#, #homeownership affordable housing units# shall only be occupied by #eligible buyers# that are #low income households#, #moderate income households#, ~~and #middle income households#~~ or, for #MIH sites#, #qualifying households#, as applicable. Upon any subsequent #resale# for the entire #regulatory period#, #homeownership affordable housing units# shall be sold to and occupied by #eligible buyers# at or below the #maximum resale price# on the #sale date#, as applicable. No #homeownership affordable housing unit# shall be sold to or occupied by any #household# or any other person without the prior approval of the #administering agent#.

- (2) A #homeowner# may, with the prior approval of the #administering agent#, sublet an #homeownership affordable housing unit# to another #low income household#, #moderate income household#, #middle income household#, ~~or~~ #eligible buyer# or, for #MIH sites#, #qualifying household#, as applicable, for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes paid by the sublessor.
- (3) A #homeowner# shall reside in the #homeownership affordable housing unit#, except as provided in paragraph (a)(2) of this Section.
- (4) The restrictions in this paragraph, (a), on the ownership of #homeownership affordable housing units# shall not prevent the exercise of a valid lien by a #mortgage# lender, #cooperative corporation#, #condominium association# or any other entity authorized by the #regulatory agreement# to take possession of a #homeownership affordable housing unit# in the event of default by the #homeowner#. However, any #sale# or #resale# by such lien holder shall be to an #eligible buyer#, in accordance with this paragraph, (a), and the #guidelines#.

(b) Price

- (1) The #initial price# or #maximum resale price# of any #homeownership affordable housing unit# shall be set assuming a #mortgage#, as defined in Section 23-913 (Definitions applying to homeownership generating sites).
- (2) The #regulatory agreement# shall establish the #initial price# for each #homeownership affordable housing unit#. #HPD# shall set the #initial price# to ensure that the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes to be paid directly by the #homeowner# will not exceed 30 percent of the #low income limit#, #moderate income limit# or #middle income limit#, as applicable. For #MIH sites#, #HPD# shall establish the #initial price# based on the incomes of #qualifying households# in accordance with the #guidelines#.
- (3) Prior to any #resale# of a #homeownership affordable housing unit#, the #administering agent# shall set the #maximum resale price# for such #homeownership affordable housing unit#.
- (4) The #administering agent# shall not approve any #resale# unless the selected #eligible buyer# provides a #down payment#, as specified in the #guidelines#.

- (5) A #homeownership affordable housing unit#, or any shares in a #cooperative corporation# appurtenant thereto, shall not secure any debt unless such debt is a #mortgage# that has been approved by the #administering agent#.

(c) Income

- (1) The #administering agent# shall verify the #household# income of a proposed #homeowner#, in accordance with the #guidelines#, prior to the #sale date# of any #homeownership affordable housing unit# in order to ensure that, upon #sale#, it is a #low income household#, #moderate income household#, ~~or~~ #middle income household# or, for #MIH sites#, #qualifying household#, as applicable, and that upon #resale#, it is to an #eligible buyer#.
- (2) The #administering agent# shall meet reporting requirements on each #sale# and #resale#, as set forth in the #guidelines#.
- (3) Each year after the #commencement date#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #resale# of a #homeownership affordable housing unit# during the preceding year complied with all applicable requirements on the #resale date#.

(d) #Affordable housing plan# and #MIH application#

The following shall apply to #affordable housing plans#:

- (1) An #affordable housing plan# shall include the building plans, state the number and bedroom mix of the #homeownership affordable housing units# to be #developed#, rehabilitated or preserved, indicate how #homeowners# will be selected upon each #sale# or #resale# of a #homeownership affordable housing unit#, indicate how the #household# income of #eligible buyers# will be verified prior to such #household's initial occupancy# of a #homeownership affordable housing unit# and include such additional information as #HPD# deems necessary.
- (2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #homeownership affordable housing#, including that:
 - (i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;

- (ii) #affordable housing units# will be sold under the supervision of a responsible #administering agent# to #eligible buyers# at each #sale# and #resale#; and
 - (iii) #homeowners# will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.
- (3) The requirements of Section 23-961, paragraph (d)(3), shall apply.

The following shall apply to #MIH applications#:

- (4) An #MIH application# shall include the building plans; state the number and bedroom mix of the #homeownership affordable housing units# to be #developed# or #converted#, and the #initial price# of each #homeownership affordable housing unit#; and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 23-90, inclusive.
- (5) A copy of any #MIH application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.

(e) Housing standards

The requirements of Section 23-96, paragraph (g), shall apply. In addition, each #homeowner# shall be obligated to maintain each #homeownership affordable housing unit# in accordance with minimum quality standards set forth in the #guidelines#. Prior to any #resale#, #HPD#, or its designee as specified in the #guidelines#, shall inspect the #affordable housing unit# and shall either require the #homeowner# to remedy any condition that violates such minimum quality standards before the #sale date#, or require the retention of a portion of the #resale# proceeds to pay the cost of remedying such condition.

(f) Optional provisions for certain #new construction homeownership affordable housing#

In Community District 3, Borough of Manhattan, #HPD# may modify the requirements for #new construction homeownership affordable housing# to facilitate #development# on a site that has been disposed of pursuant to Article 16 of the General Municipal Law as set forth in this paragraph (f), inclusive.

- (1) #HPD# may permit a #household# to occupy a #new construction homeownership affordable housing unit# as rental #affordable housing# if:

- (i) no more than 120 days prior to the #regulatory agreement date#, such #household# occupied a #dwelling unit# or #rooming unit# in a #building# located on the #zoning lot# of such #new construction homeownership affordable housing#, pursuant to a lease or occupancy agreement to which one or more members of such #household# was a party or pursuant to a statutory tenancy;
 - (ii) no more than 120 days prior to the #regulatory agreement date#, the average rent for all occupied #dwelling units# or #rooming units# in such #building# did not exceed 30 percent of the #low income limit# divided by 12; and
 - (iii) after the #regulatory agreement date#, such #building# is demolished and replaced with #new construction homeownership affordable housing#.
- (2) #HPD# may permit a #household# that is not an #eligible buyer#, but that meets the requirements of paragraph (f)(1) of this Section, to purchase a #new construction homeownership affordable housing unit# at #sale#, provided that such #household# is a #low income household#, #moderate income household# or #middle income household#, as applicable.

Where a #new construction homeownership affordable housing unit# is purchased at a nominal price, the #appreciated price# for such #homeownership affordable housing unit# shall be the product of the #initial price# of such #homeownership affordable housing unit# and the #appreciation index# applicable at #resale# as specified in the #guidelines#.

(g) Special requirements for #homeownership preservation affordable housing#

The additional requirements in this paragraph, (f)(g), shall apply to #homeownership preservation affordable housing#:

- (1) on the #regulatory agreement date#, the #generating site# shall be an existing #building# containing #residences#;
- (2) on the #regulatory agreement date#, the average of the #legal regulated rents#, as such term is defined in Section 23-912, for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
- (3) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-

961 (Additional requirements for rental affordable housing) until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

- (4) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
 - (5) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and
 - (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.
- (h) Special requirements for #homeownership substantial rehabilitation affordable housing#

The additional requirements in this paragraph, ~~(g)~~(h), shall apply to #homeownership substantial rehabilitation affordable housing#:

- (1) on the #regulatory agreement date#, the #generating site# or #MIH site# shall be an existing #building#;
- (2) such #affordable housing# shall be created through the rehabilitation of such existing #building# at a cost per completed #homeownership affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;
- (3) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
- (4) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

- (5) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
- (6) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and
- (7) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

* * *

**62-80
SPECIAL REVIEW PROVISIONS**

* * *

**62-83
Special Permits by the City Planning Commission**

**62-831
General Provisions**

Where a special permit application would allow a significant increase in #residential floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-92 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, the Commission may modify the requirements of such paragraph (d).

62-831 832

Docks for passenger ocean vessels in C6 Districts

* * *

62-832 833

Docks for ferries or water taxis in Residence Districts

* * *

62-833 834

Uses on floating structures

* * *

62-834 835

Developments on piers or platforms

* * *

62-835 836

Public parking facilities on waterfront blocks

* * *

62-836 837

Bulk modifications on waterfront blocks

* * *

62-837 838

Docks for gambling vessels

* * *

73-624

Reduction or modification of Mandatory Inclusionary Housing requirements

For a #development#, #enlargement# or #conversion# subject to the provisions of paragraphs (d)(3)(i) through (d)(3)(iv) of Section 23-154 (Inclusionary Housing), the Board of Standards

and Appeals may, upon determining that a hardship exists that is specifically created by the requirements for #affordable housing#, modify the income levels specified for #qualifying households#, reduce the amount of #affordable floor area# required, or reduce the amount of a payment into the #affordable housing fund#, provided that:

- (a) the applicant has applied for any appropriate relief for which such #development#, #enlargement# or #conversion# is eligible for any financial hardship or practical difficulty not specifically created by the requirements of Section 23-154, paragraphs (d)(3)(i) through (d)(3)(iv);
- (b) such requirements for #affordable housing# or a contribution to an #affordable housing fund# create an unnecessary hardship, with no reasonable possibility that a #development#, #enlargement#, or #conversion# on the #zoning lot# in strict compliance with the provisions of Section 23-154, paragraphs (d)(3)(i) through (d)(3)(iv), and Section 23-90 (Inclusionary Housing), inclusive, will bring a reasonable return, and that a modification or reduction of these requirements is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; and
- (c) the unnecessary hardship claimed as a basis for such modification or reduction has not been created by the owner or by a predecessor in title.

In determining whether a hardship exists, the Board may consider whether alternative permitted #uses# or forms of housing tenure would bring a reasonable return from the #zoning lot#.

The Board may modify #affordable housing# requirements set forth in Section 23-154, paragraphs (d)(3)(i) through (d)(3)(iii), to permit appropriate relief as follows:

First, the Board shall determine whether compliance with the requirements of Options 1 or 2, as set forth in Section 23-154, paragraphs (d)(3)(i) and (d)(3)(ii), respectively, where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board shall next determine whether compliance with the requirements of the Workforce Option, as set forth in Section 23-154, paragraph (d)(3)(iii), where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board, in consultation with the Department of Housing Preservation and Development, shall determine a modification or reduction of the requirements of Section 23-154, paragraph (d)(3)(i) through (d)(3)(iii), that represents the minimum necessary modification or reduction to afford relief.

In addition, the Board, in consultation with the Department of Housing Preservation and Development, may permit a modification or reduction of the requirements of Section 23-154, paragraph (d)(3)(iv) that represents the minimum necessary modification or reduction to afford relief.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board. The Department of Housing Preservation and Development may make submission to or appear before the Board on any application made pursuant to this Section.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.

* * *

**74-00
POWERS OF THE CITY PLANNING COMMISSION**

**74-01
General Provisions**

* * *

In addition, the Commission, with the concurrence of the Board of Estimate, shall also have the power to permit the renewal of an exception or permit issued prior to December 15, 1961, in accordance with the provisions of Section 11-41 relating to Exceptions, Variances or Permits Previously Authorized.

In all Special Purpose Districts, the provisions of 23-934 (Special permit approval in Special Purpose Districts), with respect to special permits that modify #use# or #bulk#, shall apply. In the #Special Midtown District#, the powers of the Commission to permit special permit #uses# are modified by the provisions of Section 81-13 (Special Permit Use Modifications), and the powers of the Commission to permit modification of the #bulk# regulations or grant bonus #floor area# for certain amenities are made inapplicable or modified in accordance with the provisions of Section 81-062 (Applicability of Chapter 4 of Article VII).

* * *

**74-30
SPECIAL PERMIT USES AND BULK MODIFICATIONS**

**74-31
General Provisions for Special Permit Uses**

The City Planning Commission shall have the power to permit in the districts indicated, the special permit #uses# set forth in this Chapter and to prescribe appropriate conditions and safeguards thereon, provided that in each specific case:

* * *

74-32

Additional Considerations for Special Permit Use and Bulk Modifications

Where a special permit application would allow a significant increase in #residential floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-92 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, the Commission may modify the requirements of such paragraph (d).

* * *

The above resolution (N 160051 ZRY), duly adopted by the City Planning Commission on February 3, 2016 (Calendar No. 2), is filed with the Office of the Speaker, City Council, and the Borough Presidents in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman

KENNETH J. KNUCKLES, Esq., Vice Chairman

ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN, LARISA ORTIZ,
Commissioners

RAYANN BESSER, IRWIN G. CANTOR, P.E., ORLANDO MARIN, Commissioners
voting no

MICHELLE R. DE LA UZ, Commissioner, abstaining



COMMUNITY BOARD NO. 1

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DISTRICT MANAGER

HON. STEPHEN T. LEVIN
COUNCILMEMBER, 33rd CD

HON. ANTONIO REYNOSO
COUNCILMEMBER, 34th CD

January 13, 2016

Mr. Carl Weisbrod, Director
NYC Department of City Planning
22 Reade Street
New York, NY 10007-1216

**RE: Mandatory Inclusionary Housing
Text Amendments
ULURP No. N160051ZRY**

Dear Mr. Weisbrod:

This is to officially notify you that this recommendation supersedes any previous notices implied or otherwise concerning Brooklyn Community Board No. 1's recommendation for the proposed Mandatory Inclusionary Housing Text Amendments (ULURP No. N160051ZRY).

Please be advised that at the regular meeting of Brooklyn Community Board No. 1 held on January 12, 2016, the members voted to send this letter to relate the current board's position. The following statement was supported by the members of the board:

"Community Board No. 1 opposes and rejects the Mayor's proposed Mandatory Inclusionary Re-zoning Proposal and urges the Borough Board and Borough President to do the same. The Mayor's proposal does not recognize nor address the huge displacement pressures created by these re-zonings of commercial/industrial zones to residential, permitting the development of the large majority of new residential units to be market rents and/or sales prices in neighborhoods like those in Williamsburg- Greenpoint, where the increased supply of such market rate apartments has not met the demand but in fact dramatically increased the demand for

such housing, promoting the ouster of long term residents by landlords willing and able to ignore the protections of the Rent Stabilization Law via patterns of harassment, neglect and occasionally arson and destructive "construction" work in their buildings. Likewise, the Mayor's current proposal in defining affordability, ignores the actual rents that the current resident of our neighborhoods can indeed afford. Each Community District is different and a plan for Mandatory Inclusionary Zoning must recognize and address those differences to be truly functional in creating and not decreasing the affordable housing in this neighborhoods.

In Community District #1, any re-zoning must mandate that a majority (at least 70%) of residential units to be built:

1. Have a large number of one bedroom apartments and studios for senior citizens, veterans and disabled individuals or couples;
2. Reflect the average incomes of and affordable ranges of rents for the area's current population (as well as those who have lived in the area for 5 years or more in the past and who have moved out no more than 2 years ago) with 30% of the apartments of all apartment sizes reserved for families with 30% or less than the Area Medium Income, 10% between 30 and 40% of the AMI; 10% between 40 and 50% AMI, and 10% between 50 and 60% of the AMI, and with 10% between 60% and 80% of the AMI);
3. The rents for these apartments be no more than 30% of the tenants' income;
4. Provide a 100% preference for these affordable apartments to current or recently departed (as described above) residents of Community Board No. 1; and,
5. Be subject to the Rent Stabilization Law, and be permanently subject to all of these requirements, not just for a finite period of time or for initial tenant."

The vote was as follows: 19 "YES"; 6 "NO"; 0 "ABSTENTIONS".

Working for a Better Williamsburg-Greenpoint.

Sincerely,



Dealice Fuller
Chairperson

DF/mbw

cc: Mayor Bill de Blasio
Brooklyn Borough President Eric L. Adams
Council Member Stephen Levin
Council Member Antonio Reynoso
Mr. Winston Von Engel, Brooklyn Director/DCP



CITY OF NEW YORK
Community Board No. 2

350 JAY STREET - 8TH FL.
BROOKLYN, N.Y. 11201

(718) 596-5410 FAX (718) 852-1461

ERIC ADAMS
Borough President
cb2k@nyc.rr.com

SHIRLEY A. McRAE
Chairperson

ROBERT PERRIS
District Manager

OFFICE OF THE
CHAIRPERSON

DEC 2 - 2015
29025

November 20, 2015

Carl Weisbrod, Chairman
New York City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chairman Weisbrod:

Brooklyn Community Board 2 (CB2) has reviewed and made a determination on two zoning text amendments proposed by the Department of City Planning (DCP), Zoning for Quality and Affordability (N 160049 ZRY) and Mandatory Inclusionary Housing (N 160051 ZRY).

On November 10, 2015, Community Board 2 voted unanimously (37-0-0) to recommend approval of the Mandatory Inclusionary Housing text amendment.

On the same date, CB2 voted 32 in favor, six opposed, one abstention (32-6-1) to recommend disapproval of the Zoning for Quality and Affordability (ZQA) text amendment. The community board believes ZQA has many good attributes. However, the CB2 Land Use Committee and the board as a whole felt there are too many different facets to the text amendment.

More specifically, Community Board 2 was concerned that the language in ZQA was not deterministic enough, that it facilitated the possible construction of better designed and more affordable housing but did not require developers to do so.

At several times during the community board's review, members commented that they would like to see ZQA revised, repackaged and brought back in another form. I encourage the City Planning Commission to direct DCP to take that action. Thank you for the opportunity to comment.

Sincerely,

Shirley A. McRae

cc: see following page

Carl Weisbrod, Chairman
New York City Planning Commission
November 20, 2015
Page 2

cc: Hon. Eric Adams
Brooklyn Borough President
Hon. Stephen Levin
Hon. Laurie Cumbo
New York City Council
Winston Von Engel, Brooklyn Borough Director
Alex Sommer, Planner
Department of City Planning

SAM^C:RP



The City of New York
Community Board No. 3
Bedford Stuyvesant Restoration Plaza
1360 Fulton Street, 2nd Floor ■ Brooklyn, New York 11216

718-622-6601 Phone ■ 718-857-5774 Fax ■ bk03@cb.nyc.gov E-Mail

ERIC ADAMS
BOROUGH PRESIDENT

TREMAINE S. WRIGHT
CHAIRPERSON

HENRY L. BUTLER
DISTRICT MANAGER

**Community Board #3BK. Meeting
November 2, 2015
ULURP, Housing Land Use Committee Report**

Zoning for Quality and Affordability Recommendation Summary

- Require/Amend/Modify Building Height Limitations
- Require/Amend/Modify Parking Requirements
- Amend/Modify to Maintain Character of Community

HEIGHT LIMITATIONS

Maximum Height Limitation for Quality Housing Buildings-

Lower the height in 7A (e.g. Bedford Ave) and 7D Districts (e.g. Fulton St) as follows:

7A Districts -75ft/7 stories and 7D Districts- 85ft/8 stories.

Modify Height and Setback Regulations for Quality Housing Buildings-Affordable Housing Bonus as follows:

7A Districts -85ft/8 stories and 7D Districts-105ft/10 stories.

PARKING

Required Accessory Off-Street Spaces for Senior Residences:

Modify elimination of group parking to reduction of 50%.

Waiver of Requirements of Small # of spaces in 7A districts:

Reduce Waiver from 15 to 5.

Reduction of (market rate unit) Parking Spaces in Transit Zone to Facilitate Affordable Housing and Senior Housing:

Define surrounding area for available parking as up to 1,000 ft. and must be considered by BSA as well as proximity to public transportation.



The City of New York
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ERIC ADAMS
BOROUGH PRESIDENT

TREMAINE S. WRIGHT
CHAIRPERSON

HENRY L. BUTLER
DISTRICT MANAGER

Transit Zone:

One half mile from the G train is considered within a transit zone, albeit infrequent service and typically requiring transfer. This may not be viable.

MAINTAINING CHARACTER

Affordable Independent Residences for seniors:

Require agreement to low income for 30 years.

Quality Housing Buildings Lot Coverage:

Retain 80% building lot coverage instead of 100% coverage.

Affordable Independent residences for Seniors FAR:

Adjust the FAR on narrow streets to 4.0, and 4.6 for inclusionary housing.

Special Provisions for Shallow Lots and Rear Yard Equivalent for quality Housing:

This way you provide a degree of relief without the need for a variance.

Permitted Obstructions in Rear Yards and Equivalents:

Regulate rear one-story building enlargements.

Standard Minimum Distance between Two Buildings on a Single Zoning Lot:

Adjust for greater maximum between buildings with certain considerations.



A. Request for a letter of support by City Planning in the matter of N160049 ZRY, Zoning for Quality and Affordability Text Amendment

Date: November 2, 2015

BOARD MEMBERS	FOR	AGAINST	ABSTAIN
1. Idris Abdullah	✓		
2. Felicia Alexander	✓		
3. Tywan Anthony		✓	
4. Dr. Kim Best	✓		
5. Gloria E. Boyce	✓		
6. Anthony Buissereth	✓	✓	
7. Mulan Isaiah Burgess	✓		
8. Ivy Gamble-Cobb	✓		
9. Evelyn Collier	✓		
10. Dolores Witherspoon-Dickerson	✓		
11. Taina Evans	✓		
12. Richard Fleteau	✓		
13. Keith Forest	✓		
14. Brenda Fryson	✓		
15. Gregory Glasgow	✓		
16. Sean Hawkins	✓		
17. Mary Jemison-Head	✓		
18. Kimberly Hill	✓		
19. Oma Holloway	✓		
20. Christopher James	✓		
21. Edna Johnson	✓		
22. Dr. Kerliene Johnson	✓		
23. Marion Little	✓		
24. Hardy "Joe" Long	✓		
25. Dovie Matthews	✓		
26. Paulette Moorehead	✓		
27. Eldica Murray	✓		
28. Michael McCaw	✓		
29. Bernice McRae	✓		
30. Dweynie Paul	✓		
31. Kwaku Payton	✓		
32. Santina Payton	✓		
33. C. Doris Pinn	✓		
34. Stacey Ruffin	✓		
35. Adrian Sinclair	✓		
36. Abraham Smilowitz	✓		
37. Nelson M. Stoute	✓		
38. Rev. Jessie Sumbry	✓		
39. Lydia Temples	✓		
40. Cheska Tolentino	✓		
41. Rev. Dr. Robert Waterman	✓		
42. Shanita Wells	✓		
43. Antonio Whitaker	✓		
44. Douglas Williams	✓		
45. T. J. Wilson	✓		
46. Tremaine S. Wright	✓		

FOR 33
 AGAINST 2
 ABSTAIN _____

The committee voted
 NO to the Quality and
 Affordability text
 amendment
 and Butler



Community Board 3

B. Request for a letter of support by City Planning Commissioner in the matter of N160051 ZRY, Mandatory Inclusionary Housing Text Amendment

Date: November 2, 2015

BOARD MEMBERS	FOR	AGAINST	ABSTAIN
1. Idris Abdullah	✓		
2. Felicia Alexander	✓		
3. Tywan Anthony		✓	
4. Dr. Kim Best	✓		
5. Gloria E. Boyce	✓		
6. Anthony Buissereth	✓	✓	
7. Mulan Isaiah Burgess	✓		
8. Ivy Gamble-Cobb	✓		
9. Evelyn Collier	✓		
10. Dolores Witherspoon-Dickerson	✓		
11. Taina Evans	✓		
12. Richard Flateau	✓		
13. Keith Forest	✓		
14. Brenda Fryson	✓		
15. Gregory Glasgow	✓		
16. Sean Hawkins	✓		
17. Mary Jemison-Head	✓		
18. Kimberly Hill	✓		
19. Oma Holloway	✓		
20. Christopher James	✓		
21. Edna Johnson	✓		
22. Dr. Kerliene Johnson	✓		
23. Marion Little	✓		
24. Hardy "Joe" Long	✓		
25. Dovie Matthews	✓		
26. Paulette Moorehead	✓		
27. Eldica Murray	✓		
28. Michael McCaw	✓		
29. Bernice McRae	✓		
30. Dweynie Paul	✓		
31. Kwaku Payton	✓		
32. Santina Payton	✓		
33. C. Doris Pinn	✓		
34. Stacey Ruffin	✓		
35. Adrian Sinclair	✓		
36. Abraham Smilowitz	✓		
37. Nelson M. Stoute	✓		
38. Rev. Jessie Sumbry	✓		
39. Lydia Temples	✓		
40. Cheska Tolentino	✓		
41. Rev. Dr. Robert Waterman		✓	
42. Shanita Wells	✓		
43. Antonio Whitaker	✓		
44. Douglas Williams	✓		
45. T. J. Wilson	✓		
46. Tremaine S. Wright	✓		

FOR 32
 AGAINST 2
 ABSTAIN 0

The committee voted NO to the mandatory Inclusionary Housing text Amendment
 W. d. Butler

Community Board No. 4
1420 Bushwick Avenue, Suite 370
Brooklyn, New York, 11207-1422

Telephone: 718-628-8400
Fax: 718-628-8619
Email: bk04@cb.nyc.gov
Website: www.nyc.gov/brooklyncb4

Julie Dent - Chairperson
Nadine Whitted - District Manager

BUSHWICK

ELECTED OFFICIALS

HON. ERIC ADAMS
Borough President

HON. ANTONIO REYNOSO
34th Council District

HON. RAFAEL ESPINAL
37th Council District

OFFICERS

MARTHA BROWN
1st Vice Chairperson

VICTORIA FERNANDEZ
2nd Vice Chairperson

CIRILO NUNEZ
Recording Secretary

ELISEO RUIZ
Financial Secretary

GLADYS PUGLLA
Treasurer

VIRGIE JONES
Correspondence Secretary

ROBERT CAMACHO
Parliamentarian

November 30, 2015

City Planning Commission
Calendar Information Office
22 Reade Street Room 2E
New York NY 10007

To Whom It May Concern:

At the Wednesday, November 18, 2015 meeting and Public Hearing of Brooklyn Community Board #4 the full board voted yes on the Department of City Planning zoning text amendments with the following provisions.

MANDATORY INCLUSINARY HOUSING TEXT AMENDMENT N 160051 ZRY

1. Expedite the process of strengthening enforcement provisions because permanent is a long time.
2. Widen income bands so that the 60% average AMI does include 40% within the same and even lower so that there is a true average and a wide range within that average not just people earning 80% of AMI.

ZONING FOR QUALITY & AFFORDABILITY TEXT AMENDMENT N160049 ZRY

Community Board #4 continues to seek a rezoning to better reflect existing building heights combined with height limited designated areas for growth to provide for permanent affordable housing opportunities. Community Board #4 gives consideration to some of the benefits and precautions that would be necessary to be in place with eventual successful rezoning.

Affordable Independent Residence for Seniors Being Retained as a Resource

Community Board 4 is concerned that, but for zoning bonus enables floor area, there would be no obligation mechanism to prevent the conversion of affordable independent residences for seniors to market rate housing occupancy beyond the terms of its regulatory agreement (minimum of 30 years according to zoning definition for affordable housing). This is despite generous additional floor area and height, and relaxed parking requirements when compared to market rate housing. *Community Board 4 seeks for the zoning text to deter affordable independent residences for seniors from being converted to market-rate housing by providing the City an opportunity to provide operating subsidies to extend the regulatory period*

Height of Affordable Independent Residences for Seniors in R4 and R5 Zoning Districts

As Community Board 4 is seeking a rezoning to better reflect existing building heights combined with height-limited designated areas for growth. There are some blocks in Bushwick that might be candidates for R4 and/or R5 zoning designations. Community Board 4 is concerned that City Planning is proposing for both affordable independent residences for seniors and for long term care facilities to be as tall as six-stories (up to 65 feet) in R4 and R5 districts at a distance of 25 feet from the street line, as such height would be permit uncharacteristic height on block with two- to three-story homes.

Community Board 4 seeks to have the height for affordable independent residences for seniors and long term care facilities be limited to 4 stories or 45 feet in R4 Districts (1.29 FAR) and 5 stories or 55 feet in R5 Districts (1.95 FAR) so that these buildings would be less uncharacteristic with the existing two-to three-stories homes.

Height of Avenue Buildings Next to Adjacent Side Street Buildings

As Community Board 4 is seeking a rezoning to better reflect existing building heights combined with height-limited designated areas for growth. There are many mid-blocks in Bushwick that might be candidates for row-house R4B, R5B and R6B zoning designations. When these districts are adjacent to R6A and R7A Districts, the height of the Avenue building is restricted for the 25 feet next to the row-house districts to 35 feet in R4 and R5 Districts and 50 feet in R6B. City Planning is proposing to increase these heights to 75 feet. Community Board 4 is concerned that this modification goes totally against the intent of the many neighborhood-wide contextual preservation-based rezoning where the community supported increased density in appropriate locations.

Community Board 4 seeks a rejection of this proposed text modification

Height for Quality Housing Buildings In Inclusionary Housing Districts Where No Affordable Housing is Being Provided

Community Board 4 has an Inclusionary Housing Designated Area where the Rheingold Brewery was once located where the developer is able to build to a height of 80 feet whether or not the development includes affordable housing. If the buildings were constructed without providing for affordable housing the buildings would have about 15 percent less permitted floor area than non-Inclusionary Housing designated areas which permit the same height of 80 feet. Community Board 4 believes there is no need for the Rheingold site to accommodate a building 80 feet in height without providing for affordable housing less since it would be providing less floor area than similarly zoned non-designated areas.

Community Board seeks to reduce the maximum height of the building to 65 feet (not more than six-stories) in the R6A District and to 70 feet (not more than seven-stories) in R7A Districts unless the second floor meets the proposed height standard of at least 13 feet above the ground. If the second floor is sufficiently elevated, the height could be 70 feet in R6A and 75 feet in R7A

Height for Quality Housing Buildings In Voluntary and Mandatory Inclusionary Housing Districts Where Affordable Housing is Provided and for Affordable Independent Residences for Seniors

City Planning is proposing for the R7A zoned areas of the Rheingold rezoning area to permit a height of 100 feet (ten stories) with an additional five feet if the second floor is elevated. These heights would also pertain to future mandatory R7A upzoning of Bushwick. Community Board 4 would like to accommodate the affordable housing floor area though is

concerned that the maximum height and number of stories being proposed is too excessive of an increase to ensure accommodation of the Inclusionary Housing designated area permitted floor area. Community Board 4 believes such height undermines what the contextual height limits of Rheingold and would result in less community acceptance of upzoning.

Community Board 4 seeks to reduce the increase of the maximum height of the building to 90 feet (not more than nine-stories) in R7A Districts unless the second floor meets the proposed height standard of at least 13 feet above the ground. If the second floor is sufficiently elevated, the height could be 95 feet.

Corner Lot Coverage for Quality Housing Buildings

City Planning is proposing to allow residential buildings at corners to coverage the entire lot, in lieu of the existing 80 percent maximum coverage rule. Community Board 4 is concerned that promoting 100 percent lot coverage provides too much flexible which might result in substandard room layouts without containing any windows or with lot line only windows that could be blocked one day or having lot line windows adjacent to neighboring back yard. These so called offices and dens would not meet light and air standards for living and sleeping rooms.

Community Board 4 seeks to retain the 80 percent corner lot provision, except for sections of corner lots with lot width not exceeding 30 feet which may have 100 percent coverage.

Shallow lots and Shallow through Lots

City Planning is proposing to change the definition of what is a shallow lot from 70 feet to 95 feet in depth and 190 feet to define a shallow with the intent towards quality design and achieving permitted floor area without the need to obtain a Variance from bulk provisions. Community Board 4 is concerned that such change would result in building extensions that would altering the character of the collective rear yards of the block.

Community Board 4 seeks enable more lots to qualify as shallow though less intrusive as proposed by recommending increasing the standard of 70 feet to a new standard of 80 feet and shallow street-to-street lots be defined by 180 feet as means to provide a degree of relief without the need for a Variance.

Required Accessory Off-Street Parking Spaces for Existing Affordable Independent Residences for Seniors

The proposal would allow existing affordable independent residences for seniors to remove now required group parking lots in Community District 4. Community Board 4 is concerned that applying the elimination of parking requirements to existing affordable independent residences for seniors does not reflect the utilization residents, employees, frail elderly traveling providers, etc.) of these accessory group parking facilities and might result in a quality-of-life impact for the residents of surrounding blocks by displacing the existing off-street parking as it would result in added competition for on-street parking on surrounding streets.

Community Board 4 seeks to modify by limiting the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent unless the resulting parking waiver would otherwise permit the elimination of such parking requirement.

ZR 25-261 Waiver of Requirements for Small Number of Spaces for R7A Districts and ZR 25-33 Waiver of Requirements for Spaces below Minimum Number for Permitted Non-Residential Uses

As Community Board 4 is seeking a rezoning to better reflect existing building heights combined with height-limited designated areas for growth. Though Community Board 4 is concerned that these higher density zoning districts contain a more permissive waiving of any parking requirements for development not exceeding 30 market-rate residences, as

compared to the current standard of no parking required for ten or less apartments. For community uses, the requirement to have parking would jump from 25 or more parking spaces to at least 40 spaces before parking would be required. Community Board 4 believes this would be too many units of market rate housing to not provide parking and would negatively affect quality-of-life when it comes to long-time residents retaining the ability to find street parking.

Community Board 4 seeks to retain for Community Districts 4 the R6 residential waiver of up to five spaces for market-rate residential development and less than 25 spaces for community facility developments for its R7A Districts.

Special Permits to Reduce the Number of Parking Spaces

- Market-rate for developments containing affordable housing (Board of Standards and Appeals)
- Existing parking spaces for income restricted housing units and for affordable independent residences for seniors (BSA)
- Large scale development (City Planning Commission)

Community Board 4 is concerned that findings do not adequately define a distance to what might be considered the surrounding area and do not take into account the availability of parking as an adverse effect

Community Board 4 seeks to define the surrounding area as up to 1,000 feet and for consideration for the availability of parking in the surrounding area and the proximity of public transportation as addition factors in determining the amount of parking spaces to reduce or waive.

After much consideration, the board felt that the aforementioned is a positive move toward the housing needs for our community in the future.

Respectfully,

Nadine Whitted

Nadine Whitted
District Manager



BROOKLYN COMMUNITY BOARD 5

THE CITY OF NEW YORK

ERIC ADAMS, BOROUGH PRESIDENT
 ANDRE T. MITCHELL, BOARD CHAIRMAN | WALTER CAMPBELL, DISTRICT MANAGER

"ONE COMMUNITY, ONE VOICE"

November 30, 2015

Application # C 160035 ZMK. The application was **disapproved** on November 18, 2015 at Community Board # 5 regular meeting with the following twelve (12) Modifications/Conditions:
 Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160036ZRK. Disapproved with Modifications/Conditions:
 Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160050ZRK. Disapproved with Modifications/Conditions:
 Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160037HUK. Disapproved with Modifications/Conditions:
 Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160042HDK. Disapproved with Modifications/Conditions:
 Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Modifications/Conditions:

1. The community does not want a storage facility on the corner of Pitkin and Pennsylvania Avenue also known as block 3721, lot 1.
2. The community would like to reclaim the Old Traffic Court building known as 127 Pennsylvania Avenue, corner of Liberty Avenue also known as block 3687, lot 1. The Community Board office is located in the building and the community would like to see this building restored to a recreation facility for community use. Approximately three million dollar is needed to repair the build. This would increase productivity and moral for community board members and staff to effectively address the economic development needs of the community. Additionally, community residents would benefit from this investment.
3. The community would like for the city to acquire the Long Island Railroad sub-station building located at Atlantic Avenue (service road) and Snediker Avenue. This building is location on block 3680. This building will be used as a Cultural Center for the residents of East New York and Brownsville.

4. We would like a CUNY campus in the rezone area. This would allow for long-term economic sustainability for all of East New York and neighboring communities.
5. We would like an Innovation Lab – a job-placement and training center run in conjunction with New York City College of Technology and local business organizations that would train young people to do basic computer coding; and helps locals start small cooperative businesses; and help find jobs for adults.
6. We would like approximately \$20 million dollars or more investment from NYC Economic Development Corporation (EDC) in East New York for Business Incubators in the IBZ and Innovation Labs throughout Community Board #5 (Note: 2014 EDC invested \$316,396 in East New York). This much needed investment would address the high unemployment in CB#5.
7. We need a 30 year Tax-Credit for long-term East New York homeowners and businesses to ease the property tax burden due to rezone changes.
8. The City should finance the creation of lower cost rental space for local small businesses.
9. We need multi-year, robust support for strengthening local business focusing training and business planning, including topics such as purchasing properties, meeting increased and differing demands for services and preparing your business for changes, etc.
10. We want to make sure that the merchants in the community request is in placed which is: assistance in the preservation/repair of mixed use properties and down-payment assistance made available to support local businesses in buying mixed-use buildings.
11. We need a City commitment to save East New York manufacturing and provide relocation fund for industrial businesses that need to relocate.
12. We need a City commitment to create good living wage jobs for East New York residents in construction and manufacturing and other growth sectors.

Mandatory Inclusionary Housing and Zoning for Quality and Affordability Disapproved.

Mandatory Inclusionary Housing: N160051ZRY

In Favor: 6 # Against: 16 # Abstaining: 1

Zoning for Quality and Affordability: N160049RNY

In Favor: 8 # Against: 15 # Abstaining: 1



THE CITY OF NEW YORK COMMUNITY BOARD SIX

Eric Adams
Borough President

Gary G. Reilly
Chairperson

Craig Hammerman
District Manager

November 27, 2015

Carl Weisbrod
Chairperson
City Planning Commission
120 Broadway, 31st floor
New York, New York

Dear Chairperson Weisbrod:

I am writing to advise you that at its November 10, 2015 general meeting Brooklyn Community Board 6 resolved by a vote of 21 in favor, 8 against with 2 abstentions to conditionally approve of the proposed Zoning for Quality and Affordability (ZQA) text amendment (ULURP No. N1600049ZRY).

In a separate action, we also resolved by a vote of 24 in favor, 5 against with 2 abstentions to conditionally approve of the proposed Mandatory Inclusionary Housing (MIH) zoning text (ULURP No. N160051ZRY).

Our primary basis for supporting these actions is rooted in an acknowledgement that we must do more to keep our City affordable for everyone. And while the debate continues on how best to do this, and by no means do we feel that these proposed zoning actions present a perfect solution, they at least begin to move us from discussion to action. They are a starting point, not an end unto themselves. By voicing our support we are also expressing a desire to remain engaged in the conversation moving forward.

We hope you will consider and incorporate our conditions to the greatest degree possible. We arrived at them through thoughtful and constructive deliberation which involved several presentations by the department, an extremely well-attended public hearing sponsored by our Land Use committee on October 22, 2015, and many opinions expressed to us by civic groups, special interest groups and members of the public.

Zoning for Quality and Affordability (ZQA) text amendment (ULURP No. N1600049ZRY)

We want to acknowledge that the revision of your original proposal did a lot to move this in what we believe was a positive direction. Limiting the allowable height bonus on the ground floors in

our district to five feet, from what was originally proposed as a range of five to fifteen feet, was more in keeping with the built form of our existing housing stock. The contextual zoning in place here, which we lobbied long and hard to get, was done to protect the built form. And it is not uncommon for brownstone buildings in our district to be constructed with taller floors at the parlor level. Allowing a five foot height bonus at the ground floor is generally in keeping with the spirit of our urban design features.

We still reserve some mild concern about how and whether the proposed text amendment could undermine elements of our contextual zoning, because the shape of our buildings is such an important signature characteristic in many of our neighborhoods, but we find that offering the ground floor height bonus—limited to five feet—gives developers more options to build closer to our actual built form. The current rezoning imposes restrictions that make it more difficult to achieve the building envelopes we actually want to see.

Our condition on the ZQA action relates to the proposed designation of our entire Community District as a “Transit Zone.” We generally have favored the City’s taking a more refined approach to parking requirements as we find that the existing regulations encourage the creation of a surplus of off-street parking spaces which, we believe, can ultimately do more to harm than good for a community. To put a finer point on the proposal to include us in the Transit Zone, however, we must dispute the underlying assumption that our entire district has equal and convenient access to good transit options. We suggest that our Red Hook neighborhood is in fact a transit-challenged community. The Department of City Planning has conducted its own studies on this basis; so we know we aren’t telling you something you don’t already know. To that end, as a condition for our support, we ask that the proposal be modified to exclude Red Hook from the Transit Zone designation for our district.

Mandatory Inclusionary Housing (MIH) zoning text (ULURP No. N160051ZRY)

On the MIH proposal we have several conditions because some of the proposal’s elements left us uneasy as currently written. Part of our uneasiness lies in the fact that there are still aspects of this proposal which have not as yet been solidified such as the “Payment in Lieu of Participation” option described more fully below. We believe some further refinements and adjustments are in order and suggest the following for further consideration.

First, we understand the concept behind offering developers a “Payment in Lieu of Participation” option and while some people believe that mandatory inclusionary housing should in fact be mandatory, on balance we believed that offering such an option does make sense but that there needed to be more accuracy and fairness in the value-basis on which such payments would be calculated. As currently conceived we understand that payment formulas are still being worked out but that developers would likely be assessed based on construction cost differentials. We assert that this would be letting the developers off on the cheap and, instead, that such values should be based on such factors as the construction costs, present value of projected profits, and even the value of any zoning changes which may be an essential part of a developer’s proposal. Considering these factors as a basis would, to us, be a much fairer way of assessing payment options for developers.

Second, the current proposal would allow for the construction of off-site housing to satisfy the mandatory inclusionary housing component. Allowing off-site affordable housing development, to us, means that developers would then have the option of building rich and poor buildings. They could building rich buildings in areas with good public transit options, good school districts and access to healthy and nutritious food markets. They could also build poor buildings in areas, perhaps even within a stone's throw of the rich building, that would have lesser transit options, lesser performing schools and starved for healthy food. We do not think that developers should have the option of constructing off-site affordable housing units. This proposal must seek to integrate not aggravate the segregation we are already challenged by in this City.

Lastly, we continue to experience a high degree of skepticism whenever the term affordable is used. Affordable, yes, but affordable for whom? Since we are all-too-familiar with how the use of the Federal definition of Area Median Income fails to adequately and accurately depict real-life living conditions in New York City, we are challenging you to come up with a better model, a better definition that includes integration and diverse income levels as an overarching goal. Lower income residents should not be hurt by this proposal. They must be protected.

Thank you for your attention and consideration in this matter. We stand ready to continue this conversation and welcome the opportunity for further dialogue.

Sincerely,

/ S /

Gary G. Reilly
Chairperson

cc: Hon. Bill de Blasio
Hon. Eric Adams
Hon. Steve Levin
Hon. Carlos Menchaca
Hon. Brad Lander
Winston Von Engel, Director, DCP/Brooklyn
Community Boards Citywide



THE CITY OF NEW YORK
BOROUGH OF BROOKLYN
COMMUNITY BOARD #7

Daniel A. Murphy
Chairperson

Jeremy Laufer
District Manager

Eric Adams
Borough President

November 24, 2015

Mr. Carl Weisbrod
Chairman
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Re: Zoning for Quality and Affordability - ULURP #N160049ZRY
Mandatory Inclusionary Housing – ULURP #N160051ZRY

Dear Chairman Weisbrod:

Community Board 7/Brooklyn voted on the Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH) proposals at our Board Meeting on November 18. We had previously held a public hearing on November 9 and an information session on ZQA in the spring.

Our Board Members voted to oppose ZQA by a vote of 2 – in favor, 27 – opposed, with 5 – abstentions. Our Board Members were very skeptical of ZQA's benefits for our local community and its current residents. Many Board Members and residents spoke about our community's efforts to rezone almost all of our residential community in the 1980s, 2005 and 2009. The contextual districts that were created from these efforts had maximum heights limits, which were the main impetus for rezoning. However, our community recognized the need for trade-offs for limiting the height of most of the community and agreed to upzoning 4th and 7th Avenues. Non-mandatory inclusionary housing was included on these avenues, but to our knowledge, these resulted in zero new affordable units. We heard from many residents that these efforts would have been a wasted effort if just a few short years later we allow an additional five to twenty feet to our already limited building heights. It has been brought up that the R7A zone in Greenwood Heights was set so as to protect the view corridor from the Statue of Minerva in Green-Wood Cemetery to the Statue of Liberty. Additional height, even of just a few feet would breach the view corridor.

While much of the plan is focused on creating additional senior housing, certainly a laudable goal, our community has a younger population than NYC's average and, while we need additional senior housing, the need for family-sized units in our community is much more prevalent. Additionally, many questioned the need for bay windows, courtyards and façade articulation for affordable units as they would add to the cost of the units. It was believed that these enhancements would be limited strictly to attract renters who would pay a higher rate, not local residents.

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Much of the argument in opposition to ZQA focused on the lack of infrastructure enhancements within the plan. Our community already has severely overcrowded schools, overburdened traffic and transportation networks, water and sewer systems that have not been upgraded in decades and a significant deficit of public space, especially parks. This plan does not address these needs. If ZQA will result in new residents in our community, the population increase will further burden these systems without a plan or budget to alleviate these conditions. It would be insulting to current residents to suggest that money can be found for these problems if we agree to a change to the zoning resolution, busting limits we recently set. One should not depend on the other. This is a universal proposal that does not take the specific needs of communities into account.

Finally, many members of the public were very concerned about reducing the number of parking spaces required for new buildings and stated that the community already lacks adequate parking. It is feared additional residents without private parking options will make public parking much more difficult for all. We do not believe DCP has accurate statistics of car ownership in our community as we were informed that records were obtained from the State Department of Motor Vehicles. This does not take into account the high percentage of vehicles registered out of state. It is ludicrous to pretend these vehicles don't exist.

Our Board Members saw few tangible benefits of ZQA for the local community and even the potential for exacerbating current problems and voted overwhelmingly against the motion.

With regard to Mandatory Inclusionary Housing, our Board Members voted 15 – in favor, 11 – opposed, with 8 – abstentions. Although a plurality of members voted in favor of MIH, the proposal did not receive a majority of votes, as is required, in order to be approved by the Board. As no position received a majority vote, *we have not taken a position on this matter.*

While many of our Board Members found MIH to have laudable goals, there were again significant questions as to the benefit for the local community.

In addition to height, many were concerned that new units would not be available for local residents. Area Median Income, which includes counties outside of New York City, is more than twice CB 7's median income. Although rates may be set at 80%, 60% or even 40% of AMI, many believe these rental costs would still be too high for the local community. The idea that there would be little if any benefit for the local community was further entrenched by a lawsuit currently challenging set-asides for the local communities, which might rule such benefits unconstitutional.

The local community's median income of just under \$44,000 is less than 60% AMI proposed (for 25% of residential floor area). This would mean more than half of our population would be eligible for these units, but they would only occupy 25% of the floor area of the building. This would continue a significant deficit of affordable units locally and a suspicion that the vast majority of new units would not be built for local residents.

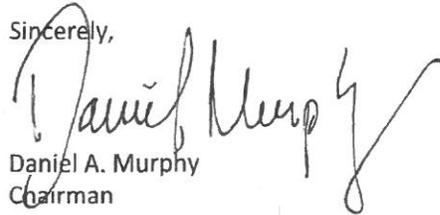
It was also discussed that affordable units could be built offsite and bunched, concentrating poverty.

Many of the arguments in opposition to both proposals can be attributed to the community's distrust of developers, a failure of the city to follow through on past promises to the community, the lack of availability to local residents, a continued overburdening of local infrastructure and distrust in the city's ability to crack down on illegal construction activities. The goals of ZQA and MIH are laudable, but the

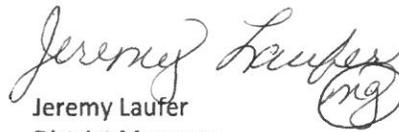
majority of our Board Members believe that they would not achieve these goals in our community. In fact, some argued that they would further the pace of gentrification.

We hope you take our community's concerns into account as these proposals are considered.

Sincerely,



Daniel A. Murphy
Chairman



Jeremy Laufer
District Manager

cc: Elected Officials



COMMUNITY BOARD NO. 8

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November 25, 2015

OFFICE OF THE
CHAIRPERSON

DEC 3-2015
29018

Mr. Carl Weisbrod
Chairman
NYC City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Ms. Purnima Kapur
Executive Director
NYC Department of City Planning
120 Broadway, 31st Floor
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Mr. Winston Von Engel
Director, Brooklyn Borough Office
NYC Department of City Planning
16 Court Street
Brooklyn, NY, 11241

Re: ULURP No. N160049 ZRY - DCP Mandatory Inclusionary Housing (MIH) [ZR §23-154, paragraph (d) Text Amendment; and Citywide Zoning for Quality and Affordability (ZQA) ULURP No. N160049ZRY, CEQR No. 15DCP104Y

Dear Chief City Planners,

This letter is to request your close attention to the conditions Community Board 8 (CB 8) has placed on its support for the two above cited projects.

Support for MIH

At its November 12, 2015 meeting, CB 8 voted 30 in favor, two against, and one abstention to support the MIH project. Board members are concerned that the MIH will be ineffective in achieving its purpose unless requirements for accountability are included. Accountability measures must insure that: offsite affordable units are built on a predetermined schedule and within Community District (CD) 8; that the number of apartments and the rents are monitored for compliance; and that penalties are imposed for non-compliance.

CB 8 recognizes the value of permanent affordability as compared to rent control and rent stabilization where the numbers of apartments in the programs are shrinking from vacancy decontrol, and poor compliance where new apartments not being registered with DHCR.

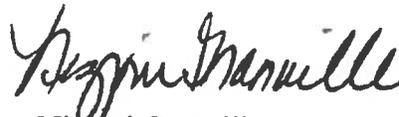
Conditions for Supporting ZQA

At its November 12, 2015 meeting, CB 8 voted 24 in favor, four against, and one abstention against supporting the ZQA project unless the conditions attached to this letter are included for CD 8. The conditions ask DCP to carefully construct its plan for CD 8 so that these hastily formulated amendments do not wreak havoc on the lives of current residents. For example, the plan needs adequate regulatory agreements governing senior residences, and the specifics of corner lot coverage are needed; as are adequate techniques for measuring height above grade. Long-term care facilities should not be allowed on row-house blocks. CD 8 should not be part of the Transit Zone that would permit developers to omit off-street parking from larger projects. The backyard spaces providing light and air should be protected. The conditions also ask for changes that are not included in the DCP project, including side yards for new buildings abutting residential properties.

Your assistance is requested in addressing the conditions identified by CB 8 as delineated in the attachment to this letter. Comments made at CB 8's 11/12/15 meeting are also included herewith. It is our hope that DCP will apply the attention to particular details needed for a proposal as complex and far-reaching as ZQA. Similarly, the success of MIH will depend on DCP and HPD conceptualizing and effectuating plans for monitoring and enforcement, including meaningful penalties, from the outset.

We look forward to working closely with DCP to refine these proposals so that they achieve their stated goals.

Sincerely,



Nizjoni Granville
Chairperson

Attachment: Brooklyn CB 8 Conditions for Supporting Citywide Proposal
ULURP No. N160049ZRY Zoning for Quality and Affordability, 11/12/2015

cc:

Hon. Robert Cornegy
Hon. Laurie Cumbo
Hon. Darlene Mealy
Hon. E. Adams

Vicki Been, Commissioner, HPD
R. Bearak, Dir. Land Use, BBP 's Office
E. Tyus, CB 8 Housing/ULURP

Comments on MIH and ZQA at CB 8 11/12/2015 General Meeting

Atim Oton asked what AHND's (the Association for Housing and Neighborhood Development say) conclusion to the MIH plan was. She was informed by Ms. Tyus that the paper is suggesting that most development would be eligible for as of right 421-A, which is 35 years of affordability, not permanent as the Mayor claims in his proposal.

Mr. Dupree asked why the plan skips around income brackets. He specifically asked about the people that fall in between brackets. Dan Moran of HPD responded by stating that one of the features of MIH is income averaging and not just targeting certain people in an effort to get to as many levels and incomes as possible. Ms. Tyus also stated that for many years, this CB has asked that we use the average median income for this community district. The AMI is set on the federal level for the entire metropolitan area so it's skewed on the high side.

Leroy Reid inquired about employment opportunities for minorities in the housing being built. Mr. Moran stated that HPD created a program where in all of the affordable housing developments, they have asked the developers to go to Workforce 1 to get participants that could become employees.

Gib Veconi asked DCP to clarify whether or not there is a dependency between MIH and ZQA. There does not appear to be, but if there is, it needs to be spelled out. A representative from DCP did not directly answer the question but stated that DCP did extensive outreach when all of the proposals were identified 6 months ago. All the problems identified have been known for many decades. Building construction technology has evolved since 1961 and 1987 when the codes were last updated with the exception of zoning changes. These two plans seek to add some new breath to zoning law. HPD's Mr. Moran stated that they were 2 independent proposals.

Adam Sachs stated that the income levels and brackets cut off certain people. He asked if the units could be offered to other incomes. He was informed that units are offered across the band to get the average of 60% or 80% depending on which of the 3 plans is chosen. Different family sizes are also targeted to add as many strata as possible.

Sanmati Naik from DCP stated that the problem is that housing options are small. We cannot sit back and not do anything at all. The Housing New York plan has many initiatives to address the housing crisis and all of the initiatives are serving the same goals. MIH ensures that a percentage of housing is set aside for affordable housing permanently.

Mr. Witherwax asked if the averaging is how things are done now or if the averaging will only be brought about by MIH. He gave examples, asking is there can be someone with 150% AMI balancing someone with 120%? Mr. Moran stated that the cap is 120% with 60% band or 130% with the 80% band.

Liz Grefrath stated that nothing requires the developer from averaging and asked if they could just do 60%. She was informed that a developer could just do 60%, but that DCP is encouraging averaging because from a marketing standpoint, it would look better to have units at a range of incomes.

Ms. Tyus suggested that DCP take into account information from ANHD, which did a very well, deep, rich study on financial feasibility in the draft that is saying, for the production of this

proposal, AMI's under 60% in the areas that need it greatest were not studied. DCP only studied the 60-90% bracket. She asked how the rents asked will be monitored. A sufficient answer was not given to her question.

Mr. Mensah asked how the AMI is recorded. He was informed that it is recorded by family size.

Curtis Harris expressed his dissatisfaction with the proposal, stating that a lot of people are not approving the proposal. He brought up the fact that DCP acknowledged that developers could pay a fine and not have to provide affordable housing. He asked if there was a concrete amount that would be asked for as the fine and was told that there was not at this time. Mr. Harris went on to state that Crown Heights is saturated with developers and minorities are being priced out of the community. The stats say that 78% of the community is minority. We need to represent the interest of the constituency. Mr. Moran stated that what he is describing is displacement and gentrification. Right now, there is no requirement for developments to provide affordable housing. MIH provides a level of protection against displacement.

Diana Foster pointed out that no study was done concerning feasibility of AMI under 60% and asked why one was not studied. She further asked if the people making under 60% of the AMI should not be eligible for housing. DCP stated that the target is 60% because it is the average. Developers can break 20 units down into 10 units available at 30% Ami and the other 10 units at 90% AMI, which would create the 60% AMI average that is being sought. This is the reason the income bands were created so that a wider range of incomes could be reached.

Mr. Atkins asked, if 60% is the base level being used, what commissions and regulations were used to establish this as the baseline? He continued by stating that the people being pushed out were the ones here first because no one else wanted to be here. He urged DCP to take a closer look at the baseline. Ms. Naik stated that the city retains experts to make sure 60% is not an arbitrary decision. She reminded everyone that we have to realize we are talking about private property, not city property, and that the program has to match certain standards. One of the questions asked during the creation of the proposal was what AMI would make the program work and it was found to be 60%.

A resident stated that she noticed some unintended consequences of the averaging. She asked, if you have someone at the higher end of the AMI and they leave their unit, does that make the unit set aside for the high end permanently? She was informed by Mr. Moran that the 120% or 130% would be offset by someone with a very low AMI. HUD sets AMI standards and the numbers do change over time.

Yahya Raji asked if the proposal was for property rental or homeownership, because at these AMI's it would be difficult to get a mortgage. He was informed that it would most likely be rental properties.

Mr. Veconi made a motion that the full board support the MIH proposal being put forward with guidance that the city work toward affordability levels for markets that are at deeper affordability levels than are currently proposed and to make more units affordable in any particular development in MIH sites. The proposal results in additional influence for CB to act more in its advisory capacity. 2nd by Ms. Tyus

Mr. Mensah asked what the consequences are if we do not support this. He was informed that we would have nothing in place requiring affordable units.

Gail Branch Muhammad stated that she is not trusting that MIH will happen even if we support it.

Audrey Taitt-Hall asked what does landmark preservation means in terms of MIH since much of the district is landmark preserved. Ms. Tyus informed her that much of the land along the edges along the historic districts will be the area that is focused on, not the landmarked areas.

Ms. Oton stated that at this point, we have nothing. This is a start for a beginning of dialogue with city council members.

30, 2, 1

ZQA:

Mr. Veconi stated that the 2 main components to this that would add additional height factor amongst most contextual zones of 5 feet or 10 feet as of right and, even more, 25 feet in the inclusionary zones along Franklin Avenue to add the 20% affordable housing in the existing envelope. From our perspective, we would be voting for an additional 25 feet in the R7A zone. It does not seem we have to give the extra 25 feet away in the zone. He is not confident that the additional 5 feet in all of our contextual zones will encourage better looking development. Ms. Naik stated that she appreciates the observations. There was a theme of architects, city planners, developers, and others, that found that floor to ceiling heights in commercial space of 8'8" was not high enough. We see all the time that there is no privacy for ground floor residents. The new buildings are like boxes. Zoning is in part responsible for the boxy appearance. Raising the floor by 3 feet gives more privacy to ground floor residents. ZQA gives for a few feet of horizontal flexibility that makes for a better streetscape.

Ms. Oton stated that the fact that this entire proposal was put together and brought to CBs in such short span of time basically says you have no interest in communities. This administration is an embarrassment because it has not really heard communities. You failed to ask communities what they would like first. As someone that came from the architectural industry, this is disrespectful. Ms. Naik stated that ZQA might not go as far as you would like, but it is an improvement over what is. Another DCP rep stated that this proposal was brought for public review in March 2015 for review. DCP extended the comment period from 30 days to 60 days. DCP and the City Council will hold public hearings on the items.

Mr. Witherwax thanked the Housing/ULURP Committee for coming up with 23 comments/criticisms in such a short time on ZQA. He stated that this proposal is not good enough and unlike with MIH where not good enough is better than nothing. He will not support the initiative as is.

Ms. Grefrath stated that a lot of buildings are going to be built and people are going to be living in them. After a while with 8'8" inches as your ceiling height, you start to feel closed in. She also stated that she can see into many living rooms and kitchens while walking down any given street with a new development and elevating ground levels is very important. Developers usually put

the lower incomes on the ground levels and these tenants require some consideration as well as market rate tenants.

Mr. Staton congratulated the committee for voting on this amendment. He stated that the proposal is not static; there will be public hearings for additional comments and concerns to be expressed.

Ms. Benn-James stated that the city recently had a house auction last month. She questioned why the city didn't they turn those buildings into affordable housing rather than auctioning them off to developers. Mr. Maron informed her that HPD has a host of properties that is all affordable rates.

Ms. Tanenbaum stated that one of the issues raised last week was the issue of seniors and parking. She informed DCP that they missed an opportunity when they looked at seniors and the parking issue, and that are not quite capturing the real experiences of seniors. She expressed concern that seniors will become isolated if you take away the parking spaces even though they don't themselves own the vehicle because they rely on people with vehicles to take care of them. There is a long gray area where seniors need people that have cars.

Phu Duong stated that as an architect, there are incentives for developers to take on some of the suggestions. The higher ceiling heights encourage opportunities to have more shops with better ventilation. He referenced sitting in a restaurant and exiting smelling like the restaurant. However, he cautioned that ZQA, in allowing for higher elevations, might impact commercial rentals and cause higher rents to be charged for commercial spaces. Yes, it will allow for a better street life and street experience, but those are two separate experiences that could be better presented.

Ms. Tyus added to the parking discussion that the reason DCP removed parking from the plan is the perceived wealth of public transportation in the district. If you're a senior living near Atlantic Avenue and need to go to the IRT subway on Eastern Parkway, it would be a long uphill trek. She stated that she would like DCP to remove CB 8 from the transit hub.

Mr. Atkins stated that we have focused too much on certain ages and are forgetting that we represent people from birth to death. All age ranges should be taken in consideration.

Mr. Sachs stated that parking is a very touchy subject. His understanding of the proposal is that it would remove parking on site but not off-street. There is a certain dollar figure that it costs developers to provide off-street parking in the development. By removing the parking requirement, it allows developers to create units at deeper affordability.

Ms. Oton added that when you add 25 feet of height on Franklin Avenue, it blocks out the sun. You will have great ground floor levels but no sun.

Mr. Witherwax made a motion not to support ZQA as proposed unless it incorporates the 23 conditions. 2nd Atkins.

25,4,1

**Brooklyn CB 8 Conditions for Supporting Citywide Proposal
ULURP No. N160049ZRY Zoning for Quality and Affordability
11/12/2015**

1. ZR 12-10 Affordable independent residences for seniors

BCB 8 seeks assurances that additional floor area and relaxed parking requirements for affordable independent residences for seniors only be approved pursuant to a permanent or at least long-term regulatory agreements greater than 30 years requiring occupancy by low income households. *BCB 8 seeks to prevent affordable independent residences for seniors from being converted to market-rate housing without first giving the City the opportunity to provide operating subsidies.*

2. ZR 23-153 Quality Housing Buildings Corner Lot Coverage

BCB 8 is concerned that the maximum residential lot building coverage for a corner lot would be 100 percent, in lieu of the existing 80 percent provision, without regard to lot width. BCB 8 believes that such design flexibility promoted by 100 percent lot coverage could promote substandard room layouts/proximity to windows, including so called offices and dens that would not meet light and air standards for living and sleeping rooms. Additionally, existing residents, who have lot line windows, will experience a diminution of their light, air and property value. *CB8 seeks to retain the 80 percent corner lot provision especially for sections of corner lots with lot width not exceeding 30 feet.*

3. ZR 23-155 Affordable independent residences for seniors Floor Area Ratio

BCB 8 is concerned that the residential floor area for R7A was increased to 5.01 without regard to whether the district is mapped on wide or narrow streets. *BCB 8 seeks for narrow street frontages, such as Lincoln Place to retain 4.0 FAR.*

4. ZR 23-156 Special lot coverage provisions for shallow lots in R6-R10 Districts, ZR 23-52 (b)(2) Special Provisions for Shallow Interior Lots, ZR 23-533 Required rear yard equivalent for Quality Housing buildings and ZR 23-534 Special Provisions for Shallow Through Lots R6-R10 Districts (NO)

BCB 8 is concerned that changing the shallow lot definition from 70 feet in depth to 95 feet and 190 feet to define a shallow through lot is overly permissive for City Planning's goal of encouraging quality design within permitted floor area without the need for a Variance from bulk provisions. This change will result in larger rear yard enlargements altering the character of the collective rear yards of a block, colloquially called "the doughnut hole." There are sections of blocks in CD 8 that are not characterized by the standard block width of 200 feet, where lots are consistently 80 or 90 feet in depth with yard character well-defined that will be compromised by more liberal lot coverage if the existing shallow lot standard is increased from 70 feet to 95 feet of depth. *BCB 8 seeks for shallow lot provisions to remain at 70 feet to 80 feet and shallow through lots be defined by 145 feet to 160 feet to as means to provide a degree of relief without the need for a Variance.*

5. ZR 23-44 (b)(9) Permitted Obstructions in Required Yards or Rear Yard Equivalents in R6A and R7A Districts

BCB 8 is concerned that permitting rear enlargements up to 15 feet in height for one-story buildings is an inappropriate intrusion for the character of the collective rear yards (doughnut holes) where R6A and R7A Districts are mapped along narrow street widths. *BCB 8 seeks for zoning lots located in an R6A or R7A District that front along narrow streets to be regulated consistent with R6B, R7B and R8B Districts, where such rear yard intrusions would not be applicable according to the proposed text.*

6. ZR 23-462 Side yards for all other buildings containing residences

R5 R6 R7 R8 R9 R10

Given the rapid development in BCB 8, in the districts indicated, the concern is for those homes abutting lots where new buildings are contemplated. Quality zoning should include provisions for sideyards for new buildings to preserve the light and air for current and new residents

7. ZR 23-631 (f) General Provisions Height and Setback Requirements in R5D Districts and ZR 23-662 Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings

BCB 8 is concerned that as a point of reference for measuring building height, the level of the adjoining sidewalk in relationship to the base plane requires a spatially specific term for zoning lots with sloped frontages. The finished floor of the second story above grade as measured from the level of the adjoining sidewalk is proposed as a means to establish the maximum height of a building provided as a reference point in order to achieve the additional five feet of building height. *BCB 8 seeks to establish the measurement from legal grade of the base plane or some equivalent standard.*

8. ZR 23-641 Front setbacks in R6-R10 Districts without a letter suffix, corresponding table Maximum Height of Front wall and Required Front Setbacks, ZR 23-642 Alternate Front Setbacks and corresponding table Alternate Required Front Setbacks

BCB 8 is concerned that the level of street line is an ill-defined reference term for zoning lots with sloped frontages to identify where the determination of maximum height is measured from as a means to establish such height. *BCB 8 seeks to establish the measurement from legal grade of the base plane or some equivalent standard.*

9. ZR 23-662 (b) Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings, building heights and number of permitted stories and corresponding Table 1 Minimum Base Height, Maximum Base Height, Maximum Building Height and Maximum Number of Stories for Contextual Districts and for Non-Contextual Districts

BCB 8 is concerned that the maximum height and number of stories is not reduced for R6-R10 Districts where such districts are in accordance with the provisions of Inclusionary Housing designated areas. Such designated areas have typically 11 to 16 percent less permitted floor area ratios than non-Inclusionary Housing designated areas, therefore there is no need to accommodate less provided floor area in the same height as non-designated areas. BCB 8 is in agreement with the Brooklyn Borough President that **the City should be leveraging the financial value of upper floors as an additional incentive to participate in the Inclusionary Housing Program. Holding back one to four stories**

(depending on district) of now permitted height unless the affordable housing bonus is used – as views have value -- turns added height into a financial incentive to participate in the incentive program. BCB 8 seeks to adjust corresponding Table 1 as it pertains to Maximum Height of Building with non-qualifying ground floor/Maximum Height of Building with qualifying ground floor/Maximum Number of Stories as follows: R6A 65/70/6; R7B 65/65/6; R7A 75/80/7; and R7D 90/95/9; and comparable provisions for equivalent non-contextual districts.

10. ZR 23-664 (a) Modified height and setback regulations for certain buildings R6-R10 Districts for Quality Housing buildings providing affordable housing pursuant to the Inclusionary Housing Program and Table 1 Modified Maximum Base Height and Maximum Building Height for Certain Quality Housing Buildings

BCB 8 is concerned that the maximum height and number of stories is proposed to be excessively increased in the intent to accommodate the Inclusionary Housing designated area permitted floor area ratio (FAR) and as a result undermines community led efforts to impose contextual height limits in areas rezoned to promote housing development as part of neighborhood-wide contextual rezoning that included contextual preservation-minded rezoning. BCB 8 seeks to adjust corresponding Table 1 as it pertains to Maximum Height of Building with non-qualifying ground floor/Maximum Height of Building with qualifying ground floor/Maximum Number of Stories, i.e.: R7A 90/95/9.

11. ZR 23-693 Special Height Limitations Special provisions applying adjacent to R1 through R6B Districts for R6-R10 districts

BCB 8 is concerned that the proposal intends to modify the height permitted within 25 feet when R6-R10 districts abut R1 through R6B Districts (such as Prospect Heights) from 35 feet in R1 through R5 Districts and R6B requirements (50 or 55 feet) for R6B Districts to a height of 75 feet. BCB 8 believes that this modification goes totally against the intent of the many neighborhood-wide contextual preservation-based rezonings where the community supported increased density in appropriate locations. BCB 8 seeks a rejection of this proposed text modification.

12. ZR 23-711(b)(1) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for separated portions of a building above roof of connecting abutting building portion

BCB 8 is concerned that the more minimal standards of the NYS Multiple Dwelling Law are not appropriate for wall condition heights in excess of 50 feet to require not more than 40 feet between walls where legal windows are involved for building walls of undefined length of overlap. Given the expectation of utilizing excess development rights of NYCHA campuses and existing affordable independent residences for seniors, there should be an expectation of quality light and air standards as opposed to provisions that allow less than desirable building placements. BCB 8 seeks a maximum length where distance between building walls of connected buildings exceed 50 feet in height when at least one wall contains legal windows, with a maximum requirement of 60 feet between such building walls.

13. ZR 23-711(b)(2) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for Two or more buildings on a single zoning lot

BCB 8 is concerned that the more minimal standards of the NYS Multiple Dwelling Law to require not more than 40 feet between building walls of undefined length of overlap up to 125 feet in height does not adequately provide for light and air. Given the expectation of utilizing excess development rights of NYCHA campuses and existing affordable independent residences for seniors, there should be an expectation of quality light and air standards as opposed to provisions that allow less than desirable building placements. *BCB 8 seeks a maximum length where distance between buildings up to 125 feet in height when at least one wall contains legal windows, should have a maximum length of overlap within the standard of 40 feet and then require up to a maximum requirement of 60 feet between such building walls.*

14. ZR 24-013 (a)(2) Special provision for certain community facility uses for buildings containing long-term care facilities in R3 through R5 districts except in R3A, R3X, R3-1, R4A, R4B, R4-1, R5A and R5D Districts

BCB 8 is concerned that the proposed as-of-right allowance of provisions for affordable independent residences for seniors could be applicable to long-term care facilities in R5A and R5D zoning districts and potentially result in out-of-context development with an incompatible intensity of use. This includes having provisions for R5A and R5D Districts that preclude uncharacteristic proposed bulk of long-term care facilities on block fronts predominantly developed with row houses without front yard parking featuring landscaped front yards and along narrow streets where such long-term care facilities, which are essentially businesses with a significant employment presence seeking placement in low-density residential areas. *BCB 8 seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family row houses without front yard parking featuring landscaped front yards where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residences. BCB 8 believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities. In addition such affordable independent residences for seniors to be applicable to long-term care facilities floor area and bulk envelop should not be applicable to zonings lots exclusively fronting along narrow streets.*

15. ZR 24-164 Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses Location of Open Space Residential Portion R1-R9

BCB 8 is concerned that the ground floor incentive to allowing building heights to be increased by five feet without adjusting the qualifying rear yard height, which is now up to 23 feet above curb level for meeting the required residential open space requirement upon the roof of the community facility portion of such building, might preclude use of the ground floor incentive or the provision of a two-story of community facility use extending into the rear yard. *BCB 8 seeks to modify the qualifying community facility rooftop residential open space height to 25 feet.*

16. ZR 25-252 Required Accessory Off-Street Parking Spaces for Residences – Modification of Requirements Where Group Parking Facilities Are Required R1-R10 Districts for Affordable Independent Residences for Seniors

BCB 8 is concerned that applying the elimination of parking requirements to existing affordable independent residences for seniors within the transit zone does not reflect the utilization of such accessory group parking facilities and will result in a quality-of-life impact for the residents of surrounding blocks by displacing existing off-street parking with the resultant added competition for on-street parking on surrounding streets. *BCB 8 seeks to limit the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent or less.*

17. ZR 25-261 Waiver of Requirements for Small Number of Spaces for R7A Districts and ZR 25-33 Waiver of Requirements for Spaces below Minimum Number for Permitted Non-Residential Uses

Given that certain segments of BCD 8 have limited access to mass/rapid transit and are on significant geological inclines between Eastern Parkway and Atlantic Ave, BCB 8 is concerned that the waiving of any parking requirements for development not exceeding 30 residences or where more than 25 parking spaces but not exceeding 40 spaces for community uses is excessive for neighborhoods in sections of BCD 8 where car ownership rates tend to reflect lifestyles and where quality-of-life depends on the ability to find parking. *BCB 8 seeks to modify the residential waiver in certain R7A Districts from 15 spaces to the R6, R7-1 and R7B standard of five spaces and the community facility use waiver from 40 spaces to the R6, R7-1 and R7B standard of 25 spaces.*

18. ZR 28-11 Elevated Ground Floor Units R6-R10 Districts

BCB 8 is concerned that for Quality Housing buildings, excluding up to 100 square feet for each foot above curb level up from the definition of zoning floor area is nearly 40 percent more than necessary to equate the floor space required to comply with ADA ramp and standards, resulting up approximately up to 150 sf of free development rights. *BCB 8 seeks to reduce the exemption to 70 feet per foot.*

19. ZR 73-433 Reduction of (market-rate unit) parking spaces in the Transit Zone to facilitate affordable housing

Given that certain segments of BCD 8 have limited access to mass/rapid transit and are on significant geological inclines between Eastern Parkway and Atlantic Ave, BCB 8 is concerned that finding (c) does not adequately define a distance to what might be considered the surrounding area and does not address searching for parking as an aspect of daily life that would have an undue adverse effect and does not contain similar factors as identified in ZR 73-434 Reduction of existing parking spaces for income restricted housing units for additional safeguards that might be imposed by the Board of Standards and Appeals. *BCB 8 should be excluded from the Transit Zone. Further, BCB 8 seeks to define the surrounding area as up to 1,000 feet and BSA must consider the availability or lack thereof of parking in the surrounding area and the proximity of public transportation.*

20. ZR 73-434 Reduction of existing parking spaces for income restricted housing units and ZR 73-435 Reduction of existing parking spaces for affordable independent residences for seniors

BCB 8 is concerned that finding (c) does not mention finding parking as what might have an undue adverse effect and finding (c) and factors to be considered by the BSA does not adequately define a distance to what might be considered the surrounding area. *BCB 8 seeks to define the surrounding area as up to 1,000 feet.*

21. ZR 73-623 Bulk modifications for Quality Housing buildings on irregular sites

BCB 8 is concerned that existing site planning building placement, accommodation of parking requirements and underbuilding of height that resulted in much underutilization of permitted floor area and not listed as practical difficulties according to finding (b) in order to provide the BSA with more latitude when the ownership remains the same.

22. ZR 74-532 Special Permit Reduction or waiver of parking requirements for accessory group parking facilities by the City Planning Commission in conjunction with large scale development in the transit zone

BCB 8 is concerned that finding (3) does not adequately define a distance to what might be considered the surrounding area and does not mention finding parking as what might have an undue adverse effect and does not give consideration to the availability of parking in the surrounding area and proximity to public transportation. *BCB 8 seeks to define the surrounding area as up to 1,000 feet and the City Planning Commission must consider the availability of parking in the surrounding area and the proximity of public transportation as addition factors in determining the amount of parking spaces to reduce or waive.*

23. Appendix 1: Transit Zone

BCB 8 is concerned that while all of CD 8 is considered to be within the transit zone, access to either subway line can be 10 to 12 blocks away, and is uphill climb if you are walking South. For Community District 8, the rate of gentrification mitigates against removing the minimum parking requirements from any plans for affordable or market rate housing. Provisions for parking should be retained for the benefit of the current residents. *BCB 8 should not be included in the Transit Zone.*

Application #: **N160051ZRY**

CEQR Number: 16DCP028Y

Project Name: **Mandatory Inclusionary Housing**

Borough(s): Citywide

Community District Number(s): Citywide

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by The New York City Department of City Planning. The Mandatory Inclusionary Housing Text Amendment would require that a share of new housing be permanently affordable; however this program would only become applicable through subsequent City zoning actions.

Applicant(s): New York City Department of City Planning 22 Reade Street New York, NY 10003		Applicant's Representative: Beth Lebowitz
Recommendation submitted by: Brooklyn Community Board 9		
Date of public hearing: November 17, 2015	Location: Middle School 61 - 400 Empire Blvd. Brooklyn, NY 11225	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
Date of Vote: November 24, 2015	Location: Middle School 61 - 400 Empire Blvd. Brooklyn, NY 11225	
RECOMMENDATION		
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions	
<input checked="" type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary.		
Voting		
# In Favor: 6	# Against: 26	# Abstaining: 0
		Total members appointed to the board: 48
Name of CB/BB officer completing this form Demetrius Lawrence	Title Chairperson	Date 12/8/2015



Community Board Ten

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OFFICE OF THE
CHAIRPERSON

DEC 3-2015
29079

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Vice Chairperson
RONALD GROSS
Secretary
GREGORY AHL
Treasurer

BRIAN KIERAN
Chair

JOSEPHINE BECKMANN
District Manager

November 19, 2015

Mr. Carl Weisbrod
Director
New York City Planning Commission
22 Reade Street
New York, NY 10007

Dear Mr. Weisbrod:

At a duly publicized meeting of Community Board Ten held on Monday, November 16, 2015, members voted overwhelmingly to support the recommendation of the Zoning and Land Use Committee regarding the proposed Department of City Planning Text Amendments, Zoning for Quality and Affordability and Mandatory Inclusionary Housing. Community Board 10's adopted statement is attached.

Thank you for your consideration to the Board's concerns. Please do not hesitate to contact me if I can be of further assistance.

Sincerely

Josephine Beckmann
District Manager

JB:dg
Att.

cc: Council Member Gentile
R. Jacobs – DCP
CB 10 Zoning and Land Use Committee



Community Board Ten

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ZONING FOR QUALITY AND AFFORDABILITY Brooklyn Community Board 10 Statement ZQA 11/16/15

Few would deny the need for a fair and comprehensive plan that would address the pressing need for affordable and senior housing in New York City. Certainly Community Board 10 recognizes this need. Upon due consideration, within the review time allotted, the Members of Brooklyn Community Board 10 conclude that the Zoning for Quality and Affordability (ZQA) initiative, now before us, is not that plan.

At a duly publicized meeting of Community Board Ten held on November 16, 2015, members voted “no” on the initiative. There were 38 members present with 35 voting in the affirmative; 2 voting against and one recusal.

Community Board Ten holds the vision of maintaining neighborhood character with respect to density and scale. We ascribe to maintaining and enhancing the essential low-scale, sometimes varied, sometimes uniform, streetscape. Neighborhood character, although perhaps an overused and elusive term, is the very reason why existing residents stay and new residents come.

Community Board Ten has long recognized that, although made of bricks and mortar, the character of our neighborhood is nonetheless extremely delicate and can be easily eroded without vigilance.

Density in the built environment requires balance – balance within the capacities of mass transit, balance in the number school seats in safe and well-constructed schools, balance within the capacity of the vehicular streets and pedestrian sidewalk traffic, balance in the containment and removal of garbage, balance with the manpower of the city agencies charged with enforcement and compliance and balance with many other increasingly overburdened aspects of the neighborhood infrastructure, aspects which need to be in place prior to considering increased density.

Scale in the built environment requires control to ensure that buildings work in compatibility side by side with each other and that they contribute to an overall aesthetically and functionally pleasing presence along the streets and sidewalks. Scale can be tempered by architectural detailing and articulation but it is still largely determined by size, height and proximity to adjacent buildings and the street.

Community Board Ten recognizes that our city planning concerns cannot end at our district boundary lines. We are part of NYC as a whole, and share a common destiny with the entire borough and the city. CB10, because of the hard-won contextual zoning applicable in most of the district, would certainly be less impacted by the proposed ZQA than many other areas in the city although our large scale “soft-sites” may still not be adequately protected.

Community Board Ten

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Overall, we disagree with the direction of ZQA and the increased density and scale that will inevitably result, and thus, we disagree, in large part, with the content of the ZQA. We do not concur with the City Planning Commission (CPC) statements that ZQA will not produce dramatic changes in development and that it will not encourage tear-down of existing buildings.

The schedule for this review process was rushed, especially given the broadness and complexity of the amendments. These text amendments were first summarized in the spring, with the official plans not realized until the end of September, giving two months for review. The community boards and the public deserved more time to understand and evaluate these text amendments and given the breath of their hard work on these amendments, even the City Planning Commission itself, deserved that we have more time to consider their proposals.

Nevertheless, ZALUC was assigned a task within a condensed time-frame and found numerous issues that are concerning. Our negative vote is based on many concerns including the following:

Concern that lower density contextual zones would have insufficient control over placement of long term care facilities, yielding incompatible uses and bulk and also without adequate buffering between long-term care facilities and the adjacent residences.

Concern about the proposed height, setback and bulk increases in the non-contextual, low-density zones, altering the essential character of these neighborhoods, which have a predominance of detached and semi-detached existing homes.

Concern that the placement of long-term care facilities, as-of-right, in any detached or semi-detached district, will have a negative impact on existing built communities.

Concern about the increased building heights and setback changes in the higher density residential districts, as well as the elimination of existing provisions, which limit exceedingly tall sliver type of buildings on narrow lots.

Concern, in general, about uncharacteristic proposed bulk of senior housing and care facilities, in that these facilities are also essentially businesses, with a significant employment presence.

Concern about the 100% lot coverage for corner lot buildings in quality housing developments and about changes in the shallow lots regulations, reducing the depth of rear yards.

Concern about allowing rear extensions to fill the rear yard up to 15' in height in denser contextual zones, intruding on the collective rear yards.

Concern about the reduction of minimum distances between two or more buildings, applying a lower standard for light and air for dwelling units and to the increasing of building heights in the transitional areas between divergent zoning districts.

(With respect to PARKING)

Concern about elimination or reductions in parking requirements for new senior development, in all zones, both within and outside the transit zones. The reduction in parking requirements exacerbates overall parking shortages and ignores the parking needs of the facility residents, staff, and visitors.

ERIC ADAMS, BOROUGH PRESIDENT

Community Board Ten

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Concern about retroactive elimination or reduction in parking requirements with respect to existing residential facilities for seniors, not only with respect to the parking, but more importantly, providing the opportunity for further development on these already densely populated sites.

Concern about elimination or reductions in the parking requirements for new affordable housing and about the retroactive removal of current parking requirements for existing affordable housing, in all zones, both within and outside the transit zones. Similarly for both existing and new senior and affordable housing, we are concerned about any decrease in the number of parking spaces, whether resulting from an increase the parking waiver limits or resulting from reduction in the number of parking spaces currently required.

Even in the transit zones, parking spaces are important to the quality of life, not only for the immediate residents in these zones but also for those living outside the zones who may drive to access public transportation.

Concern that even the architectural quality aspects of the ZQA, that could result in better designed buildings, (aspects such as higher ceiling heights at ground levels, more articulated street facades, more flexible regulations related to setbacks, bay windows and other features typical of the city's older buildings), are merely encouraged by ZQA. These design mechanisms are not set forth as mandatory zoning regulations.

For all of the above reasons, Brooklyn Community Board Ten recommends a NO Vote to the ZQA text amendment currently proposed by the City Planning Commission.

It is our hope that the CPC will revamp the ZQA to the extent necessary to attract widespread support from Community Boards across the city including Brooklyn CB10.



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MANDATORY INCLUSIONARY HOUSING Brooklyn Community Board Ten Statement MIH 11/16/15

Few would deny the need for a fair and comprehensive plan that would address the pressing need for affordable and senior housing in New York City. Certainly Community Board 10 recognizes this need. Upon due consideration, within the review time allotted, the members of Brooklyn Community Board Ten conclude that Mandatory Inclusionary Housing (MIH) initiative, now before us, is not that plan.

At a duly publicized meeting of Community Board Ten held on Monday, November 16, 2015, members voted “no” on the MIH initiative. There were 38 members present with 36 voting in favor; 1 against and 1 recusal.

Community Board Ten holds the vision of maintaining neighborhood character with respect to density and scale. We ascribe to maintaining and enhancing the essential low-scale, sometimes varied sometimes uniform, streetscape. Neighborhood character, although a perhaps overused and elusive term, is the very reason why existing residents stay and new residents come.

Community Board Ten has long recognized that, although made of bricks and mortar, the character of our neighborhood is nonetheless extremely delicate and can be easily eroded without vigilance.

Community Board Ten recognizes that our city planning concerns cannot end at our district boundary lines. We are part of NYC as a whole, and share a common destiny with the entire borough and the city.

Community Board Ten understands that as of now, the City has no plans to initiate any MIH plans within our boundary; however we cannot predict the future and are mindful of many of our large scale “soft-sites” which do not, as yet, enjoy protections from potential overdevelopment.

Overall, Community Board Ten believes strongly that all new development should include mandatory affordable housing; however, we disagree with the direction of this particular MIH plan and the process leading up to our vote.

The schedule for this review process was rushed, given the broadness and complexity of the amendments. These text amendments were first summarized in the spring; the official plans were not realized until the end of September, giving two months for review. The community boards and the public deserved more time to understand and evaluate these text amendments and given the breath of their hard work on these amendments, even the City Planning Commission itself deserved that we have more time to consider their proposals.

Community Board Ten

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Nevertheless, Community Board Ten was assigned a task within a condensed time-frame and found numerous issues that are concerning. Our negative vote is based on many concerns including the following:

Concern: MIH will not achieve the affordable housing that this city and its communities need. City Planning described its plan, which although it may very well be the most rigorous of any major U.S. City, may not be rigorous enough for New York City. The plan provides options for percentages of affordable units at either 60% or 80% AMI (average median income) and an additional workforce option for those averaging 120% AMI.

For many communities these options do not take into account a large number of households that make fewer than 60% AMI. For other communities such as Community Board 10, there are many of households that make 130% AMI but are still truly rent-burdened by the Market Rate housing made available to them. AMI is based on income before taxes and does not take into account other economic burdens that face young families such as growing student debt.

In order for MIH to work, developments must have a breakdown of available units that accurately reflect the needs of residents in each Community Board.

Concern: MIH includes provisions that may deter the development of quality affordable housing. The first such provision is the “second building” option. This option allows the affordable housing to be accommodated in a building separate from the market rate housing building. There is nothing within the plan that guarantees consistency in the quality standards between the market rate building and the affordable rate building.

The second provision is the “payment in lieu of” option, which allows developers who do not include affordable housing in a given project, to contribute to a fund which would be dedicated to increasing the number of affordable units elsewhere. The city’s plan on the collection and distribution of these funds is not defined. Although it was explained that HPD would have a role, no details have been provided, and thus no guarantee can be made that the funds can be collected and how the funds will be used. It is also unclear as to whether or not the Community Boards will have a say in how best the funds can serve the community.

The third provision is the opt-out “hardship appeal” which one can make to the BSA. There is no framework at present for an appeal and as in most BSA appeals, the advantage is with the developers and not the Community Board recommendations.

Concern: Any housing developments of 10 units or less would be exempt from mandatory inclusionary housing. This is a problem because since 2000, public records show that about 95,000 units were built citywide in buildings with less than 10 units, out of almost 300,000 units total. That means a third of all the apartments built in the last 15 years would be exempt from mandatory inclusionary zoning. This could greatly reduce the number of affordable housing units built.

Concern: Another concern is the administration of the program. There is no single agency that oversees the process. For example, the NYC Department of Finance dispenses the tax breaks while HPD can revoke them while Rent Stabilization is overseen by a NYS agency, etc.

Community Board Ten

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For all of the above reasons, Brooklyn Community Board Ten recommends a NO Vote to the MIH text amendment proposed by the City Planning Commission. It is our hope that the CPC will revamp the MIH to the extent necessary to attract widespread support from Community Boards across the city including Community Board 10.

NYC PLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation
Pursuant to the Uniform Land Use Review Procedure

Application #: 160051 ZRY	Project Name: Mandatory Inclusionary Housing
CEQR Number:	Borough(s): Brooklyn Community District Number(s): 12

Please use the above application number on all correspondence concerning this application.

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (5-digit application number), e.g., "CB Recommendation #C10000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3358 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:
IN THE MATTER OF an application on Mandatory Inclusionary Housing. (See attachment)

Applicant(s): Department of City Planning	Applicant's Representative: Jonah Rogoff
Recommendation submitted by: Community Board 12	
Date of public hearing:	Location:
Was a quorum present? YES <input type="checkbox"/> NO <input type="checkbox"/>	<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven district members.</small>
Date of Vote: November 24, 2015	Location: Amigo Senior Center - 5901 13th Avenue, 3rd Floor
RECOMMENDATION	
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions
<input type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions
<i>Please attach any further explanation of the recommendation on additional sheets, as necessary.</i>	
Voting	
# In Favor: 26	# Against: 2
# Abstaining: 2	Total members appointed to the board: 50
Name of CB/BB officer completing this form	Title
Barry Spitzer	District Manager
	Date
	12/1/2015

Mandatory Inclusionary Housing & Zoning for Quality and Affordability Summary

The Zoning & Variance Committee met on November 10th to hear a presentation from City Planning on the Zoning for Quality and Affordability and Mandatory Inclusionary Housing Text Amendment for New York City. You have all received a copy of our Community Board profile for Zoning for Quality and Affordability.

Mayor de Blasio, as one of his key initiatives along with City Planning has come up with a proposal for a Mandatory Inclusionary Housing program that would require, through zoning changes, a share of new housing to be permanently affordable.

The requirement would work together with City housing subsidies, other zoning changes and 421a reforms achieved in Albany in June of this year. This Mandatory Inclusionary Housing would be the most rigorous zoning requirement for affordable housing of any major city. The Dept of Housing Preservation and Development consulted as well. This proposal is a zoning text amendment which will require approval of the City Council.

The main features of the policy are that affordable housing would be mandatory. Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing whether rezoned as part of a neighborhood plan or a private rezoning application. Affordable housing would also be permanent.

Mandatory Inclusionary Housing would make more affordable housing for a more New Yorkers.

Under the proposal the City Planning Commission with the approval of the City Council, would apply one or both of the following requirements to each MIH area:

0

25% of residential floor area must be affordable housing units for residents with incomes averaging 60% annual income (\$46,620 per year for a family of three) or

30% of residential floor area must be for affordable housing units for residents with incomes average 80% annual income (\$62,150 per year for a family of three).

Also to one of these options the City Council and City Planning could decide to apply an additional, limited workforce option for markets where modest or middle income development would be marginally financially feasible without any subsidy:

30% of the total residential floor area must be for housing units for residents with incomes averaging 120% annual income (\$93,240 per year for a family of three).

No direct subsidies could be used for these affordable housing units.

No units could be targeted to residents with income above 130% annual median income (\$101,010 per family of three).

Mandatory Inclusionary Housing represents the floor, not the ceiling of affordability that would, at the end, achieve new development in City initiated neighborhood rezoning. Each area would be evaluated to determine the role that HPD programs could play in broadening and deepening affordability, in addition to new City capital investments in services, facilities and infrastructure to support smart growth.

This text amendment would still have to go through a ULURP process.

Housing in New York has become increasingly unaffordable. This plan lays out a set of strategies to preserve and create 200,000 units of affordable housing.

This proposal will allow zoning to establish limited on the use, size and shape of buildings, with numerous zoning districts mapped in the city's diverse neighborhoods to show their varying density and character.

These affordability proposals would make it easier to provide the range of affordable senior housing and care facilities needed for an aging population and to help seniors remain in their own communities.

It would provide mixed-income housing, which would also make taxpayer dollars go further toward affordable housing goals

The quality issue would change rules that lead to flat, dull apartment buildings, to accommodate and encourage façade articulation, courtyards and other elements that provide visual variety to make the pedestrian experience more interesting,

It would encourage better ground floor retail spaces and residential units with adequate ceiling height and maintain rules that work well today, including the essential rules of "contextual" zoning districts and lower-density districts.

There are key changes proposed in medium and high density zoning districts. Residential buildings would be allowed additional height – no more than 5 feet, in over 95% of cases – if they provide a taller ground floor.

Allow limited additional height – no more than one or two stories, in over 95% of cases – to fit the additional floor area allowed for building providing affordable senior housing or Inclusionary Housing in areas designed for it.

Introduce a limit in the number of stories for buildings to ensure that additional stories cannot be squeezed in within these heights.

Allot buildings a few feet of room to set back from the sidewalk and provide garden areas in front of the building

Allow a spectrum of affordable senior housing and care facilities – ranging from independent living to State licensed facilities like assisted living and nursing care – alone or in combination and

Make parking optional for new affordable housing units in transit-accessible areas.

In low density districts that allow multifamily housing key changes under the proposal would be:

Allow a spectrum of affordable senior housing and car facilities.

Modify zoning that today is designed to produce walkup building and allow affordable senior apartment t be built in a building served by an elevator, not exceeding four to six stories.

The proposed zoning changes are targeted as such:

Would not allow any additional market-rate floor area, or encourage teardowns –

Would not eliminate any contextual zoning district, or re-map any zoning district –

Would not reduce or alter the Landmarks Preservation Commission’s over site of landmarked buildings or historic districts –

Would not change as-of-right residential rules in one and two family districts –

Would not reduce the amount of green or open spaces required for building and –

Would not produce dramatic changes in development in any neighborhood.

Community Board 12 has proposed several modifications to these proposals. They are listed below:

Mandatory Inclusionary Housing Community Board 12 Proposed Modifications

Affordability Requirements – Qualify Rent Burdened Households and Mandate Percentage at 40 Percent AMI (Average Median Income) by Community Districts

Community Board 12 is concerned that 55 percent of its renter households are rent-burdened. *In order to ensure that rent burdened households receive the maximum opportunity to secure regulated permanent Mandatory Inclusionary Housing Text facilitate housing, CB12 seeks to have AMI qualifications adjusted to include those who would reduce their rent burden*

Community Board 12 is also concerned that there is no obligation to reach households at 40% AMI (or rent-burdened equivalent). *CB12 seeks a mandated set-aside for percentage at 40% AMI for both the 60% and 80% average AMI options.*

This requires ZR 23-154 (d)(3) (i)(ii) to note such obligations

Location – Preserve Existing Apartments to Preclude Displacement

Community Board 12 is concerned that unlike the Voluntary Inclusionary Housing program, Mandatory Inclusionary Zoning does not provide any opportunity preclude displacement. For those being displaced, lottery units do not guarantee lottery selection or even having the proper income to be eligible for such units. *CB12 seeks to expand eligibility to a preservation option so that more tools are available to keep residents permanently in their apartments according to rent-regulated protection.*

BSA Special Permit (ZR73-624) – Establishing Parameters for the Extent that BSA Might Modify Mandatory Requirements

Community Board 12 is concerned that the preamble of what BSA might modify merely defines income levels without any accommodation for rent burdened household equivalents.

Furthermore, there are no set parameters to what extent BSA may modify income levels for qualifying households. CB12 is also concerned that finding (a) to be made by the Board of Standards and Appeals does not provide for a demonstration that the City has not been provided adequate opportunity to enhance its subsidies and it does not adequately define reasonable return in the context of what would be the rate of return prior to the property being rezoned according to MIH. *CB12 seeks for buildings in excess of 25 units for a demonstration that the City is not prepared to provide enhanced subsidies. For all developments, that the qualifying households to include rent burdened AMI equivalents and to preclude the conversion of AMI restricted housing to market rate housing*

- *BSA shall limit market rate floor area, and its commercial equivalent, to the equivalent value of the non-bonused percentage of the as-of-right permitted Floor Area Ratio (70-75% of FAR).*

Payment In Lieu of Option – Smaller Developments Need to Participate

Community Board 12 is concerned that zoning lot developments of ten units or less (12,500 sf or less) of exempted from the proposed affordable housing obligation. *CB12 seeks to extend applicability of the payment in lieu of option to the minimum number of apartments that defines a multiple dwelling (three units).*

*This requires ZR 23-154 (d)(4)(i) to be amended to **three units***

Bedroom Mix – Promoting Family-Sized Units

Community Board 12 is concerned that there is not sufficient leverage/flexibility to provide for a greater number of bedrooms for the affordable units as part of mixed-income buildings. *CB12 seeks to require a minimum threshold for non-independent residences for seniors and non-supportive housing to accommodate family-sized apartments.*

This requires ZR 23-96 Requirements for Generating Sites or MIH Sites (c)(1) Bedroom mix of affordable housing units shall not be proportional to the bedroom mix of the dwelling units in the generating site as long as not less than 50 percent of the affordable housing units contain three or more bedrooms and 75 percent of the affordable housing units shall contain two or more bedrooms.

**Zoning for Quality and Affordability
Community Board 12 Proposed Modifications**

In regards to Affordable Independent Residence for Seniors Being Retained as a Resource

Community Board 12 is concerned that, but for zoning bonus enabled floor area, there would be no obligation mechanism to prevent the conversion of affordable independent residences for seniors to market rate housing occupancy beyond the terms of its regulatory agreement (minimum of 30 years according to zoning definition for affordable housing). This is despite generous additional floor area and height, and relaxed parking requirements when compared to market rate housing.

Community Board 12 seeks for the zoning text to deter affordable independent residences for seniors from being converted to market-rate housing.

In Regards to Affordable Independent Residence for Seniors and Long Term Care Facilities

- Appropriate Bulk When Developed on Detached, Semi-Detached Blocks and Attached Housing Blocks with no Front Yard Parking

Community Board 12 supports the proposal to limit the height, bulk and floor area of independent residences for seniors and for long term care facilities in zoning districts designated for detached, semi-detached homes and low-density attached housing districts (R3A, R3X, R4A and R5A detached home, R3-1 and R4-1 semi-detached districts and R3-2 and R4B attached home districts). Community Board 12 is concerned that the proposed as-of-right bulk provisions for affordable independent residences for seniors is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible bulk on many blocks in Brooklyn that are characterized as predominantly detached and/or semi-detached where they remain in R5 multi-family housing zoning designated districts. These conflicts become more apparent along narrow streets. Community Board 12 believes that there should be additional consideration in the zoning text for R5 districts where such residential block fronts predominantly developed consistent with detached and/or semi-detached development, and attached homes with no front yard parking, as a means to preclude uncharacteristic proposed bulk of affordable independent residences for seniors and long-term care facilities on with housing characteristics.

Community Board 12 seeks the protection of single, two or three-family detached, semi-detached residences or and row house districts without front yard parking. Community Board 12 believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities. In addition such affordable independent residences for seniors to be applicable to long-term care facilities floor area and bulk envelop should not be applicable to zonings lots exclusively fronting along narrow streets.

- Appropriate Height and Bulk for Both Affordable Independent Residences for Seniors and Long-Term Care Facilities When Developed in R3-2, R4 and R5 Multi-Family Districts

Community Board 12 is concerned that the proposed one size fits all building height of up to 6 stories or 65 feet beyond 25 feet from the street line.

Community Board 12 seeks 55 feet in R5 Districts for zoning lots on blocks that do not meet those characteristics of defining detached or semi-detached homes, and attached houses with no parking in the front yard for the R4 district.

- Precluding As-of-Right Status for Long-Term Care Facilities on Detached Zoning Districts and Predominantly Detached Blocks

Community Board 12 is concerned that the proposed requirement for long-term care facilities to need to obtain discretionary approval (Community Board input) is limited to only R1 and R2 detached single-family home districts. For the remaining detached home districts (R3A, R3X, R4A and R5A) and blocks predominantly developed consistent with detached homes, the proposal would otherwise allow long-term care facilities homes to be permitted as-of-right. Community Board 12 is concerned that the proposed as-of-right allowance for long-term care facilities is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible intensity of use, especially when fronting along narrow streets because many forms of long-term care facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas. Community Board 12 believes that similar standards for Community Board input should be applied to R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent

with detached homes as a means to preclude as-of-right placement of long-term care facilities amongst detached developed blocks.

Community Board 12 understands that the proposed lot sizes and distances from residents for locating a long-term care facility in R1 and R2 single-family home districts would be too stringent for R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent with detached homes, though there should be Commission findings regarding the use, its scale and placement of the building that assures a long-term care facility would not alter the essential character of the neighborhood; and, there be adequate buffering from adjacent residences when locating a long-term care facility use in detached home districts as well as blocks predominantly developed consistent with detached homes.

Community Board 12 seeks to restrict incompatible use and bulk from detached home areas by making development pursuant to an authorization or special permit approved by the City Planning Commission, as a means to provide standards of findings and Community Board input.

- Appropriate Bulk for Affordable Independent Residence for Seniors and Long Term Care Facilities Floor Area for R7A Districts fronting Narrow Streets in the Ocean Parkway District.

Community Board 12 seeks for narrow street frontages to be treated the same by either retaining 4.0 on both the R7A fronting narrow streets and R8B should be increased to match the R7A Inclusionary Zoning FAR standard of 4.6 FAR.

The proposed text does not permit Community Facility Bulk being applied to long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations for R5A detached home and semi-detached districts. A City Planning Commission special permit allowance community facility bulk would be applicable for R5 Districts without regards to whether there is significantly consistent block fronts that are predominantly developed with detached homes and semi-detached homes and are along narrow streets. Approving special community facility floor area bulk permits could potentially result in out-of-context development of incompatible intensity of use. Community Board 12 seeks to preclude uncharacteristic proposed bulk of long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations on block fronts predominantly developed with detached homes and semi-detached homes and along narrow streets as such facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas.

Community Board 12 seeks the establishment of provisions for zoning lots occupied by a single, two or three-family detached or semi-detached residence to alleviate out-of-context facilities.

- Appropriate Bulk When Developed on Detached, Semi-Detached Blocks and Attached Housing Blocks with no Front Yard Parking. Community Board 12 believes that such provision would alleviate out of context facilities.

Furthermore, as many areas zoned R5 are not receiving the same protection from the Zoning Resolution as districts that preclude attached housing or attached housing with parking in the front yard, from precluding bulk and height pertaining to affordable independent residences for seniors and to long-term care facilities, Community Board 12 seeks preliminary analysis of all R3-2 and R5 Districts to determine

where Districts such as R3A, R3X, R3-1, R4A, R4-1, R4B and R5A are appropriate and then for the Department of City Planning to undertake such rezonings.

In Regards to Providing for Appropriate Building Height

- Transition Height of Taller Avenue Buildings (R6A-R10) to Lower-Rise Mid-Blocks (R1-R6B)
- Right Sizing Maximum Height of Buildings With Residential Occupancy for Quality Housing Buildings Providing Affordable Housing Pursuant to the Inclusionary Housing Program

Community Board 12 supports providing additional height to provide assurance that developments would contain affordable housing. Though it is concerned that the maximum height and number of stories being proposed is too excessive of an increase to accommodate the intent for the Inclusionary Housing designated area permitted floor area ratio (FAR) to be utilized. The proposed heights would undermine community led efforts to impose contextual height limits in areas rezoned to promote housing development as part of neighborhood-wide contextual rezoning that included contextual preservation-minded rezoning.

Community Board 12 seeks to reduce the Maximum Height of Building as follows:

**Maximum Height of Building with qualifying ground floor means second floor at least 13 feet above the sidewalk*

Zoning District	(proposed)non-qualify ground floor	Maximum Height of Building with qualifying ground floor	Maximum Number of Stories
R7A	(100)90	95	9

- Zoning Floor Area Reduction for Lobby Ramps to Accommodate Persons with Mobility Disabilities as a Means to Encourage Elevating a First Floor Level

For Quality Housing buildings, a developer would be permitted to exclude up to 100 square feet for each foot above curb level up from the definition of zoning floor area. Community Board 12 believes that 100 square feet is nearly 40 percent more than necessary to equate the floor space required to comply with an ADA compliant ramp and with landings, resulting up approximately up to 150 square feet of free development rights – enough to result in a master bedroom. Community Board 12 seeks to limit compensation to the area needed to provide the ramp, with additional financial offset received by raising each floor up to five feet above a property where the ground floor remained a sidewalk level.

Community Board 12 seeks to reduce the exemption to 70 feet per foot.

In Regards to Providing for Appropriate Yard Obstructions

- Relaxing Lot Coverage and Rear Yard Requirements for Shallow lots and Shallow Though Block Lots for R6-R10 Districts and Commercial Equivalent

City Planning is proposing to change the definition of what is a shallow lot from 70 feet to 95 feet in depth and 190 feet to define a shallow with the intent towards quality design and achieving permitted floor area without the need to obtain a Variance from bulk provisions. Community Board 12 is concerned that such change would result in building extensions that would altering the character of the collective rear yards of the block.

Community Board 12 seeks enable more lots to qualify as shallow though less intrusive as proposed by recommending increasing the standard of 70 feet to a new standard of 80 feet and shallow street-to-street lots be defined by 180 feet as means to provide a degree of relief without the need for a Variance.

Permitted Obstructions in Required Yards or Rear Yard Equivalents in R6A and R7A Districts

- Restricting on Certain Narrow Street Frontages the Proposed Allowance of A One-Story Enlargement On Rear Yards That Contain Common Amenities Such as Laundry Rooms, Recreation Rooms, Etc.

Coverage of rear yards for a single story is permitted for certain zoning districts based on street right-of-way width and where parking is permitted to enclose a one level garage. The proposal would allow amenity spaces in such yards for contextual buildings for sites in certain zoning districts typically designated along wide street right-of-way properties.

The proposal would permit rear one-story building enlargements up to 15 feet in height might in R6A and R7A districts without regard to street right-of-way width. Equivalent height and density zoning districts meant to be designated along narrow street width (*R6B, R7B and R8B Districts*) would not be permitted to have rear yard placement of such amenities. If certain narrow street width blocks were mapped R7B or R8B in lieu of R6A or R7A the rear of these properties would not permit the proposed one-story amenity space. Though, because of R6A and R7A zoning status, new enlargements could potential become an appropriate intrusion for the character of the collective rear yards for these blocks. Community Board 12 believes that the collective rear yard experience for these blocks with narrow-street widths should remain protected as would be the case if initially zoned R7B or R8B.

Community Board 12 seeks for zoning lots located in an R6A or R7A District that fronts along a narrow street to be regulated consistent with R6B, R7B and R8B districts, where such rear yard intrusion would not be applicable according to the proposed text.

- Allowing Community Facility Uses to Have A Higher Rear Yard Coverage Height (Not in City Planning's proposal)

In certain situations, Community Facilities are permitted to cover the entire rear yard up to a height of 23 feet with the roof counting as meeting residential open space requirements.

By utilizing the proposed ground floor height incentive that allows building heights to be increased by five feet, it might not be possible to place two floors of community facility use in the rear yard while not exceeding 23 feet. This places community facilities with a choice between balancing the opportunity of achieving additional ground floor height that is otherwise offset by reducing the amount of overall community facility floor area because the second floor would not be able to extend into the rear yard because of the roof needing to be above 23 feet—which is not permitted. Without adjusting the qualifying rear yard height, which is now up to 23 feet above curb level for meeting the required residential open space requirement upon the roof of the community facility portion of such building, might preclude use of the ground floor incentive or the provision of a two stories of community facility use extending into the rear yard.

In order to promote community facility ground floor height without compromising community facility floor area placement, a nominal increase in permitted rear yard obstruction height would address this circumstance.

Community Board 12 seeks to modify the qualifying community facility rooftop residential open space height to 25 feet.

- Appropriate Corner Lot Coverage to Promote Wrap Around Building Walls

City Planning is proposing to allow residential buildings at corners to coverage the entire lot, in lieu of the existing 80 percent maximum coverage rule. Community Board 12 is concerned that promoting 100 percent lot coverage provides too much flexible which might result in substandard room layouts without containing any windows or with lot line only windows that could be blocked one day or having lot line windows adjacent to neighboring back yard. These so called offices and dens would not meet light and air standards for living and sleeping rooms.

Community Board 12 seeks to retain the 80 percent corner lot provision, except for sections of corner lots with lot width not exceeding 30 feet which may have 100 percent coverage.

In Regards to Providing for Appropriate Parking

Appendix 1: Transit Zone

Community Board 12 is concerned that the Transit Zoned as mapped is too extensive. The following should be given consideration in terms of refining Transit Zone boundaries:

Three Choices:

- We leave the transit district as is without modifications (allows affordable, low income & elderly without parking requirements)
- One block to the east and west side of New Utrecht Avenue and McDonald Avenue
- Two blocks to the east and west side of New Utrecht Avenue and McDonald Avenue
- Parking Requirement for Affordable Independent Residences for Seniors

The proposal would allow existing affordable independent residences for seniors to remove now required group parking lots in Community District 12 and outside the transit zone the proposed rate decrease from 35 percent in and R4 Districts and 31.5 percent in R5 Districts to 10 percent appears to be too much of a decline. Community Board 12 is concerned that applying the elimination of parking requirements to existing affordable independent residences for seniors does not reflect the utilization (residents, employees, frail elderly traveling providers, etc.) of these accessory group parking facilities and might result in a quality-of-life impact for the residents of surrounding blocks by displacing the existing off-street parking as it would result in added competition for on-street parking on surrounding streets.

Community Board 12 seeks to modify by limiting the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent unless the resulting parking waiver would facilitate the elimination of such parking requirement, and for group parking facilities outside the transit zone,

that in lieu of ten percent, to limit the reduction of parking requirement to 15 percent in R5 Districts and 20 percent in R4 Districts.

- Decrease the Number of Market Rate Units and for Community Facility Use Where Parking Needs to Be Provided in Certain Community Districts (Not in City Planning's proposal)

As neighborhoods are being upzoned, often in proximity to rapid transit, not enough consideration has been given to auto-lifestyle consideration for households able to afford cars living further from Downtown Brooklyn. Where prior zoning might require parking for developments with more than ten units, these new districts merely require development of more than 30 units to provide parking. The same standard for community facility use jumped from at least requiring more than 25 parking spaces to required parking to not exceeding 40 spaces. This parking waiver appears to be excessive for neighborhoods in the outermost sections of Brooklyn where car ownership rates tend to reflect lifestyles where quality-of-life depends on the ability to find parking.

Community Board 12 seeks to modify the residential waiver in certain R7A Districts from 15 spaces to the R6, R7-1 and R7B standard of five spaces and the community facility use waiver from 40 spaces to the R6, R7-1 and R7B standard of 25 spaces.

- Market-rate for developments containing affordable housing (Board of Standards and Appeals)
- Existing parking spaces for income restricted housing units and for affordable independent residences for seniors (BSA)
- Large scale development (City Planning Commission)

Community Board 12 is concerned that findings do not adequately define a distance to what might be considered the surrounding area and do not take into account the availability of parking as an adverse effect

Community Board 12 seeks to define the surrounding area as up to 1,000 feet and for consideration for the availability of parking in the surrounding area and the proximity of public transportation as additional factors in determining the amount of parking spaces to reduce or waive.



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ERIC ADAMS
Borough President

STEPHEN MORAN
Chairperson

EDDIE MARK
District Manager

Dec. 7, 2015

Kerensa Woods
Department of City Planning

Please be advised that at the November meeting of Brooklyn Community Board 13, held on November 18, 2015 the board voted as follows with quorum present:

Mandatory Affordable Inclusionary Housing:

Motion: Community Board 13 rejects the Mandatory Affordable Inclusionary Housing Text Amendment.

VOTE: In Favor: 26 Opposed: 0 Abstentions: 1

Zoning for Quality and Affordability Text Amendment:

Motion: Community Board 13 rejects the Zoning for Quality and Affordability Text Amendment.

VOTE: In favor: 25 Opposed: 0 Abstentions: 2

If you need any further information, please contact me at the number listed above.

Best Regards,

Eddie Mark
District Manager
Brooklyn Community Board 13

Brooklyn Community Board 14
Summary of Conditions
Mandatory Inclusionary Housing (MIH) N 160051 ZRY

Background

Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH) are complementary city-wide zoning text changes that share the stated purpose of incentivizing affordable housing. Both enable larger buildings to be constructed: ZQA by raising height limits for affordable or senior housing or a long-term care facility, and MIH by allowing a building of more than 10 units to grow by (typically) 50% or more in bulk if it uses 25%-30% of its floor area for affordable housing and requires a rezoning or special permit.

The Department of City Planning (DCP) emphasizes that MIH and ZQA are designed to work together – so much so that DCP’s descriptive literature portrays them as two interlocking pieces of a four-piece jigsaw puzzle (City Housing Subsidies and 421-a Reform are the remaining pieces depicted).

Characterizing MIH and ZQA as distinct but interdependent initiatives, DCP has chosen to certify them simultaneously for concurrent but separate public review. This decision has several important implications. It:

- Conveys so much information at once – hundreds of pages - that all but professional planners and land use experts are challenged to understand the implications of the proposed changes;
- Allows DCP to present MIH as a generic action under CEQR, the City Environmental Quality Review, thereby obviating the need to predict adverse environmental impacts of specific projects required under and incentivized by MIH;
- May generate objections that the separate CEQR consideration of MIH and ZQA constitutes segmentation, as discussed in Section 130 of the 2014 CEQR Technical Manual;
- Encourages community boards and others to rely heavily on DCP-prepared presentations and summary materials, which may not emphasize important information;
- Makes it impractical for reviewers to evaluate the two proposals independently.

Accordingly, Brooklyn Community Board 14 (CB14) will ask a uniform group of questions about MIH and ZQA, and will offer answers specific to each proposal:

1. Will they work to increase affordable housing?
2. Will they change the character of the community district’s neighborhoods?
3. Will they create challenges for service delivery and necessary infrastructure?
4. Will they affect the public’s ability to participate in the City’s land use process?

Mandatory Inclusionary Housing

1. Will MIH work to increase affordable housing?

CB14 believes that MIH needs to be substantially modified to work effectively to support the goal of creating affordable housing.

As a first step, DCP should increase the number of MIH options, to serve the range of diverse needs within and between neighborhoods.

Second, DCP should require that off-site MIH developments set aside an additional percentage of affordable units above the on-site requirement. This will recognize that off-site options may benefit from lower property acquisition and construction costs.

Third, DCP should inoculate MIH against lengthy negotiations and legal challenges by clarifying its rules. For example, MIH bars practices such as poor doors (in the same building), which are said to “stigmatize” affordable housing occupants, but states, in Section 23-94(f)(2), that the Department of Housing Preservation & Development (HPD) may, in some separate-building circumstances, determine “that the primary entrance is located in a manner that does not stigmatize occupants of affordable housing units.” This could prompt challenges by affordable housing advocates, or developers.

Moreover, DCP has admitted that the separate building on separate lot option has not been popular among those developers who have participated in the voluntary inclusionary housing program, because such buildings are not eligible for 421-a tax benefits. DCP says that NYC has no plans to seek changes in State regulations to solve this conundrum.

Finally, MIH does not require that the stipulated affordable housing actually be built. It permits developers of buildings between 11 and 25 units to seek approval to make an *in lieu* contribution to an affordable housing fund. This provision could induce a developer to try to buy the right to build a bulkier building without including any affordable housing.

2. Will MIH change the character of the community district’s neighborhoods?

The effect of MIH on Brooklyn Community District 14 (CD14) would depend on then-current affordable housing policy, market conditions, availability and terms of governmental subsidies such as 421-a, and on land availability and construction opportunities.

According to DCP, MIH’s near-term impacts on Brooklyn CD14 are expected to be minimal, because Midwood and Flatbush underwent rezoning in 2005 and 2009, respectively, and are not currently targeted for further changes. But administration policy could shift, or a private action could be initiated by a developer. Any new rezoning or large-scale special permit would trigger the terms of MIH.

MIH – like ZQA - can work to support its stated purpose only if inclusion of affordable housing adds to the profitability of a development project. Presumably, this would be accomplished by allowing additional bulk without commensurately increasing “fixed” costs such as for land acquisition. Given the presumption of increased profitability, MIH would create a financial incentive for developers to seek the stipulated rezoning action. Any incentive to initiate rezoning changes neighborhood character.

Notwithstanding DCP’s expectation that MIH would have minimal near-term effect on CD14, a review of the district’s current zoning suggests that CD14 includes areas that could become rezoning targets under MIH, if other conditions favor residential development. These areas include the following zones:

- R7-1 between Woodruff Avenue and Crooke Avenue, west of Ocean Avenue**
- C4-2 Albemarle Road to Beverley Road, Flatbush Avenue to Bedford Avenue, including Sears lot**
- R6 along Avenue I between Flatbush Avenue and East 29 Street., and south on Nostrand Avenue to Avenue L**
- M1-1 near Avenue M, Avenue L, East 13 Street, and Q/B subway line
- R6 on Elm Avenue, East 12 Street to East 13 Street*
- R4 south of Brooklyn College
- R5 in Midwood

Zones marked with an asterisk (*) already have been identified as eligible for updating of the Quality Housing Option. The allowable base height could be increased in zones marked with two asterisks (**).

Brooklyn Community Board 14 believes that MIH, which enables buildings to have 50% or more additional floor area, could incentivize rezoning actions and yield substantial character change and population growth in Midwood and northeast Flatbush.

3. Will MIH create challenges for service delivery and necessary infrastructure?

The history of major private development in NYC is that it is the prerogative of incumbent administrations to consider and authorize such development, and it is the responsibility of their successors to provide the public funding for the municipal services occasioned by such development. This separation contributes heavily to the City’s burgeoning debt service budget and is a danger to the City’s fiscal solvency.

On a local level, Community Board 14 is concerned that required adjustments to City services and other infrastructure components, e.g., utilities, would lag far behind the population growth enabled by MIH. This would create service delivery problems for all areas of CD14.

4. Will MIH affect the public's ability to participate in the City's land use process?

As previously noted, MIH has been designated a "generic action" under the City Environmental Quality Review process, inasmuch as it does not identify specific development sites. This exempts it from the detailed review of adverse environmental impacts.

In principle, a detailed review might be triggered later by a site-specific rezoning application (if needed to qualify for MIH). But this review could be limited to the rezoning action, if the intended development project is filed later. Moreover, most small-scale rezoning actions receive a "negative declaration" at the short environmental assessment statement (EAS) step of the CEQR process, based on a determination that they are too small to have substantial environmental impacts. This would close the book on the public's ability to comment on the environmental impacts of the intended development.

This scenario embodies a major loophole: It does not contemplate a succession of independent small-scale rezoning actions in the same neighborhood, each incentivized by the bulk allowances made as-of-right by MIH.

Thus, at no point would a developer need to disclose an individual project's incremental adverse impacts on, e.g., population density, traffic, parking, light and shade, noise, air and water quality, waste conveyance, etc.

CEQR does not describe a multi-site environmental assessment process for independent private construction projects occurring at different times in a given neighborhood or community district. Yet the cumulative impacts of such projects could be substantial, and could warrant mitigation.

Fortunately, cumulative impacts are well-defined in the State Environmental Quality Review Act (SEQRA). To borrow from a description published by the New York Public Interest Research Group (NYPIRG):

These are impacts on the environment that result from the incremental or increased impact of an action(s) when the impacts of that action are added to other past, present and reasonably foreseeable future actions. Cumulative impacts can result from a single action or a number of individually minor but collectively significant actions taking place over a period of time. Either the impacts or the actions themselves must be related. When making the determination of significance the lead agency (the agency that coordinates the environmental review) must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions, which are: (i) included in any long-range plan of which the action under consideration is

a part; (ii) likely to be undertaken as a result thereof; or (iii) dependent thereon. 6 N.Y.C.R.R. 617.7(c)(2).

CB14 questions whether MIH, by incentivizing multiple independent projects in a newly-rezoned area through added bulk in exchange for certain uses, satisfies the criteria in SEQRA for assessment of cumulative impacts, particularly in a single neighborhood where a multi-site rezoning action is initiated, triggering the provisions of MIH.

Brooklyn CB14 urges DCP to find a solution to this need, such as by requiring that each rezoning application be accompanied by a survey of recent and pending rezoning actions and building permits in the same community district or within a stipulated radius, and a determination by the City Planning Commission that the instant rezoning, taken together with recent and pending rezoning actions, would not cause significant cumulative impacts.

Summary: For the reasons stated above, CB14 cannot endorse MIH in its present form.

* * *

ERIC ADAMS
Brooklyn Borough President

VIOLA D. GREENE-WALKER
District Manager



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BETTIE KOLLOCK-WALLACE
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November 30, 2015

City Planning Commission
Calendar Information
22 Reade Street, Room 2E
New York, New York 10007

Re: N160051ZRY
Mandatory Inclusionary Housing Text Amendment

Dear Commissioners:

At a public meeting held on November 24, 2015, Community Board #16 voted to disapprove with modifications/conditions the above subject application as follows 0-in favor, 23-against, and 5-abstentions with a total membership of 44.

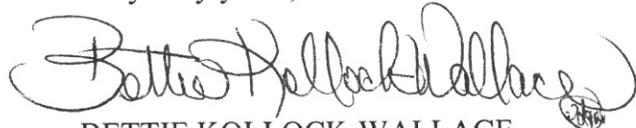
Brooklyn Community Board #16 is concerned that the Area Median Incomes (AMI) used as a basis for affordable housing is not appropriate for the goals of MIH. New York City's AMI is much greater than Ocean Hill's median income, thereby making the new affordable developments affordable only to those outside the area. This will also make local homeowners and tenants more vulnerable to the changes in the housing market as a result of MIH. *The Community Board seeks to lower the AMI required to qualify for new affordable housing. If this adjustment is unfeasible due to funding, other measures should be taken to ensure existing residents and businesses can stay. For example, helping low-income homeowners finance basic home improvements and developing the local economy by employing local contractors.*

Brooklyn Community Board #16 is concerned that the projected amount of new affordable housing will not be an adequate enough supply for those who need the housing units (homeless, rent burdened, overcrowding). *The Community Board seeks to guarantee permanent affordable housing for a great portion of this population by increasing the percentage of affordable units from 20% to 40%, at a qualifying affordability threshold based off of the neighborhood's median income.*

Brooklyn Community Board #16 is concerned that the text amendment allows developers to build affordable units separately from market-rate housing, for the purposes of making development easier for developers. *The Community Board seeks to change to include affordable housing in the same buildings as market-rate units to promote equal living and economic diversity of the neighborhood.*

Brooklyn Community Board #16 is concerned that developers will be able to waive affordable housing requirements if BSA finds that meeting the requirements creates an unnecessary hardship for the developer. This will allow developers to avoid including affordable housing if they can find a good enough reason to match the definition of "unnecessary hardship." *The Community Board seeks to eliminate this option or DCP suggest another option, as the major goal of rezoning, Mandatory Inclusionary Housing, and Zoning for Quality and Affordability is to provide affordable housing for New Yorkers.*

Very truly yours,

A handwritten signature in black ink, reading "Bettie Kollock-Wallace". The signature is written in a cursive style with a large, sweeping flourish at the end.

BETTIE KOLLOCK-WALLACE
Chairperson

cc: Hon. Eric Adams
Hon. Inez Barron
Hon. Rafael Espinal, Jr.
Hon. Darlene Mealy



The City of New York

COMMUNITY BOARD 17

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CB17 Response to Zoning for Quality and Affordability and Mandatory Inclusionary Housing

Community Board 17 is concerned that the proposed standards for single-family detached home, detached home R1 and R2 Districts, for Long-term care facilities, permitted subject to the provisions of a modified ZR 22-42 (Long-Term Care Facilities), does not provide for similar standards applicable to R3A, R3X, R4A and R5A detached home Districts as a means to restrict the placement of Long-term care facilities in such districts. Community Board 17 seeks to restrict incompatible use and bulk from detached home areas.

CB 17 EXPECTS TO HAVE SOME OF THESE DISTRICTS MAPPED IN THE NEXT FEW YEARS AS PART OF ITS REQUEST TO THE DEPARTMENT OF CITY PLANNING FOR A REZONING, SO IT WOULD LIKE SUCH PROTECTIONS IN PLACE NOW FOR THESE ZONING DISTRICTS.

ZR 12-10 Affordable independent residences for seniors

Community Board 17 is concerned that such use of affordable independent residences for seniors would be pursuant to a regulatory agreement to occupancy by low income households for a minimum of 30 years in lieu of the City having right to impose extended duration options. Community Board 17 seeks to prevent generous additionally floor area and relaxed parking requirements from being converted to market-rate housing without first giving the City the opportunity to provide operating subsidies.

ZR 22-13 Use Group 3 Community Facilities

Community Board 17 is concerned that the proposed standards for single-family detached home R1 and R2 Districts, for Long-term care facilities, permitted subject to the provisions of a modified ZR 22-42 (Long-Term Care Facilities) according to footnote #1, does not provide for similar standards applicable to R3A, R3X, R4A and R5A detached home Districts as a means to restrict the placement of Long-term care facilities in such districts. Community Board 17 seeks to restrict incompatible use and bulk from detached home areas.

ZR 22-22 Uses Permitted by Special Permit by the City Planning Commission

Community Board 17 is concerned that the requirement to obtain discretionary approval for long-term care facilities (except as provided in ZR 22-42 (Long-Term Care Facilities) is limited to R1 and R2 detached single-family home Districts, while allowing long-term care facilities in R3A, R3X, R4A and R5A detached home Districts as-of-right.

Community 17 seeks that such use be pursuant to a Special Permit or City Planning Commission Authorization as a means to provide standards of findings and Community Board input.

ZR 22-42 City Planning Commission Special Permit for Long-Term Care Facilities

Community Board 17 understands that the proposed lot sizes and distances from residents for locating a long-term care facility in R1 and R2 single-family home Districts would be too stringent for R3A, R3X, R4A and R5 A detached home Districts, though is concerned that the Commission findings regarding the use, its scale and placement of the building, would not alter the essential character of the neighborhood and of adequate buffering from adjacent residences are not part of the proposal for consideration for the locating of long-term care facility use for these detached home Districts. Community Board 17 seeks for the City Planning Commission to have authority according to either an Authorization or Special Permit to approve the placing of long-term care facilities in these detached home districts.

ZR 23-01 Applicability and General Purposes

Community Board 17 is concerned that there are no additional provisions for R3, R4 and R5 Districts where such residential development is significantly consistent where R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached Districts are now established as a means to preclude uncharacteristic proposed bulk of affordable independent residences for seniors and long-term care facilities on block fronts predominantly developed with detached homes. The Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached or semi-detached residence where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residences. Community Board 17 believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities.

ZR23-153 Quality Housing Buildings Corner Lot Coverage

Community 17 Board is concerned that the maximum residential lot building coverage for a corner lot would be 100 percent, in lieu of the existing 80 percent provision, without regard to lot width. The Borough Board believes that the such design flexible promoted by 100 percent lot coverage could promote substandard room layouts/proximity to windows, including so called offices and dens that would not meet light and air standards for living and sleeping rooms. Community 17 Board seeks to retain the 80 percent corner lot provision, except for sections of corner lots with lot width not exceeding 30 feet which may have 100 percent coverage.

ZR 23-155 Affordable independent residences for seniors Floor Area Ratio

Community Board 17 is concerned that the maximum floor area for R8B remains 4.0 FAR while the equivalent residential floor area for R7A was increased to 5.01 for R7A without regard to whether the R7A is mapped on wide or narrow streets. Community Board 17 seeks for narrow street frontages to be treated the same by retaining 4.0 on both the R7A fronting narrow streets and R8B should be increased to match the R7A Inclusionary Zoning FAR standard of 4.6 FAR.

ZR 23-156 Special lot coverage provisions for shallow lots in R6-R10 Districts, ZR 23-52 (b)(2) Special Provisions for Shallow Interior Lots, ZR 23-533 Required rear yard equivalent for Quality Housing buildings and ZR 23-534 Special Provisions for Shallow Through Lots R6-R10 Districts

Community Board 17 is concerned that the changing the definition from 70 feet to 95 feet (Note: Lower Density Districts would remain at 70 feet) in depth to define a shallow lot and 190 feet to define a shallow through lot is too permissive towards achieving City Planning's intent towards quality design and achieving permitted floor

area without the need to obtain a Variance from bulk provisions and would result in overly permissive rear yard enlargements altering the character of the collective rear yards of a block. There are sections of Brooklyn blocks that are not characterized by the standard block width of 200 feet where lots are consistently 80 or 90 feet in depth with yard character well-defined that might be compromised by more liberal lot coverage if the existing shallow lot standard were increased from 70 feet to 95 feet of depth. The Borough Board seeks for shallow lot provisions to be increased from 70 feet to 80 feet and shallow through lots be defined by 180 feet as means to provide a degree of relief without the need for a Variance.

ZR 23-44 (b)(9) Permitted Obstructions in Required Yards or Rear Yard Equivalents in R6A and R7A Districts

Community Board 17 is concerned that permitting rear one-story building enlargements up to 15 feet in height might not be an appropriate intrusion for the character of the collective rear yards where R6A and R7A Districts are mapped along narrow street widths. Community Board 17 seeks for zoning lots located in an R6A or R7A District that fronts along a narrow street to be regulated consistent with R6B, R7B and R8B Districts, where such rear yard intrusion would not be applicable according to the proposed text.

ZR 23-631 (f) General Provisions Height and Setback Requirements in R5D Districts and ZR 23-662 Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings

Community Board 17 is concerned that the level of adjoining sidewalk is an ill-defined reference term for zoning lots with sloped frontages to determine where the determination that the finished floor of the second story above grade is measured from as a means to establish a height of at least 13 feet has been provided in order to achieve the additional five feet of building height. Community Board 17 seeks to establish open space measurement from legal grade of the base plane or some equivalent standard.

ZR 23-631 (i) General Provisions Height and Setback Requirements in R3-2-R5 Districts Except for R4A, R4B, R4-1, R5A, R5B, R5D and Special Ocean Parkway Districts

Community Board 17 is concerned as noted on comments above regarding ZR 23-01 that there are no additional provisions for R3, R4 and R5 Districts where such residential development is significantly consistent where R3 A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached Districts are now established as a means to preclude uncharacteristic proposed bulk of affordable independent residences for seniors on block fronts predominantly developed with detached and semi-detached homes and that for others blocks the proposed building would be equally permitted to achieve a height of up to 6 stories or 65 feet beyond 25 feet from the street line without regard to the permitted floor area ratio being 0.95 FAR in R3-2 Districts, 1.29 FAR in R4 Districts and 1.95 FAR in R5 Districts. Community Board 17 seeks 3 stories or 35 feet in R3-2 Districts, 4 stories or 45 feet in R4 Districts and 5 stories or 55 feet in R5 Districts for zoning lots on blocks that do not meet that characteristics of defining detached or semi-detached homes.

ZR 23-664 (a) Modified height and setback regulations for certain buildings R6-R10 Districts for Quality Housing buildings providing affordable housing pursuant to the Inclusionary Housing Program and Table 1 Modified Maximum Base Height and Maximum Building Height for Certain Quality Housing Buildings

Community Board 17 is concerned that the maximum height and number of stories is proposed to be excessively increased in the intent to accommodate the Inclusionary Housing designated area permitted floor area ratio (FAR) and as a result undermines community led efforts to impose contextual height limits in areas rezoned to promote housing development as part of neighborhood-wide contextual rezoning that included contextual preservation-minded rezoning. Community Board 17 seeks to adjust corresponding Table 1 as it pertains to Maximum Height of Building with non-qualify ground floor/Maximum Height of Building with qualifying ground floor/Maximum Number of Stories as follows: R7A 90/95/9; R7D 110/115/1

ZR 23-711(b)(2) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R 3-R10 Districts for Two or more buildings on a single zoning lot

Community Board 17 is concerned that the more minimal standards of the New York State Multiple Dwelling Law to require not more than 40 feet between building walls of undefined length of overlap up to 125 feet in height does not adequately provide for light and air. Given the expectation of utilizing excess development rights of NYCHA campuses and existing affordable independent residences for seniors, there should be an expectation of quality light and air standards as opposed to provisions that allow less than desirable building placements. Community Board 17 seeks a maximum length where distance between buildings up to 125 feet in height when at least one wall contains legal windows, should have a maximum length of overlap within the standard of 40 feet and then require up to a maximum requirement of 60 feet between such building walls.

ZR 24-013 (a)(2) Special provision for certain community facility uses for buildings containing long-term care facilities in R3 through R5 districts except in R3A, R3X, R3-1, R4A, R4B, R4-1, R5A, R5B and R5D Districts

Community Board 17 is concerned that the proposed as-of-right allowance of provisions for affordable independent residences for seniors to be applicable to long-term care facilities is too wide-spread for these zoning districts and could potentially result in out-of-context development of incapable intensity of use. This includes not having provisions for R3, R4 and R5 Districts where such residential development is significantly consistent where R3A, R3X, R4A and R5A detached home, R3-1 and R4-1 semi-detached and R4B, R5B and R5D attached Districts as a means to preclude uncharacteristic proposed bulk of long-term care facilities on block fronts predominantly developed with detached homes and semi-detached homes and along narrow streets where such long-term care facilities, which are essentially businesses with a significant employment presence seeking placement in low-density residential areas. The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached, semi-detached residence and row house districts without front yard parking, where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residences. The Borough Board believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities. In addition such affordable independent residences for seniors to be applicable to long-term care facilities floor area and bulk envelop should not be applicable to zonings lots exclusively fronting along narrow streets.

ZR 24-164 Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses Location of Open Space Residential Portion R1-R9

Community Board is 17 concerned that the ground floor incentive to allowing building heights to be increased by five feet without adjusting the qualifying rear yard height, which is now up to 23 feet above curb level for meeting the required residential open space requirement upon the roof of the community facility portion of such building, might preclude use of the ground floor incentive or the provision of a two stories of community facility use extending into the rear yard. Community Board 17 seeks to modify the qualifying community facility rooftop residential open space height to 25 feet.

ZR 25-252 Required Accessory Off-Street Parking Spaces for Residences – Modification of Requirements Where Group Parking Facilities Are Required R1-R10 Districts for Affordable Independent Residences for Seniors

Community Board 17 is concerned that applying the elimination of parking requirements to existing affordable

independent residences for seniors within the transit zone does not reflect the utilization of such accessory group parking facilities and might result in a quality-of-life impact for the residents of surrounding blocks displacing existing off-street parking with the resulting added competition for on-street parking on surrounding streets. In addition, the Borough Board is concerned that outside the transit zone the proposed rate decrease from 35 percent in R3 and R4 Districts and 31.5 percent in R5 Districts to 10 percent is too much of a decline given that these locations might induce automobile trips associated with building staffing for such residences in combination with the number of senior households that might still own cars when relocating to such affordable independent residences for seniors and might have a degree of dependency on such automobiles for trips ranging from medical appointments, purchasing food and consumer goods and lifestyle in these less than assess able neighborhoods outside the transit zone. Community Board 17 seeks to modify by limiting the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent unless the resulting parking waiver would facilitate the elimination of such parking requirement, and for group parking facilities outside the transit zone, that in lieu of ten percent, to limit the reduction of parking requirement to 15 percent in R5 Districts and 20 percent in R3 and R4 Districts.

ZR 25-261 Waiver of Requirements for Small Number of Spaces for R7A Districts and ZR 25-33 Waiver of Requirements for Spaces below Minimum Number for Permitted Non-Residential Uses

Community Board 17 is concerned that the waiving of any parking requirements for development not exceeding 30 residences or where more than 25 parking spaces but not exceeding 40 spaces for community uses is excessive for neighborhoods in the outermost sections of Brooklyn where car ownership rates tend to reflect life styles where quality-of-life depends on the ability to find parking. Community Board 17 seeks to modify the residential waiver in certain R7A Districts from 15 spaces to the R6, R7-1 and R7B standard of five spaces and the community facility use waiver from 40 spaces to the R6, R7-1 and R7B standard of 25 spaces.

ZR 28-11 Elevated Ground Floor Units R6-R10 Districts

Community Board 17 is concerned that for Quality Housing buildings, excluding up to 100 square feet for each foot above curb level up from the definition of zoning floor area is nearly 40 percent more than necessary to equate the floor space required to comply with ADA ramp and standards, resulting up approximately up to 150 sf of free development rights. The Borough Board seeks to reduce the exemption to 70 feet per foot.

ZR 73-433 Reduction of (market-rate unit) parking spaces in the Transit Zone to facilitate affordable housing

Community Board 17 is concerned that finding (c) does not adequately define a distance to what might be considered the surrounding area and does not mention finding parking as what might have an undue adverse effect and does not contain similar factors as identified in ZR 73-434 Reduction of existing parking spaces for income restricted housing units for addition safeguard that might be imposed by the Board of Standards and Appeals. Community Board 17 seeks to define the surrounding area as up to 1,000 feet and BSA must consider the availability of parking in the surrounding area and the proximity of public transportation.

ZR 73-434 Reduction of existing parking spaces for income restricted housing units and ZR 73-435 Reduction of existing parking spaces for affordable independent residences for seniors

Community Board 17 is concerned that finding (c) does not mention finding parking as what might have an undue adverse effect and finding (c) and factors to be considered by the BSA does not adequately define a distance to what might be considered the surrounding area. Community Board 17 seeks to define the surrounding area as up to 1,000 feet.

ZR 73-623 Bulk modifications for Quality Housing buildings on irregular sites

Community Board 17 is concerned that existing site planning building placement, accommodation of parking requirements and underbuilding of height that resulted in much underutilization of permitted floor area and not listed as practical difficulties according to finding (b) in order to provide the BSA with more latitude when the ownership remains the same.

ZR 74-903 (a) (2) and (3) Special Permit for certain community facility uses in R3 to R5 Districts and certain Commercial Districts by the City Planning Commission to permit the community facility floor area provisions containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations

Community Board 17 is concerned that the proposed City Planning Commission special permit allowance of provisions for affordable independent residences for seniors to be applicable to long-term care facilities is too wide-spread for these zoning districts and could potentially result in out-of-context development of incapable intensity of use. This includes not having provisions for R3, R4 and R5 Districts where such residential development is significantly consistent where R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached Districts as a means to preclude uncharacteristic proposed bulk of long-term care facilities on block fronts predominantly developed with detached homes and semi-detached homes and along narrow streets where such long-term care facilities, which are essentially businesses with a significant employment presence seeking placement in low-density residential areas. The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached or semi-detached residence where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residence be incorporated into sub-sections (2) and (3). Community Board 17 believes that such provision would alleviate out-of-context facilities.

Appendix 1: Transit Zone

Community Board 17 is concerned that For Community District 17, west of East 93rd Street to south of east New York Avenue to Utica Avenue and east of Brooklyn Avenue should be removed from the Transit Zone.

R3-2, R4 and R5 District Developed with Primarily Detached and Semi-Detached Homes

Community Board 17 is concerned that many areas zoned R3-2, R4 and R5 are not receiving the same protection from the Zoning Resolution as Districts that preclude attached housing, such as bulk and height pertaining to affordable independent residences for seniors and to long-term care facilities. Community Board 17 seeks preliminary analysis of all R3-2, R4 and R5 Districts to determine where Districts such as R3A, R3X, R3-1, R4A, R4-1 and R5A are appropriate and then for the Department of City Planning to undertake such rezoning as part of City Planning's Comprehensive rezoning requested by Community Board 17.

Affordability Requirements

Community Board 17 is concerned that 55 percent of City renter households are rent-burdened. *In order to ensure that rent burdened households receive the maximum opportunity to secure regulated permanent Mandatory Inclusionary Housing Text facilitate housing, the Borough Board seeks to have AMI qualifications adjusted to include those who would reduce their rent burden.* The Board is concerned that there is no obligation to reach households at 40% AMI (or rent-burdened equivalent). *The Board seeks a mandated set-aside for percentage (determined individually by Community Districts) at 40% AMI for both the 60% and 80% average AMI options.*

Location

Community Board 17 is concerned that unlike the Voluntary Inclusionary Housing program, Mandatory Inclusionary Zoning not provide any opportunity preclude displacement. For those being displaced, lottery units do not guarantee lottery selection or even having the proper income to be eligible for such units. The Board *seeks to expand eligibility to a preservation option so that more tools are available to keep residents permanently in their apartments according to rent-regulated protection.*

BSA Special Permit

Community Board 17 is concerned that the findings to be made by the Board of Standards and Appeals... *In addition, the Board seeks to limit the amount of market rate floor area to the equivalent value of the non-bonused Floor Area Ratio of the Voluntary Inclusionary Housing Program (67% of FAR)*

Thank you.



COMMUNITY BOARD No. 18

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Bill de Blasio
Mayor
Eric L. Adams
Borough President
Saul Needle
Chairperson
Dorothy Turano
District Manager

November 19, 2015

COPY

OFFICE OF THE
CHAIRPERSON

DEC 2-2015
29028

Honorable Bill de Blasio
Mayor of the City of New York
City Hall
New York, New York 10007

**RE: Zoning for Quality and Affordability Text Amendment Application # N160049ZRY
Mandatory Inclusionary Housing Application # N160051ZRY**

Dear Mr. Mayor:

Community Board No.18, at its regularly scheduled meeting on Wednesday, November 18, 2015, voted unanimously to oppose the adoption of the proposed Zoning for Quality and Affordability Text Amendment Application No. N160049ZRY, and the Mandatory Inclusionary Housing Application No. N160051ZRY.

This "one-size-fits-all" plan will undo decades of dedicated community planning for Community Boards, working with property owners, the Department of City Planning (DCP) and elected officials in an effort to preserve the physical and aesthetic character of our communities.

The proposed new rules would permit developers to build higher than currently allowed in "contextual zoning districts" – which protect low-rise neighborhoods from rampant development that is out of character with the existing housing stock – as long as they include below-market-rate units or senior housing with the virtual elimination of parking space requirements. These larger and taller developments will overshadow the low-scale buildings that characterize our neighborhoods.

Reduced parking requirements for senior housing will create an additional parking burden for our already overburdened available on-street parking. Senior citizens do own cars as do their visitors and the people employed at the facility. The plan would also expand the circumstances under which rear yards in residential neighborhoods can be built upon, though these provide a critically important resource of light, air and green space.

Community Board No.18 seeks to protect perfectly-sound single, two or three family detached or semi-detached homes on both sides of the street facing each other are not demolished to develop out-of-context facilities. The benefit should be extended to more than the existing R3X, R3-1, R4A and R4-1 sections of Canarsie and should be available to more of CB 18 neighborhoods of detached and semi-detached home areas.

Community Board No.18 seeks a maximum length where distance between building walls of connected buildings exceed 50 feet in height when at least one wall contains legal windows, with a maximum requirement of 60 feet between such building walls – which might have implication for adding new buildings to NYCHA sites, recognizing that there is a clear “vision,” and preventing the party wall from encroaching on the side yard requirements. Community Board No.18 opposes the “taking” of open space common areas in these developments.

Community Board No.18 is concerned that “Affordable Independent Residences for Seniors” would be pursuant to a regulatory agreement to occupancy by low income households for a minimum of 30 years in lieu of the City having the right to extend duration options. Community Board No.18 seeks to prevent generous additional floor area and relaxed parking requirements from being converted to market-rate housing.

Community Board No.18 seeks to restrict incompatible use and bulk from detached home areas in R3A, R5A and R6A Districts from being as-of-right.

Community Board No.18 seeks to have the section south of Flatlands Avenue removed from the Transit Zone.

Community Board No.18 seeks to define the surrounding area as up to 1,000 feet and BSA and DCP must consider the availability of parking in the surrounding area and the proximity of public transportation as factors in determining the amount of parking spaces to reduce or waive. (As proposed by DCP affects the area of east and north of East 93 Street and Avenue K.)

Community Board No.18 is concerned that the requirement to obtain discretionary approval for long-term care facilities is limited to R1 and R2 detached single-family home Districts, which allowing long-term care facilities in R3A, R3X, R4A and R5A detached home Districts as-of-right. CB 18 seeks that such use be pursuant to a Special Permit or DCP authorization as a means to provide standards of findings and CB input.

Community Board No.18 is concerned that the proposed DCP special permit allowance provisions for affordable independent residences for seniors to be applicable to long-term care facilities is too wide-spread for these R3 to R5 Zoning

November 19, 2015
ZQA/MIH
Page 3

Districts, and could potentially result in out-of-context development of incapable intensity of use. This includes not having provisions for R3, R4, and R5 Districts.

This citywide proposed rezoning plan will permanently affect neighborhoods across the City. Once again, our communities find themselves faced with the need to oppose "policy over planning" - planning concepts long on text book theory, but short on the practicality of implementation. We urge the City Council to vote "NO" on both proposals until which time the uniqueness of each community can be incorporated in the planning process with the cooperation of the Community Boards and the elected officials.

Thank you.

Sincerely,



Saul Needle
Chairperson



Dorothy Turano
District Manager

cc: Hon. Carl Weisbrod, Chairperson, NYC Planning Commission
Hon. Melissa Mark-Viverito, Speaker, NYC Council
Hon. Eric A. Adams, Brooklyn Borough President
Members of the New York City Council
New York City Community Boards
Community Board No.18 Board Members

COMMUNITY BOARD #1 – MANHATTAN
RESOLUTION

DATE: NOVEMBER 19, 2015

COMMITTEE OF ORIGIN: PLANNING

BOARD VOTE: 38 In Favor 0 Opposed 0 Abstained 0 Recused

RE: Mandatory Inclusionary Housing

WHEREAS: The New York City Department of City Planning (DCP) has proposed a zoning text amendment entitled Mandatory Inclusionary Housing (MIH); and

WHEREAS: MIH is a zoning text amendment that can be applied through a zoning map change for additional density by a ULURP action or through a special permit which creates substantial density, neither of which are likely to occur in Community District 1 (CD1) where few areas are appropriate for rezoning to a higher density; and

WHEREAS: MIH is a new proposal to use zoning to require permanently affordable housing when future City Planning Commission (CPC) actions encourage substantial new housing; and

WHEREAS: For each rezoning, the CPC and City Council can apply:

- Option 1: 25% of units set aside as affordable housing for individuals and families earning at an average of 60% AMI;
- Option 2: 30% of units set aside as affordable housing for individuals and families earning at an average of 80% AMI; or
- Option 3: 30% of units set aside as affordable housing for individuals and families earning at an average of 120% AMI (without direct subsidy), though this option is not available in Manhattan CDs 1-8; and

WHEREAS: Under MIH, required units would be new, permanently affordable units, and the proposed text amendment applies to new developments, enlargements, or conversions with more than 10 units; and

WHEREAS: Affordable units can be located either on-site in the same building as market-rate units, spread on at least half of the buildings' stories with a common street entrance and lobby; on-site, in a separate building, completely independent from the ground to the sky; or off-site on a different zoning lot located within the same community district or within ½ mile; and

WHEREAS: Other considerations are a "payment-in-lieu" option for buildings between 11 and 25 units or those under 25,000 square feet, or a reduction or waiver of requirements through the Board of Standards and Appeals based on a finding that compliance would make development financially infeasible; and

WHEREAS: MIH would be applicable for public and private applications to the CPC that encourage substantial new housing, each with its own full public review, such as City-initiated rezonings, private applications for zoning map changes, or private applications for special permits that create substantial new residential density; and

WHEREAS: CB1 is aware that other community boards and elected officials have expressed various questions and concerns regarding the text amendment, including those raised in a November 17, 2015 letter addressed to CPC Chair Carl Weisbrod from Borough President Gale Brewer and co-signed by several Members of Congress, New York State Senators, New York State Assembly Members and New York City Council Members; now

THEREFORE

BE IT

RESOLVED

THAT: CB1 supports the objective and goals of MIH and strongly supports enabling the development of permanent city-wide affordable housing; and

BE IT

FURTHER

RESOLVED

THAT: CB1, however, opposes the MIH text amendment as currently proposed; and

BE IT

FURTHER

RESOLVED

THAT: CB1 requests the Department of City Planning and City Planning Commission seek to resolve the following concerns of CB1, as well as those reported concerns of other community districts and various elected officials, regarding the current proposal for MIH:

1. CB1 is disappointed by the minimal applicability for this proposal in CD1 and requests that DCP continually evaluate new ways to create affordable housing in CD1 and city-wide;
2. In the case that MIH would be applied in CD1, adequate city services and infrastructure improvements must be matched in order to accommodate the increased residential population;
3. CB1 firmly believes that long-term protection of affordability is as important as new resident's affordability protections;
4. An option for housing for individuals and families at 165% of AMI should be available for neighborhoods such as those within CD1, in order to accommodate for existing middle-income residents who would otherwise exceed the maximum and would not be eligible for new housing under the proposed program's current affordability options;
5. The "workforce option" also should be available in all community districts, including CD1;
6. In the case of "payment-in-lieu" fees, CB1 urges that these funds remain permanently available in the appropriate community district, rather than being relocated for use outside the district after a certain amount of time;

7. CB1 is concerned that there is no requirement for DCP to return to community districts to give an update on the progress of MIH after the program would be implemented;
8. CB1 more generally does not believe a one-size-fits-all approach to inclusionary housing is necessarily a proper approach in a city as large and diverse as New York City;
9. CB1 is concerned this program takes away zoning input and decisions from each of the community districts including CB1;
10. This program does not do enough for middle-income residents (*e.g.*, the spectrum above 80% AMI) or encourage creation of mixed-income neighborhoods;
11. The current draft of MIH effectively allows for a loophole by allowing a waiver to be granted by the Board of Standards and Appeals, again taking away community input on local-level zoning decisions;
12. This program does not fight displacement or secure adequate tenant anti-harassment protections;
13. MIH's on-site, separate building concept would replace "poor doors" with "poor buildings";
14. The trigger for applicability of MIH should be made replaced with clear, objective standards and expanded to a lower threshold for provision of affordable housing, because the "substantial new density" threshold is subjective and unclear; and
15. CB1 is concerned with the process in which this proposal was crafted, having come to the community boards only after significant input from other interests including the real estate industry.

Tobi Bergman, *Chair*
Terri Cude, *First Vice Chair*
Susan Kent, *Second Vice Chair*
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*
Keen Berger, *Secretary*
Susan Wittenberg, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

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Greenwich Village ✦ Little Italy ✦ SoHo ✦ NoHo ✦ Hudson Square ✦ Chinatown ✦ Gansevoort Market

November 20, 2015

Carl Weisbrod, Director
City Planning Commission
22 Reade Street
New York, NY 10007

Dear Mr. Weisbrod:

At its Full Board meeting on November 20, 2015, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

Mandatory Inclusionary Housing (MIH) Presentation by the staff of Department of City Planning to review the impact on our district of the proposed city wide zoning text amendment: Mandatory Inclusionary Housing.

Whereas

1. As a key initiative of Housing New York (Mayor DeBlasio's housing plan), the Department of City Planning is proposing a Mandatory Inclusionary Housing program that would require a share of new housing to be affordable through zoning actions.
2. This proposal is for mandatory and permanent affordable housing to be a part of every application when developers build in an area zoned for MIH.
3. This also includes applications, including rezonings and special permits, that substantially increase floor area above what is allowed by zoning.
4. Under the proposal, the City Planning Commission and City Council would apply one or both of the following requirements to each MIH area:
 - a. 25% of residential floor area must be for affordable housing units for residents with incomes averaging 60% AMI.

- b. 30% of residential floor area must be for affordable housing units for residents with incomes averaging 80% AMI.
5. In addition, the City Planning Commission and City Council could decide to apply an additional, limited “workforce” option (Option C) for markets where moderate- or middle-income development is marginally financially feasible without subsidy, in which case 30% of residential floor area must be for affordable housing units for residents with incomes averaging 120% AMI, but this will not apply to Manhattan Community Districts 1-8.
6. CB2 has been disappointed by the tendency in the Hudson Square Special District for developers to build without inclusionary units even though we were assured at the time of the rezoning that incentives would work to achieve the desired goals of diversity and affordability.
7. MIH would allow an increase to the height limit on Hudson Square narrow streets including for developments that do not provide inclusionary units, thereby allowing more development without necessarily providing more affordable units, and increasing the impacts of the recent Hudson Square Rezoning without review of the Environmental Impact Study.
8. MIH will also require affordable units where residential floor area is substantially increased by special permit or other zoning action in buildings with more than 10 units or more than 12,500 square feet of floor area, with buildings smaller than the thresholds required to contribute to an affordable housing subsidy fund for use within the Community District.

Therefore, be it resolved that CB2, Man.:

1. Supports this important initiative as it pertains to residential development in CB2.
2. Requests application of the inclusionary housing requirements to districts where VIH is now in place, especially in high value areas such as Hudson Square where there is no question that the requirements can be achieved without need for subsidies.
3. Is concerned that insufficient information has been provided to assure that the subsidy fund will be administered in a way that adds diversity and affordability in our neighborhoods.
4. Requests availability of the “workforce” option (Option C) if developers provide additional affordable units over a broad range of AMI bands;
5. Would recommend approval of height increases on narrow streets in Hudson Square if they applied only to inclusionary developments, but strongly opposes increases that will allow taller buildings even if no affordable units are provided.

Vote: Unanimous, with 38 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Tobi Bergman, Chair
Community Board #2, Manhattan



Anita Brandt, Chair
Land Use & Business Development Committee
Community Board #2, Manhattan

TB/fa

- c: Hon. Jerrold L. Nadler, Congressman
Hon. Deborah Glick, Assembly Member
Hon. Daniel Squadron, NY State Senator
Hon. Brad Hoylman, NY State Senator
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Margaret Chin, Council Member
Hon. Corey Johnson, Council Member
Hon. Rosie Mendez, Council Member
Sylvia Li, Dept. of City Planning



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 3
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Gigi Li, Board Chair

Susan Stetzer, District Manager

November 30, 2015

Carl Weisbrod
Director, Department of City Planning
22 Reade Street – 2N
New York, NY 10007

Dear Director Weisbrod,

At its November 2015 monthly meeting, Community Board 3 passed the following resolution:

VOTE: Community Board 3 denies approval of the citywide text amendment, Mandatory Inclusionary Housing N 160051 ZRY

WHEREAS Community Board 3 supports mandatory inclusionary housing as a concept; and

WHEREAS City Planning proposes a text amendment for Mandatory Inclusionary Housing N 160051 ZRY which is a plan that would require through zoning actions a share of new housing to be permanently affordable; and

WHEREAS CB 3 has had insufficient time to fully review and assess this proposal; and

WHEREAS, although the proposal is a city-wide initiative, CB 3 is a unique community with a deep need for low income affordable housing; and

WHEREAS CB 3 would like to see a higher percentage of affordable housing if it is provided offsite; and

WHEREAS the affordable housing should contain a reasonable mix of unit sizes to accommodate different household sizes including families (at least 40% of non-market-rate units should be two bedrooms or larger); and

WHEREAS the community has been working with the Chinatown Working Group for seven years to develop a community-based rezoning that requests 45% to 50% affordable housing for any new development; so

THEREFORE BE IT RESOLVED Community Board 3 denies approval of the citywide text amendment, Mandatory Inclusionary Zoning N 160051 ZRY UNLESS

- 50% of the units and square footage are permanently affordable at an average AMI of 40%
- A higher percentage of affordable housing is required if that affordable housing is provided offsite
- at least 40% of non-market-rate units are two bedrooms or larger.

Please contact the community board office with any questions.

Sincerely,



Gigi Li, Chair
Community Board 3



MyPhuong Chung, Chair
Land Use, Zoning, Public and Private Housing Committee

Cc: Andrew Lombardi, Office of Manhattan Borough President Gale Brewer
Erica Baptiste, Office of Manhattan Borough President Gale Brewer
Sheila Rodriguez, Office of New York City Council Member Rosie Mendez
Vincent Fang, Office of New York City Council Member Margaret Chin
Joel Kolkmann, New York City Department of City Planning
Edith Hsu Chen, New York City Department of City Planning
Baaba Halm, New York City Department of Housing and Preservation



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Christine Berthet
Chair

Jesse R. Bodine
District Manager

November 25, 2015

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

Vicki Been
Commissioner
Department of Housing Preservation & Development
100 Gold Street 10038

Re: **Mandatory Inclusionary Housing**
NI60051ZRY (zoning text amendment)

Dear Chair Weisbrod and Commissioner Been,

At its full board meeting on November 4th, 2015, Manhattan Community Board 4 (MCB4) reviewed the application by the New York City Department of City Planning (the "Applicant") for the proposed Citywide Zoning Text Amendment to create a Mandatory Inclusionary Housing Program (MIH).

The Board by a vote of 39 in favor, 0 opposed, 0 abstentions and 0 present but not eligible **recommended to approve with conditions** the proposed text amendment.

Background—MCB4 Affordable Housing Preservation & Production

Manhattan Community Board 4 has been an affordable housing advocate for decades. From the 1970's when the City was plagued by disinvestment and abandonment, through gentrification and tenant displacement in the 1980's and 1990's, and the major rezoning actions and luxury rental and condo development of the early 2000's, MCB4 has always sought flexibility and creativity from the City government and the private sector to develop and preserve affordable housing.

In 2015, MCB4 developed an Affordable Housing Plan for Manhattan Community District 4, with the goal of fostering the development and preservation of 10,966 units of affordable

housing. The plan is a living document that guides its efforts to support affordable housing.

MCB4 believes that Economic Integration is the only way to help keep Chelsea, Hudson Yards, and Clinton/Hell's Kitchen the thriving neighborhoods they are today. The Board will work to ensure that any changes to Zoning Regulation establish the requirements, standards, and support necessary for developing the housing that is crucial to maintaining our diversity.

Application

The application is for a proposed city-wide text amendment that would apply to any new residential development, enlargement or conversion that requires rezoning. At the point of such a rezoning action, MIH will be mapped over the rezoned underlying zoning. (It will not apply to any development not subject to these actions.) In the proposed Zoning text amendment, The City of New York would make the provision of permanently affordable housing a requirement in any development that falls under these parameters.

Elements of the Application

Applicability

- The zoning text amendment would apply to any new residential development, enlargement, or conversion that requires a rezoning.
- The requirement will also apply to neighborhoods that undergo large-scale rezonings.

Income bands

- The City Planning Commission, along with the City Council will have the discretion to apply one of three affordable housing options to a development.
- Option One requires developers to provide *at least 25% of their total residential floor area to households at an average of 60% of the Area Median Income* (AMI).
- Option Two requires developers to provide *at least 30% of their total residential floor area to households at an average of 80% AMI*.
- Option Three, called the Workforce Option, requires developers to provide *at least 30% of the residential floor area as housing for households of an average 120% AMI*.
- All options mandate that no affordable unit exceed 130% AMI.

Affordable Housing Fund

- For developments that are *between 10 and 25 units, or 12,500 to 25,000 square feet*, the developer must make a payment to an affordable housing fund (in lieu of constructing affordable apartments).
- The payment will be calculated by multiplying the number of affordable units required of the development by a factor that is based on the cost of providing an affordable unit in the particular community where the market rate development will be constructed.
- The funds will be used for construction, rehabilitation, preservation and other affordable housing purposes as defined by HPD guidelines.
- The funds will be used for projects within the same community district or within a half mile radius of the market rate development.
- If the payment cannot be spent within the number of years set forth in HPD guidelines, the funds would become available for use in a broader area.

Economic Integration--Affordable Housing Apartment Distribution Within a Building

- Affordable Apartment distribution will be decreased from 65% of the floors of building to 50% of the floor
- Affordable Apartment distribution (at the decreased 50%) will not apply to condominium and co-op developments when affordable units are rentals
- Equal apartment distribution will not be required for senior or supportive housing units, given the need for social service program requirements

Economic Integration--Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents

- MIH is silent on this matter and contains no proposed zoning text.

Economic Integration--Equal Access to Building Amenities--for Market Rate and Affordable Housing Residents

- MIH is silent on this matter and contains no proposed zoning text.

Location of Affordable Units

- Units can be located in the same building as the development, in a separate building on the same zoning lot as the market rate development, or on a separate zoning lot within the same community district or within a half mile of the market rate development.
- Units that are built as part of off-site developments not on the same zoning lot will not be eligible for a 421-a real estate tax abatement.

Unit Sizes—Changes in Standards

- The minimum unit sizes would be as follows: 400 square feet of floor area for a zero-bedroom unit; 575 square feet of floor area for a one-bedroom unit; 775 square feet of floor area for a two-bedroom unit; 950 square feet of floor area for a three-bedroom unit.
- When the average floor area of an apartment of a particular apartment size (studio, one-bedroom, etc.) is smaller than the minimum unit size requirement, the smaller floor area standard would apply.
- The bedroom mix of the affordable units will have to either match the market rate units or have at least 50% of units that are two bedrooms or more, with 75% or more being one bedroom or more.

Public Review and Comment by Community Boards

- MIH removes the required 45-day public comment and review period for Community Boards. This zoning provision has been in the Voluntary Inclusionary Housing program since 1987.

BSA Special Permit

- There will be a hardship exemption under which developers can go before the Board of Standards and Appeals to modify their affordable housing requirements.

Additional Programs

- Developments may be able to meet their affordable housing requirements if they offer a homeownership option, similar to the one currently available under the Voluntary Inclusionary Housing program
- There would be no preservation option, whereby bonus floor area can be used to meet affordable housing requirements
- Developers whose affordable units are supportive housing could locate those units in a building separate from the market rate units
- A tenant who has lived in a site that is to be demolished for an MIH development may live in one of the affordable units provided by the development, even if their household income exceeds the qualifications set by the program.

Regulatory Agreement

- The regulatory agreement between the developer and HPD would contain an MIH application, which would be a standardized form that would be required for all MIH sites that would specify compliance with the MIH guidelines
- The developer must submit a copy of the MIH application to the local Community Board
- HPD will provide a list of pre-qualified monitoring agents who can oversee compliance with the MIH regulatory agreement.

HPD/MIH Program Guidelines

- Distribution requirements can be changed in situations where a development has too few units to meet the requirements.
- The method used by which HPD measures the square footage of affordable units will be changed so that it conforms to the method used by the Department of Buildings.

MCB4 Proposed Actions and Recommendations

Applicability

MCB4 supports the applicability of the proposed text amendment, which will entail any new residential development, enlargement, or any conversion that requires a rezoning.

Affordable Housing Income Band--Proposed Options

MCB4 supports:

- Option One, under which developers are required to provide ***at least 25% of their total residential floor area to households at an average of 60% AMI.***
- Option Two, under which developers are required to provide ***at least 30% of their total residential floor area to households at an average of 80% AMI.***

MCB4 supports with conditions:

- Option Three, the Workforce Option, under which developers are required to provide ***at***

least 30% of the residential floor area as housing for households of an average 120% AMI (with no households earning more than 130% AMI).

This option is currently proposed to be excluded in CD’s 1-8 in Manhattan.

MCB4 requests the Workforce Option be available in MCB4. Manhattan and its Westside have been historically and should continue to be economically integrated communities. The Workforce Option targets households (from 1 to 4 persons) with annual household incomes ranging from \$36,300 to \$112,190. This income group includes firefighters, civil servants, and persons working in service, health and hospitality industries.

Since 2006 in MCB4, the Voluntary Inclusionary Housing Program (VIH) has produced 2,571 units of affordable housing, of which 93.7% are 60% AMI or below¹. The rest of the units are as follows:

AMI	Number of Units	Percent of Total Units	Income Range (for 1 – 4 persons)
40%	187	7.3%	\$24,200-\$34,520
50%	1,574	61.2%	\$30,250 - \$43,150
60%	647	25.2%	\$36,300 - \$51,780
80%	64	2.5%	\$48,350-\$69,050
100%	27	1.1%	\$60,500 - \$86,300
130%	27	1.1%	\$78,650-\$112,200
165%	47	1.8%	\$99,850-\$142,400
>165%	8	0.3%	\$99,900 and above

Total: 2,571

Affordable housing in MCD4 should be available to a range of incomes to include all New Yorkers. **Economic Integration should be the goal, not economic segregation.** Manhattan should not be economically stratified for the very wealthy and lowest income only. Therefore the Workforce Option, which permits a broader range of incomes, must be available in MCB4.

Given the strong real estate market in Manhattan, it is financially feasible for a market rate development to support a greater percentage of affordable housing. **Therefore MCB4 recommends that the Workforce Option requirement for Manhattan be 30% or more².**

Further MCB4 request that, in projects with multiple affordability bands, no gaps in affordability are permitted, such affordability gaps restrict access to broad range of New Yorkers.

Local Affordable Housing Fund-- Payment in Lieu Contributions for Developments less than 12,500 square feet

¹ See Appendix attached (list of VIH buildings forthcoming)

² Given the new 421A requirement for 25% affordability @ 80% AMI or below, for projects using this option and 421A, the Workforce Component will be effectively an 5% increment of such housing

For developments that are *between 10 and 25 units, or 12,500 to 25,000 square feet*, the developer can make a payment to an affordable housing fund (in lieu of construction affordable apartments).

MCB4 supports contribution to a Local Affordable Housing Fund provided that:

- ***The Contribution Standard should be based on current actual costs for constructing housing in that Community District***
- ***Proposed zoning text must include an annual review of the contribution formula and standard.***
- ***Use of the Local Affordable Housing Fund should be determined by HPD in consultation with the local Community Board and Councilmember and Borough President.***

Economic Integration-- Affordable Housing Apartment Distribution within a Building

The proposed MIH zoning proposes:

- Allowing Supportive or Senior Housing to be clustered in a portion of a building
- Decreasing the requirement for distribution of the affordable housing from 65% to 50% of the floors in a building
- Waiving the requirement for distribution of the affordable housing in Condo buildings with affordable rental units

MCB4 supports:

- ***Allowing Supportive or Senior Housing to be clustered in a portion of a building.*** Such housing often has specific social services or programmatic needs (such as activity rooms, health care facilities and/or social service offices). Therefore the need to cluster such affordable units benefits the residents of those apartments and required to better meet their needs.

MCB4 cannot support:

- ***Decreasing the requirement for distribution of the affordable housing from 65% to 50% of the floors of a building***

Since 2007, MCB4 has reviewed 26 Inclusionary Housing applications, containing 3,516 affordable units. In its direct experience in reviewing Inclusionary Housing applications in the Voluntary Inclusionary Housing Program (VIH), ***MCB4 has requested, and developers have agreed, to affordable apartment distribution 67% to 100% of the floors.***

Inclusionary Housing in MCB4—Inclusionary Apartment Distribution within Buildings

Project	Address	Year	Required Distribution	Distribution Agreement
Caledonia	450 West 17th Street	2006	65%	65%
TF Cornerstone	455 West 37th Street	2007	65%	65%
Clinton Housing	505 West 51st Street	2007	100%	100%
Douglaston Development	316 11th Avenue	2007	65%	65%
Emerald Green	310-328 West 38th Street	2007	65%	100%
River Place II	600 West 42nd Street	2007	65%	65%
Atlantic Development	303 10th Avenue	2008	65%	65%
TF Cornerstone	505 West 37th Street	2008	65%	65%
Avalon Bay	525 West 28th Street	2009	65%	100%
Tower 37 LLC	350 West 37th Street	2009	65%	73%
Crystal Green	330 West 39th Street	2010	65%	72%
Gotham West	550 West 45th Street	2011	65%	80%
Mercedes House	770 11th Avenue	2011	65%	100%
Lalezarian	515 West 28th Street	2012	65%	80%
Related Companies	500 West 30th Street	2012	65%	85%
Arker Companies Development	424 West 55th Street	2013	100%	100%
DHA Capital	546 West 44th Street	2013	65%	71%
Extell Development	551 10th Avenue	2013	65%	80%
Moinian	605 West 42nd Street	2013	65%	67%
Iliad Development	509 West 38th Street	2014	65%	84%
Elad	505 West 43rd	2014	65%	60% ¹
Manhattan West	401 West 31st Street	2014	65%	69%
Taconic/Ritterman	525 West 52nd Street	2014	65%	83%
TF Cornerstone	606 West 57th Street	2014	65%	85%
Site 7	540 West 53rd	2014	100%	100%
Lalezarian	515 West 36th Street	2015	65%	79%

Average 83.4%

1 –number of inclusionary units too low to meet 65% distribution requirement

The development community is properly focused on maximizing return on investment. More Market Rate units on higher floor bring higher per square foot rents or higher per square foot purchase prices.

The City of New York, through it Department of Housing Preservation and Development and City Planning Commission, should focus on maximizing social investment. The MIH proposal should foster not only affordable housing but also Economic Integration, truly integrating all income groups within a building.

The higher floors and increased floor area will only exist due to the proposed Mandatory Inclusionary Zoning. **Higher income New Yorkers' apartments should not sit on the shoulders of Lower Income households.**

MCB4 requests the affordable housing distribution requirement be increased from 50% to 80% of all floors within a building.

Segregating and or relegating affordable units to lower floors creates, not a Poor Door, but a Poor Floor.

MCB4 cannot support:

- *Waiving the requirement for distribution of the affordable housing in Condo or Co-op buildings with affordable rental units*

In the VIH Program, affordable units are required to be integrated on 65% of the floors of the development.

In its MIH presentation to MCB4, HPD stated the reason for waiving the requirement for Economic Integration for Co-ops and Condos which contain affordable housing rental units was that they presented difficulties in management and operation.

MCB4 rejects this rationale as unfounded in longstanding real estate practice and operation. Since the 1960's, thousands of buildings throughout the City of New York have been converted from rental housing to home ownership in the form of Coops or Condominiums. In nearly every instance, rent stabilized or rent controlled renters have continued to live side by side with new owners (either prior tenants or new buyers). The majority of such buildings has been and continues to be successfully managed by the private sector. Managing a mixed building of market rate condos or coops and affordable rental housing is the same circumstance.

MCB4 requests that the affordable housing distribution remain as a requirement for Co-op and Condominiums buildings and the distribution requirement be 80% of all floors within a building.

Segregating affordable units onto lower floors creates, not a Poor Door, but a Poor Floor, and in the case of Coops or Condos, creates the impression that the City of New York values homeowners over renters.

Furthermore, MCB4 is both surprised and distressed that this proposal is silent with regards to access to amenities, finishes, and appliances for affordable units. These issues must be addressed in order to ensure that the residents of these affordable units do not become the victims of stigmatization. The need to set standard requirements for affordable units has become clear to MCB4, which in its years of evaluating applications, has seen an overwhelming number of developers who have sought to create separate standards for affordable units. This has been the key issue in the Community Board's reviews of these applications.

Economic Integration--Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents

Economic Integration demands equality in apartment finishes (flooring, tile, countertops, plumbing and lighting fixtures) and appliances. Such finishes should be the same in all market rate and affordable units. The goal of Economic Integration is ensuring that tenants or owners in the same building live in the same standard of housing. *Creating a separate but not equal apartment finish standards leads to stigmatization.*

All residents should be in the same housing; some apartments just rent or sell for less. The quality of the apartments should not be secondary; the affordable housing residents must not be treated as second class citizens. Their lower income housing creates the financial benefit of the additional height and or bulk directly resultant from MIH, and in turn increases the return for the investment of the private sector. Additionally, MCB4 recommends that this standard also apply to the current Voluntary Inclusionary Housing Program (VIH). MCB4, in its n review of 26 VIH applications has achieved the following:

Inclusionary Housing in MCB4—Equality in Apartment Finishes

Project	Address	Floors	Countertops	Cabinets	Appliances	Paint	Wall Tile	Doors/ Hardware	Baths	In unit washer/dryer
Caledonia	450 West 17th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	455 West 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Clinton Housing	505 West 51st Street	S	S	S	S	S	S	S	S	S
Douglaston	316 11th Avenue	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Emerald Green	310-328 West 38th Street	S	S	S	S	S	S	S	S	S
River Place II	600 West 42nd Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Atlantic Development	303 10th Avenue	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	505 West 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Avalon Bay	525 West 28th Street	S	S	S	S	S	S	S	S	S
Tower 37 LLC	350 W. 37th Street	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Crystal Green	330 West 39th Street	S	S	S	S	S	S	S	S	S
Gotham West	550 West 45th Street	(2)								
Mercedes House	770 11th Avenue	S	S	S	S	S	S	S	S	S
Lalezarian	515 West 28th Street	(3)								S
Related Companies	500 West 30th Street	(1)	(1)	S	(1)	(1)	(1)	S	S	S
Arker Companies	424 West 55th Street	(4)								
DHA Capital	546 West 44th Street	D	D	D	(1)	(1)	(1)	(1)	(1)	S
Extell Development	551 10th Avenue	D	S	S	S	S	(1)	(1)	D	S
Moinian	605 West 42nd Street	S	D	S	D	S	S	(1)	(1)	S
Iliad Development	509 West 38th Street	(5)								S
Elad	505 West 43rd	S	S	S	S	S	S	S	S	S
Manhattan West	401 West 31st Street	S	D	S	D	S	S	(1)	(1)	S
Taconic/Ritterman	525 West 52nd Street	S	S	S	S	S	S	S	S	(1)
TF Cornerstone	606 West 57th Street	D	D	S	D	(1)	(1)	(1)	(1)	S
Site 7	540 West 53rd	S	S	S	S	S	S	S	S	S
Lalezarian	515 West 36th Street	S	S	(1)	S	(1)	(1)	(1)	S	S

S – Same; D – Different

- (1) Information not available
- (2) "Same as the finishes in the moderate- and middle-income units"
- (3) Quality not less than hardwood, porcelain, stone or ceramic
- (4) Oak strip wood flooring, ceramic tile, and wood cabinets

Given its record in achieving a better degree of Equality of Apartment Finishes and Appliances, ***MCB4 requests the proposed MIH Zoning Text be amended to include requirements for MIH developments for the same level of Apartment Finishes for Market Rate and Affordable Apartments. Such Equality in Apartment Finishes and Appliances should also be met if Affordable Apartments are built off site.***³

MCB4 also requests post-construction compliance inspections be made by HPD to ensure that Apartment Finishes and Appliances are equal for Market Rate and Affordable Apartments.

Additionally, MCB4 would like to point out that in many new multifamily developments use a fan blower to supply heat to a unit. Fan blowers use electrical power, and in some cases have created a cost burden on affordable housing tenants, forcing them to choose between heat and an unaffordable electric bill. MCB4 has received multiple complaints from Inclusionary Housing tenants are unable to meet utility costs to keep heat running in winter. ***MCB4 requests HPD to take the utility cost of fan blowers in account in its calculation of utility allowances for affordable housing tenants.***

Economic Integration--Equal Access to Building Amenities--for Market Rate and Affordable Housing Residents

Economic Integration also demands equal access to building wide amenities such as:

- children's playrooms and outdoor playrooms
- outdoor patios
- roof decks
- party rooms and kitchens
- libraries and game lounges
- storage lockers
- screening rooms
- bike rooms
- gyms

Access to such building wide amenities (except in the case of gyms which require a separate paid membership) should be equally accessible to all market rate and affordable apartment residents. The goal of Economic Integration is ensuring that tenants or owners in the same building are able to enjoy and mix socially in the building-wide amenities. **Restricting or limiting use of building-wide amenities creates two classes of residents through the Zoning Resolution and bakes in income inequality leading to stigmatization.**

MCB4 in review of 26 VIH applications has achieved the following:

³ Affordable developments built with monies from the Affordable Housing Fund will have no direct nexus with the market rate project contributing to the Fund, therefore this requirement would not apply to units using these funds.

Inclusionary Housing in MCB4—Equal Access to Building Amenities

Project	Roof deck	Gym	Amenity Lounge	Bike Parking	Playroom
Caledonia	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	(1)	(1)	(1)	(1)	(1)
Clinton Housing	Yes	(1)	Yes	(1)	(1)
Douglaston Development	(1)	(1)	(1)	(1)	(1)
Emerald Green	(1)	(1)	(1)	(1)	(1)
River Place II	(1)	(1)	(1)	(1)	(1)
Atlantic Development	(1)	(1)	(1)	(1)	(1)
TF Cornerstone	(1)	(1)	(1)	(1)	(1)
Avalon Bay	(2)	(2)	(2)	(2)	(2)
Tower 37 LLC	(1)	(1)	(1)	(1)	(1)
Crystal Green	(1)	Yes	Yes	(1)	(1)
Gotham West	(1)	Yes	Yes	(1)	Yes
Mercedes House	(1)	(1)	(1)	(1)	(1)
Lalezarian	Yes	Discounted	(1)	(1)	(1)
Related Companies	Yes	Discounted	(1)	(1)	(1)
Arker Companies	(1)	(1)	(1)	(1)	(1)
DHA Capital	Yes	Discounted	Yes	Fee	(1)
Extell Development	Discounted	Discounted	Discounted	Discounted	Discounted
Moinian	Discounted	Discounted	Discounted	Discounted	Discounted
Iliad Development	Yes	Yes	Yes	Yes	Yes
Elad	Yes	Yes	Yes	Yes	Yes
Manhattan West	(3)	(3)	(3)	(3)	(3)
Taconic/Ritterman	(4)	(4)	(4)	(4)	(4)
TF Cornerstone	Yes	Yes	Yes	(1)	(1)
Site 7	Yes	Yes	(1)	(1)	Yes
Lalezarian	Yes	Lower fee	Yes	Yes	(1)

(1) Information not available

(2) “Affordable rates”

(3) "All of these amenity spaces will either be free and open to all residents of the building or will be available to the low-income tenants of the building"

(4) “Free or reduced fee”

Given the record in achieving a better degree of Equal Access to Building Wide Amenities, *MCB4 requests the proposed MIH Zoning Text be amended to include requirements for MIH developments to provide Equal Access to Building Wide Amenities for Market Rate and Affordable Apartments.*⁴

⁴ For gym facilities, open to all tenants, discounted rates affordable to Inclusionary tenants would apply. However, for gyms that require a separate paid membership This requirement would not apply.

Location of Affordable Units

MCB4 supports with conditions establishing options that allow developers to place affordable housing units in the same development as the market rate units, in a separate building on the same zoning lot as the market rate development, on a separate zoning lot within the same Community District, or within a half mile of the market rate development only for Supportive or Senior Housing. Additionally, eliminating affordable units built on off-site developments from the 421-a program ensures that developers will not receive unwarranted financial benefits.

Unit Sizes—Changes in Standards

MCB4 supports the proposed unit size minimums, and the built-in flexibility that would allow developments with market-rate units that are of smaller size to provide corresponding affordable units that are also equal in size. Additionally, maintaining equality in bedroom mix is important. The requirement that at least 50% of units be two bedrooms or more (with at least 75% being one bedroom or more) will make these affordable units open to a wider range of households in our community.

Public Review and Comment by Community Boards

MCB4 requests proposed MIH zoning text be amended to retain the VIH provisions⁵ for the 45 day public comment and review by Community Boards

MCB4 has reviewed 26 Inclusionary Housing Plans since 2007, the greatest number of any in the any Community District in the city. That review process is integral for public information and ensuring developer compliance. Maintaining the 45 day Community Board Public Comment Period for MIH applications as it exists in VIH ensures the public and local Community Board can provide meaningful comment. MCB4's work in Inclusionary Housing review has provided significant improvements in economic integration with improved affordable housing distribution, equality in apartment finishes, and equal access to building wide amenities for affordable housing tenants.

Reducing the requirement to notification, with no 45 day public review and comment period, reduces transparency for neighborhoods and their Community Boards, promoting development at the cost of public involvement.

BSA Special Permit

MCB4 supports having a procedure in place for developers who face unusual challenges to meeting the affordable housing requirements. The Board expects that such requirements will be justifiably modified to give developers allowances while still holding them responsible to the affordable housing goals of the proposed amendment.

Additional Programs

MCB4 supports the consideration of other programs with regards to affordable units provided under MIH. Such consideration allows multiple programs, like the homeownership option, and MIH requirements to work in harmony. The community Board also supports eliminating the preservation option and enabling supportive housing units, whose residents have a range of special needs, to be placed in a separate building from the contributing development.

⁵ New York City Zoning Resolution – Inclusionary Housing Section 23-961, d (3)

Furthermore, MCB4 is in agreement with the support of grandfathered tenants in the proposed amendment. Protecting existing tenants through grandfathering is key to protecting the long-term resident and character of our community.

Regulatory Agreements

MCB4 supports including a standardized application as part of the MIH process, as well as the monitoring of the affordable units to ensure that developers comply with the MIH regulatory agreement.

HPD/MIH Program Guidelines

MCB4 supports the flexibility that the proposed text would provide for developments with too few units to meet distribution requirements. Furthermore, it applauds the proposal to standardize square footage calculations across both HPD and DOB.

MIH Requirements Waiver for Infrastructure or Transit Improvements

MCB4 cannot support waiver of MIH requirements for infrastructure or transit improvements Until 1990 the CSD contained zoning text for density bonus options—either the provision of public open space or affordable housing. While the open space option was used by the development community, the affordable housing option was never used. After the deletion of the open space option in 1990, Inclusionary Housing began to be built or preserved in the CSD. **When less costly or simpler bonus options exist, simpler than the provision of affordable housing, the development community will choose the economic path of least resistance,** and essentially buy out one time capital improvements, as opposed to the initial capital investment coupled with long social investment that affordable housing requires.

Other considerations

Increased funding is needed for DOB/HPD enforcement to penalize owners who neglect affordable housing. Stronger regulations for buildings with occupied units undergoing renovations or re-construction are needed. In September 2015, the City Council introduced a series of local laws that place greater scrutiny on owners who repeatedly approach tenants with buyout offers and labels such actions as harassment of tenants. Currently, the City Council is considering a bill that would also classify illegal apartment conversions as harassment. In order to be properly enforced, the City will need funding to HPD and DOB to provide adequate staff capacity to respond to these abuses.

Conclusion

The proposed MIH zoning text is a serious effort to extend the provision of Inclusionary Housing to rezoned areas throughout the entire City of New York. However, it contains serious flaws. As with the ZQA proposed zoning, it is a one-size-fits-all approach for a complex city made up of diverse neighborhoods and districts, each with different and fine-grained needs. MIH makes the assumption that all communities' affordable housing needs are the same.

The need for lowest income housing in parts of Bedford Stuyvesant or Mott Haven is matched by the needs for moderate and middle income housing on the Upper West Side or Clinton/Hell's Kitchen. These needs are not competing but complementary. The city is simply not one

demographic group, neighborhoods must be able to ensure MIH serves the long term residents of each neighborhood, not some abstract citywide ideal.

MCB4 finds it especially disturbing that DCP and HPD believe only Manhattan below 110th Street on the West side and 96th Street on the East side, in Community Boards 1 through 8, is not an appropriate area for Workforce Housing, for families and individuals earning between \$76,440 and \$93,240. Manhattan has always had the City's greatest income inequality—we have 5th Avenue and Double 5th (that is 10th Avenue), sprawling apartments with Central Park views and walk ups with Lincoln Tunnel traffic views. But Manhattan has tens of thousands of moderate income residents who deserve increased opportunities to remain in their neighborhoods as was accomplished by the Mitchell Lama rental and cooperative programs in the 1960's. MIH should not create greater income inequality in affordable housing.

While many of elements of MIH address and improve on deficiencies in procedure and policy in VIH, the lack of focus on Economic Integration is most disturbing. MIH not only lessens affordable apartment distribution requirements from 65% of the floors to 50% but eliminates the requirement entirely for coops and condos. Further is silent on Equality in Apartment Finishes and Appliances--for Market Rate and Affordable Housing Residents and Equal Access to Building Amenities. Such a citywide proposal must acknowledge the Economic Integration is a central value to creating healthy mixed income communities. Poor doors are not only physical, but a state of mind. As long as zoning text and program regulation, permit two classed of apartments, there will be two classes of tenants. **The point of Inclusionary Housing is to include, not exclude onto lower floor, with cheaper floors and countertops and limited or no access to building amenities. The statement of how the City values Inclusionary Housing is made by its actions, MIH's reduction of Economic Integration or silence on Apartment Finishes and Access to Amenities speaks volumes by such an omission.**

MCB4 looks forward to continuing discussions with both the Department of City Planning and the Department of Housing Preservation and Development in order to ensure that the proposed Mandatory Inclusionary Housing program adequately addresses the needs of Manhattan Community District 4.

Sincerely,



Christine Berthet
Board Chair



Jean-Daniel Noland, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee



Lee Compton, Co-Chair
Chelsea Land Use Committee



Joe Restuccia, Co-Chair
Housing, Health & Human Services Committee

[Signed 11/25/2015]
Barbara Davis, Co-Chair
Housing, Health and Human Services Committee

cc: J. Nadler, U.S. Congress
B. Hoylman, State Senator
A. Espaillat, State Senator
D. Gottfried, State Assemblymember
L. Rosenthal, State Assemblymember
C. Johnson, City Councilmember
H. Rosenthal, City Councilmember
V. Been, HPD
L. Carroll, HPD
D. Hernandez, HPD
E. Hsu-Chen, DCP
F. Ruchala, DCP
K. Grebowiec-Hall, DCP

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

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Wally Rubin, District Manager

November 13, 2015

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Resolution on the Mandatory Inclusionary Housing Text Amendment.

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, November 12, 2015, the Board passed the following resolution with a vote of 30 in favor, 0 opposed, 2 abstaining:

WHEREAS, The Department of City Planning proposes to add a new section to the Zoning Resoution to establish a framework for Mandatory Inclusionary Zoning; and

WHEREAS, Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing, whether rezoned as part of a city neighborhood plan or a private rezoning application; and

WHEREAS, There would be no expiration to the affordability requirement of apartments generated through Mandatory Inclusionary Housing, making these new units a long-term, stable reservoir of affordable housing; and

WHEREAS, DCP has proposed two options for affordability requirements available in the Manhattan Core; and

WHEREAS, Option One would require that 25% of residential floor area must be for affordable housing units for residents with incomes averaging 60% AMI (\$46,620 per year for a family of three), and

WHEREAS, Option Two would require that 30% of residential floor area must be for affordable housing units for residents with incomes averaging 80% AMI (\$62,150 per year for a family of three); and

WHEREAS, While the proposed MIH contemplates an additional "Workforce Option" where 30% of residential floor area must provide affordable housing units for residents with incomes averaging no more than 120% AMI (\$93,240 per year for a family of three), this option does not permanently ensure the presence of units for low- or moderate-income households in a new development; and

WHEREAS, The 2010-2012 American Community Survey 3-Year Estimates show that 43.6% of renters in our Public Use Microdata Area (comprising Community Boards 4 and 5) pay 30% or more of their household income on rent and therefore are considered to be "rent burdened;" and

WHEREAS, According to data from Zumper, rents in Manhattan Community District neighborhoods of NoMad, the Flatiron District, Koreatown, the Garment District, and the Theater District all are among the priciest NYC neighborhoods with median asking rents for a One-Bedroom exceeding \$3,500 per month; and

WHEREAS, The 2010-2012 American Community Survey 3-Year Estimates show that 55.5 percent of the households in our Public Use Microdata Area have incomes of less than \$100,000 per year; and

WHEREAS, The 2010 Census shows that while 22.8% of the population in our city is Black Non-Hispanic and 28.6% of our city is of Hispanic origin, only 4.1% of our community district's population is Black Nonhispanic and only 7.7 is of Hispanic origin;

WHEREAS, Given the high rent burden in Manhattan Community District 5, very high asking rents for market rate apartments, and a demographic profile that includes far fewer Black or Hispanic households than the city as a whole, we believe it would serve an important public interest for furthering affordable housing goals and goals of neighborhood integration for the MIH text to include an "Option Four" that has a 50% affordable set aside for a range of incomes (from low-income to middle-income) where units serve households with an average income of 75% AMI; and

WHEREAS, The Bay Area Economic Market and Financial Study on Mandatory Inclusionary Housing prepared for the New York City Housing Development Corporation shows, on Table 21 and Table 22, that in "Very Strong" markets like those in Manhattan Community District 5, a 50% affordable set aside where household income averages 75% of AMI (\$58,275 per year for a family of three) is more than economically feasible for both rental development benefiting from a 421-a tax exemption (though not even using 4% LIHTC and Tax-Exempt Bond Financing) and condominium development; and

WHEREAS, While it is critical that many of the new units in development facilitated through an increase in permitted residential floor area serve low-income households (i.e. 40% AMI and 60% AMI), a sizable number of units in a new building could, under our proposed "Option Four," be set aside to serve households with income at 100% AMI or more (\$77,700 per year for a family of three); and

WHEREAS, While it is critical that many of the new units in development facilitated through an increase in permitted residential floor area serve low-income households (e.g. at 40% and 60% of AMI), a sizable number of units in a new building could under our proposed "Option Four" be set aside to serve households with income at 100% of AMI or more (\$77,700 per year for a family of three); and

WHEREAS, While the special permit under proposed 73-624 may appear similar to the variance under 72-41, it would be far easier for a developer to obtain because there is no uniqueness finding; and

WHEREAS, Because the economic hardship finding under 73-624 is nearly identical to finding (b) under the 72-41 variance, we are gravely concerned that the Board of Standards and Appeals would be bound through precedent to grant relief due to the BSA's use of the "capitalization of income method" to project value from a subject site and BSA's acceptance of methodology establishing the value of a developable square foot on a subject site based on potentially highly speculative nearby vacant land purchases; and

WHEREAS, Instead, there should be a mechanism through which a developer, who believes a project is not economically feasible, goes to the NYC Department of Housing Preservation & Development and can seek a time-limited subsidy to make a project viable while maintaining affordability requirements; and

WHEREAS, We believe that the existing 72-41 variance provides an adequate safety valve to seek permanent relief from compliance with zoning; and

WHEREAS, While the option to place affordable units off-site and in the same community district may appear to result in the same public benefit as having units on-site, the permanent cross-subsidy for on-site

units vs. the likelihood that 100% affordable off-site projects will seek future public subsidy make off-site units more expensive and risky for taxpayers without affording any increased benefit in the amount of affordable housing or quality of housing; and

WHEREAS, It is critical that tenants of affordable units not be excluded from building amenity space (e.g. children's playroom or common roof area) through prohibitively high fees; therefore be it

RESOLVED, that Manhattan CB5 **recommends denial** of the Mandatory Inclusionary Housing zoning text amendment unless the following conditions are met:

- 1) The MIH text is amended to include an "Option Four" where 50% of residential floor area would be set aside for households with income averaging 75% of AMI but that require that some of portion of those units serve lower income households (i.e. 40% AMI and 60% AMI) and some portion serve middle income households (i.e. 100% AMI or more); and
- 2) The MIH text is amended so that the special permit to waive or modify the affordability requirement is replaced by a process in which the NYC Department of Housing Preservation & Development reviews developer pro formas and can provide time-limited subsidy to make a development feasible; and
- 3) The MIH text is amended to prohibit an "off-site" option because there is no ongoing obligation for a "market-rate" project to provide long-term support for an off-site affordable project making it likely that an off-site project will seek public subsidy in the future which is costly to taxpayers; and
- 4) The MIH text is amended to require that HPD only approve an Affordable Housing Plan where there is a guarantee that tenants of affordable units will have affordable access to all building amenities.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Eric Stern
Chair, Land Use, Housing and Zoning Committee

RICHARD EGGERS
CHAIR

VICE-CHAIRS
CLAUDE L WINFIELD, 1ST
MOLLY HOLLISTER, 2ND



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DAN MINER
DISTRICT MANAGER

CHARLES BUCHWALD, TREASURER
BEATRICE DISMAN, ASST. TREASURER

KATHY THOMPSON
SECRETARY
AARON HUMPHREY
ASST. SECRETARY

VIA E-MAIL: cweisbrod@planning.nyc.gov

November 19, 2015

Mr. Carl Weisbrod
Chairman
Dept. of City Planning
22 Reade Street
New York, NY 10007

RE: DCP ULURP Applic. N160049ZRY Zoning for Quality and Affordability and Mandatory Inclusionary Housing Text Amendment

Dear Chairman Weisbrod:

At the November 18th Full Board meeting of Community Board 6 the Board adopted the following resolution:

Whereas, the Mayor has proposed a plan entitled Housing New York which is a ten-year plan for the construction of 80,000 new units of affordable housing and the preservation of 120,000 existing units of affordable housing; and

Whereas, the range of initiatives the Mayor has set forth includes two city-wide zoning text amendment proposals known as Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH); and

Whereas, the ZQA text amendment will:

- Increase available floor area for developments that include affordable senior housing
- Remove parking requirements for affordable housing developments
- Modify height and setback restrictions in contextual districts;
- Make provisions of permanent affordable housing a requirement for any development involving new construction, enlargement or conversion that requires a rezoning; and

Whereas, the ZQA text amendment allows developers to construct affordable senior citizen apartments as small as 250 square feet for its residents across the City of New York; and

Whereas, the ZQA text amendment increases the density, floor area, height and dwelling unit count of affordable senior housing across the City of New York, which will significantly diminish air, light, open space and living space; and

Whereas, the MIH text amendment offers the following options by way of rezoning or special permits:

1. 25% affordable housing at 60% AMI
2. 30% affordable housing at 80% AMI
3. Option 1 or 2 and 30% affordable housing at average of 120% AMI in Manhattan CB 9-12 only (workforce option); and

Whereas, the MIH text amendment allows real estate developers to propose a building or building segment containing either residential affordable floor area or a supportive housing project, which generates floor area compensation generating sites which contain affordable housing units and allows real estate developers utilizing (“generating sites”) to seek public funding; and

Whereas, the MIH text amendment requires distribution of affordable housing units in new construction affordable housing or substantial rehabilitation affordable housing in a specific, equitable manner; and

Whereas, the MIH text amendment generally states that any affordable housing units other than supportive housing units or affordable independent residences for seniors shall be distributed in a specific, equitable manner; and

Whereas, in Mandatory Inclusionary Housing areas the “affordable housing fund” is a fund administered by HPD, all contributions to which shall be used for development, acquisition, rehabilitation, or preservation of affordable housing, or other affordable housing purposes as set forth in the guidelines; and

Whereas, a development, enlargement, or conversion from non-residential to residential use that increases the number of dwelling units by no more than 25, and increases residential floor area on the zoning lot by less than 25,000 square feet, may satisfy the requirements of this Section by making a contribution to the affordable housing fund. The amount of such contribution shall be related to the cost of constructing an equivalent amount of affordable floor area, as set forth in the guidelines; and

Whereas, the current administration has stated a goal of creating 200,000 units of affordable housing, but has, to date, offered no planning process to study the impacts of this increase in density; and,

Whereas, increasing the permissible height of a building by as much as 40 feet may have an undesirable impact on light and air on the street; and,

Whereas, without studying the impacts of the new bulk provision that would arise from the proposed zoning text amendments, we are dealing with an infinite number of potential issues;

Now, therefore, be it

Resolved, that Community Board Six does not support the text amendments as currently drafted, since they fail to address too many vital steps in planning and process, thus potentially undermining their desired results; and

Resolved, that Community Board Six requests that in all requirements for MIH sites proposed in the text amendment to also apply to “generating sites” to ensure that developers be required to create affordable housing within the community district where the development project is located; and be it further

Resolved, that Community Board Six requests that requirements for MIH sites also apply to “generating sites” to ensure that developments built on the same site or within the same building of the development project share a common lobby, entrances, amenities, and any other common facilities between market rate and affordable units, so that these units remain indistinguishable, one from the other; and be it further

Resolved, that Community Board Six requests that developers should not be eligible to apply for the 421-a program if they are participating in the generating site or MIH site program; and be it further

Resolved, that Community Board Six requests that affordable senior housing and care facilities benefits under Zoning for Quality and Affordability should be made permanent; and be it further

Resolved, that Community Board Six requests the workforce option under Mandatory Inclusionary Housing Sites be available to Community District Six as well as Community Districts 1 through 8; and be it further resolved

Resolved, that Community Board Six requests the workforce option be increased to an AMI average above 130%; and be it further

Resolved, that Community Board Six requests that the hardship relief application become more restrictive and that the agency overseeing the application review process be independent of HPD to ensure accountability and transparency; and be it further

Resolved, that Community Board Six requests that developers be required to relocate tenants currently living in buildings targeted for development into the new development project upon completion at affordable housing rates, without the requirement of adhering to the affordable housing income requirements; and be it further

Resolved, that Community Board Six requests that the text amendment includes specific considerations to set aside affordable housing units within generating sites or MIH sites for current and former members of the armed forces (“Veterans”) and such units should be no less than 2% of the total number of units in the development; and be it further

Resolved, that Community Board Six requests HPD to be transparent as to the allocation of funds from the ‘affordable housing fund’ by developers taking advantage of the less than 25 units/less than 25,000 feet residential floor area requirements; and, be it further

Resolved, that Community Board Six requests that zoning lot mergers include a height limit under ZQA; and, be it further

Resolved, that Community Board Six requests that the rear yard provisions be maintained and not permitted to be reduced under ZQA so that the public and occupants can continue to experience as much open space as possible; and, be it further

Resolved, that Community Board Six requests an additional 90 days to review the proposed changes to the zoning text amendment to fully study the impacts of the proposed revisions in our community district; and, be it further

Resolved, that Community Board Six requests that the City of New York implement a planning process to study the impact of the proposed city-wide goal of 200,000 units of affordable housing to determine how many market-rate units are projected to be produced; where these units are likely to be built; and what their impact will be on school seats, open space, public transit, traffic, and existing infrastructure.

VOTE: 33 in Favor 0 Opposed 3 Abstention 0 Not Entitled

Yours truly,



Dan Miner
District Manager

Cc: Hon. Bill de Blasio
Hon. Gale Brewer
Hon. Melissa Mark-Viverito
Hon. Dan Garodnick
Hon. Ben Kallos
Hon. Rosie Mendez
All 58 Community Boards
Rajesh Nayar
Terrence O'Neal



RESOLUTION

Date: November 4, 2015

Committees of Origin: Land Use and Housing

Re: Mandatory Inclusionary Housing (MIH) text amendment.

Full Board Vote: 35 In Favor 0 Against 0 Abstentions 0 Present

Joint Committees: 8-3-0-0.

We want to state unequivocally that we endorse the concept of MIH, but cannot approve the proposal as presented without several important changes that are required for it to have a successful roll-out and meet its objectives. Community Board 7/Manhattan opposes MIH unless certain changes outlined below are incorporated and the issues addressed are appropriately incorporated in a revised proposal.

Triggering MIH – The proposed text of the zoning amendment does not create any Mandatory Inclusionary Housing, nor does it set forth the conditions under any particular type of Mandatory Inclusionary Housing would be required to be adopted for any site or district in our City. DCP has stated that it intends to implement MIH in connection with any significant rezoning and any private application for a special permit which creates an opportunity for additional housing. However, this dictum will not have the force of law, and leaves too many of the particulars of what type of Inclusionary housing and what type of building will provide it to the results of negotiations and discussions that would precede any opportunity for public review. If implemented limiting MIH to a district in which upzoning is enacted or special permits requested, but no other districts, the proposal would exacerbate the current condition that allows massive new as-of-right construction that would completely avoid any need to participate in MIH. In any event, as a minimum, the conditions triggering MIH and the specifics of how it would be implemented should be spelled out in a binding legal document.

Offsite vs. Onsite – The current proposal allows for affordable units to be built either: onsite, in a truly separate building on the same lot, or offsite in the CB district or within ½ mile of the site. One of the most important benefits of MIH is to maintain economic diversity in our neighborhoods and in individual buildings, and thus we want to encourage developers to exercise the onsite option. If offsite housing, which is less desirable in terms of economic integration and which is likely to be less expensive to build than onsite housing, is to be an option, developers who exercise the offsite option must be required to produce additional affordable housing in exchange for this less desirable option than they would if they were to provide the affordable housing on-site. The off-site option must be further amended to provide reliable assurances that the off-site building would be adequately funded both as to day-to-day operations and on-going maintenance and repairs.

The poor door solution: The proposed MIH zoning amendment prohibits the use of separate entrances in a single building for market rate and affordable units, but substitutes the option of providing two buildings on the same zoning lot, one for each class of occupants. This option is, if anything, more demeaning than the so-called poor door option, and should be deleted as an option. It is one thing to permit a developer to build affordable housing on a separate zoning lot; it is quite another thing to permit segregation of units on the same zoning lot.

Workforce Option – MCBs 1-8 are excluded from the workforce option of 30% affordable at 120% AMI. CB7 believes in producing affordable units for all segments of society and see the fostering of middle-class housing as part of the optimal mix of units in our neighborhood, which see new market-rate housing catering only to the most affluent. CB7 would want the option available to use the 120% AMI level. However, this would require the corresponding increase in the percentage of affordable housing produced. Possibly, something like 35% affordable at 120% AMI for CBs 1-8.

BSA Safety Valve – We support the concept of a safety valve being included in MIH to account for scenarios where the program places a true hardship on a developer. However, we strongly oppose any role for the Board of

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Standards and Appeals in this process. BSA has adopted an arbitrary and unrealistic method of computing return on investment in connection with ZR 72-21 which employs formulas and computations in the place of actual costs and income that are unrelated to the developer's true experience, resulting in conclusions as to the developer's expected profits that fail to comport with the reality on the ground or common sense. In addition, BSA has not historically adjudicated cases involving affordable housing. We would recommend HPD or another City agency with the mandate and expertise to prioritize affordable housing be the venue for the adjudication of any hardship applications.

"In lieu of" Fund – CB7 is open to the option of using this fund to accommodate small buildings where MIH may be problematic. However, the MIH text does not provide sufficient explanation for how this fund will work. A much more detailed description of this fund is required before we could possibly support it. A small sampling of unanswered questions include: How is the expense determined? What mechanism controls the changing expense over time? What mechanisms ensure that the money will be expended efficiently and timely? Will HPD have adequate access to adequate staff and experts to ensure that the fund is applied as required? In addition, adequate protections must be erected to deliver on a commitment that the affordable housing built or preserved through the fund is located proximate to the site generating the payment.

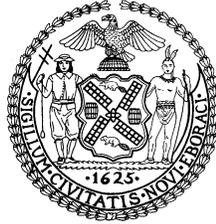
Preservation of Existing Affordable Housing/421a Provisions – One of our chief concerns was that a building which currently or in the recent past included rent regulated units or units subject to other affordable housing restrictions could be torn down for a larger building with only the minimum Inclusionary units under MIH, representing a net loss of affordable units. DCP contends that all MIH buildings would also be subject to 421-a, which has provisions to ensure that the number of affordable units on a lot are not lost. Since 421-a periodically must be reauthorized by the State legislature, and may not now or in a future iteration apply to every MIH project, it is essential that MIH include on its own an incontrovertible requirement that at least the highest number of rent-regulated units with at least the same floor area as was in the demolished building over the five years preceding the demolition be replaced as affordable units in any new or replacement building, and that none of those units be counted to satisfy the MIH requirements. This requirement must be embodied in the text of MIH.

Stifling Negotiation – We have concern that despite MIH's intention to establish a floor for affordability in a building, we may in effect be establishing a ceiling that will stifle negotiation between developers and the Community Boards, Borough Presidents, City Council Members, City Planning representatives and others involved in the public review that must precede any decision on how MIH would be implemented in any given situation. While affordable housing is our priority, we owe it to our current and future neighbors and constituents to ensure that providing much-needed units of affordable housing does not result in further overloading our schools, subways, parks, and roads. MIH will make buildings as-of-right that previously would have required careful negotiation which we fear will impact our ability to manage the development of our district going forward. The proposal must be amended to ensure that a full public review process is required and that approval of any application would not be as-of-right if the developer agreed to provide the minimum Inclusionary housing as called for in the proposal.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan opposes the Mandatory Inclusionary Housing program unless the seven changes spelled out in this resolution are addressed.

James G. Clynes
Chairman

Latha Thompson
District Manager



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November 25, 2015

Carl Weisbrod, Chair
City Planning Commission
22 Read Street
New York, NY 10007

Re: Zoning for Quality and Affordability (ZQA) N 160049 ZRY and Mandatory Inclusionary Housing (MIH) N 160051 ZRY Text Amendments

Dear Chair Weisbrod:

I write to you on behalf of Manhattan Community Board 8 in regards to the proposed citywide text amendments currently under public review known as Zoning for Quality and Affordability ("ZQA") and Mandatory Inclusionary Housing ("MIH"). I previously wrote to you, in a letter dated April 29, 2015, to highlight the concerns that Community Board 8 had with the text amendments. The following represents the continuing concerns of Community Board 8 as expressed at our Land Use Committee meeting held on November 10, 2015.

1) ZONING FOR QUALITY AND AFFORDABILITY

- Exemption from the "Sliver" Law

Allowing buildings with affordable housing or senior housing to be exempt from the Sliver Law - ZR 23-692 will lead to irreparable damage to the character and streetscape of the Upper East Side and other affected residential neighborhoods. It will also lead to the loss of affordable housing that these narrow buildings now contain.

The increases in the height limit for a building less than 45 feet wide under ZQA are as follows:

R10 and R10A districts, the increase in height is from 100 feet to 235 feet.

R9X districts (Lexington Avenue), the increase is from 75 feet to 205 feet.

R8B districts, the increase is from 60 feet to 75 feet.

Special Madison Avenue Preservation District, the increase is from 80 feet to 210 feet.

Special Park Improvement District, the increase is from 100 feet to 210 feet.

Under ZQA there is no incentive to build affordable or senior housing on sites more than 45 feet wide. Exempting sites from the Sliver Law creates an incentive to demolish the narrow buildings, most of which currently contain affordable housing. The gains in market-rate housing for a building less than 45 feet wide under ZQA illustrate this point:

R10 and R10A districts, the increase in market-rate housing is from 100 feet to 188 feet.

R9X districts (Lexington Avenue), the increase is from 75 feet to 164 feet.

R8B districts, there is no change from 60 feet.

Special Madison Avenue Preservation District, the increase is from 80 feet to 168 feet.
Special Park Improvement District, the increase is from 100 feet to 168 feet.

We must protect the applicability of the Sliver Law as a tool to protect neighborhood context.

- Contextual Zones

ZQA and bulk changes should not apply to Contextual Zones. The height limits in Contextual Zones are already generous and exceed the height of buildings whose configurations they are intended to replicate. Prewar apartment buildings upon which R10A is modeled average 160 to 180 feet in height. In R10A districts, the limit is 210 feet. ZQA proposes to add 5 to 25 feet, which will bring new buildings out of context with their neighborhoods. Encroachment in the rear yards should not be allowed, as it would negatively affect the enjoyment of the remaining open space amenity known as the “historic donut”.

- R9X (Lexington Avenue)

If Lexington Avenue were only one foot narrower, it would qualify as a “narrow street”. ZQA proposes to increase the building height by 15-45 feet. The current height limit is 160 feet, which is the maximum of what is appropriate on such a narrow avenue. The proposed 205 feet would seriously impact the character of Lexington Avenue.

The ZQA and bulk changes must maintain the building height difference and proportion between wide and narrow streets. Buildings on narrow streets that are the same height as or taller than buildings on the avenues negatively affect light and air to the side walk and surrounding buildings.

- Affordable Housing Net Loss and Net Increase

The current system of giving bonuses for building affordable housing can be self-defeating because the amount of affordable housing already existing on the development site is not taken into consideration. This leads to, and has led to in the past, a net loss of affordable housing. A bonus should be awarded for a net increase in affordable housing.

There is an affordable housing crisis in Community Board 8 that outpaces the rest of the city. Based on property tax bills, between 2007 and 2014, Community Board 8 experienced a net loss of 26% of affordable units; compared to 6% in New York City overall. 70% of those units were located east of Third Avenue, highlighting the particular threat to affordable housing in the neighborhoods of Lenox Hill and Yorkville. The area located east of Third Avenue is not protected by Historic Districts in the way that the area located west of Third Avenue is. Therefore, the incentive to leverage ZQA will be concentrated east of Third Avenue. Since ZQA does not require a net positive gain of affordable units it will lead to a net loss of units as buildings are torn down and replaced with buildings housing larger apartments, totaling fewer units resulting in the construction of fewer affordable units.

- Senior Housing and Inclusionary Housing

The Upper East Side needs a range of permanent affordable senior housing and continuum of care facilities to meet the growing aging population. Senior housing is not permanent, yet the height and FAR increases are permanent. There is a need to clarify the range of housing planned, number of units, issue of hardship regarding the Bureau of Standards and Appeals, affordability,

expansion of FAR in districts R3-R10, as of right development for nursing homes and senior facilities and mixed use housing with the general population. The R10 Voluntary Inclusionary Housing programs are not fixed but they are being used as the qualifying programs for additional height.

- Shadows

The DEIS for ZQA states that a shadow study shows a potential result in significant adverse shadow impacts to our most precious resources; historic architecture and open space. The zones that will be most sensitive to development based on ZQA maps are the avenues and major cross streets which is where our historic resources and parks are located.

- 197-a and c Plans

Development of 197-a and 197-c Plans should be accompanied by an urban design element to provide a 3-dimensional urban design context to any proposed zoning changes. Zoning changes should be based upon these plans.

2) MANDATORY INCLUSIONARY HOUSING

It appears that this proposal could lead to cases of unfortunate spot zoning at the request of a developer. There are possible sites within Community Board 8 that could be eligible for MIH. The City will have the discretion to apply one of three affordable housing options. None of these options would meet our AMI standards. All options mandate that no affordable unit exceed 130% AMI. If the program needs to be universal, then the AMI options are not broad enough or deep enough to fit all neighborhood needs.

We are concerned with the payment-in-lieu option and the fund regarding threshold criteria, time frame for use in the community, management, transparency, oversight and the funds being spent in areas outside of the district. And the preservation and rehabilitation of units should be included as an option for fund use.

On-site separate buildings provisions may be creating poor floors and or poor buildings. There should be a requirement for equal access, equal amenities and finishes.

3) Conclusion

Based on the board's discussion and analysis of both proposals conducted at three Zoning and Development Committee meetings and at our Land Use Committee Meeting, Manhattan Community Board 8 does not support either text amendment as currently drafted.

Sincerely,

James G. Clynes



*Gale Brewer
President, Borough of Manhattan*

*Padmore John
Chair*

*Rev. Georgiette Morgan-Thomas
First Vice-Chair*

*Brad W. Taylor
Second Vice-Chair*

*Anthony Q. Fletcher, Esq.
Treasurer*

*Joel Mentor, Jr.
Assistant Treasurer*

*Feruze Zeko
Secretary*

*Theodore Kovaleff
Assistant Secretary*

*Eutha Prince
District Manager*

CB9M

16-18 Old Broadway
New York, New York 10027
(212) 864-6200/Fax # 662-7396

COMMUNITY BOARD #9, MANHATTAN

Via Email: cweisbrod@planning.nyc.gov

November 24, 2015

Mr. Carl Weisbrod
Chairman
Department of City Planning
22 Reade Street
New York, New York 10007

**Re: DCP ULURP Application Nos...
N160049ZRY Zoning for Quality and Affordability Text Amendment
N160051ZRY Mandatory Inclusionary Housing Text Amendment**

Dear Chairman Weisbrod:

At its regularly scheduled General Board meeting held on Thursday, November 19, 2015, Community Board No. 9 (CB9) Manhattan approved the following **Resolution to Disapprove Text Amendments for Mandatory Inclusionary Housing (MIH) and Zoning for Quality and Affordability (ZQA)** by a vote of 28 in favor, 1 opposed, 3 abstentions and 2 Present not entitled to vote.

Whereas on September 21, 2015 the City Planning Commission (DCP) started the public review process for the above referenced text amendments by referring them to Community Boards giving them until November 30, 2015 to respond. CB9 views this as an unusually truncated timetable for such major changes.

Whereas, in order to receive feedback from our community, CB9 held public meetings of the Housing, Land Use and Zoning Committee (10/13/15 and 11/9/15), the Executive Committee (10/8/15) and General Board (10/15/15) at which these text amendments were presented by DCP, and HPD, and discussed and open to the public for comment. Even with these local efforts, we do not believe that such sweeping changes in zoning rules across the city should be undertaken without a more thorough investigation and further community outreach and input.

Whereas CB9 strongly agrees that there is a critical need for affordable housing, both owner-occupied and rental, in our community, as well as in the rest of the City. CB9 also recognizes that significant increases in the affordable housing stock in our community and others will not be achieved on a project-by-project basis or through one-off deal-making, but instead primarily by changing the mechanisms by which housing is financed and secondarily by zoning improvements. Critically, development of affordable housing in our community must be mandatory, integrated, and permanent, as we have too often seen developers opt out of current inclusionary housing initiatives, segregate residents of affordable units, build affordable units off site or leave affordable housing programs like Mitchell-Lama after an initial period of incentives expires.

SERVING HAMILTON HEIGHTS/MANHATTANVILLE & MORNINGSIDE HEIGHTS

Mr. Carl Weisbrod
November 24, 2015
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Whereas CB9 called for Mandatory Inclusionary Zoning in specific areas within our community district in our 197-a Plan (dated October 18, 2004. Revised June 17, 2005 and September 24, 2007).

Whereas CB9 understands that the DCP's MIH proposal includes "affordable" homeownership as an option in addition to affordable rental units. CB9 believes that homeownership should not be an option open only to those able to afford the often astronomical housing market prices in New York, and permanently affordable means-tested owner-occupied housing should be encouraged, either through limited-equity ownership or other mechanisms.

Whereas CB9 commends portions of the MIH proposal that require all applications for developments be submitted to the Community Board in which a development is proposed at the same time they are submitted to HPD. The continued involvement and voice of the community, through the Community Boards, must be included to ensure that the public interest is not harmed by new developments.

Whereas CB9 believes that our seniors are vital to our community, and that senior residents in the community ought to be able to continue to reside in this community as they age. CB9 supports making it easier for developers to construct permanently affordable senior housing.

Whereas additionally, CB9, while not endorsing taller building heights, supports many of the stated goals in the Zoning for Quality and Affordability (ZQA) proposal, including higher floor to floor heights and encouraging more interesting street wall articulation, which would be sympathetic to many of the early 20th century buildings in the District, as well as encouraging a livelier street life by making it easier for developers to include space suitable for retail uses on the ground floor of developments;

Whereas, despite our support of the above, CB9 has serious misgivings with the relatively short amount of time allotted for public review of what is one of the largest and most sweeping zoning text amendments ever proposed. Many of the provisions undercut restrictions found in contextual zoning and Quality Housing Regulations that help prevent out of control development that would destroy the character and livability of our communities. More time must be allowed for the public to study the over 500 pages of zoning text amendment that are included in the MIH and ZQA proposals. Additionally, there are many questions regarding the potential for these changes to incentivize the destruction of existing affordable housing, undercutting the very purpose of the proposed changes.

Therefore, be it resolved that, CB9 believes that many of the provisions contained in the proposals threaten to undo hard-won protections against out of context development or would result in construction of "affordable" units that remain out of reach for a majority of the community's residents.

Mr. Carl Weisbrod
November 24, 2015
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Per 2012 ACS data, 25.5% of households in Community District 9 (CD9) earn less than \$15,000 per year in both income and benefits, and 46.6% earn less than \$35,000 per year. However, the lowest Area Median Income (AMI) band included in the MIH proposal caps housing costs at those appropriate for households earning 60% of AMI (\$46,620 for a family of three). For truly affordable housing for CD9 residents, a band closer to 40% of AMI (\$31,080 for a family of three), would have to be included in an MIH proposal.

Be it further resolved that CB9 does not support provisions in the MIH text amendment that would allow developers to receive more than 20% Floor Area Ratio bonuses for less than 20% of the building being devoted to affordable units.

While CB9 is not opposed, in principle, for additional FAR to be awarded to developers building affordable senior housing, such housing should be permanently affordable and not allowed to return to market rates after an initial period of 30 years seeing as the additional FAR cannot be withdrawn after the same 30-year period.

Be it further resolved that CB9 also opposes provisions in the ZQA text amendment that remove the distinction between the development allowed on narrow streets vs. wide streets. While bulkier, denser development may be appropriate on 125th or 145th Streets, such developments would be wholly out of context on many of the less dense blocks of townhouses or apartment buildings found throughout CD9.

CB 9 also strongly opposes lifting restrictions on side-street lots of 45' or less ("sliver lots") limiting the height of buildings constructed on such lots to the width of the street or 100', as these restrictions prevent out-of-context and aesthetically inappropriate buildings on residential side streets.

Furthermore, the Board has reservations about removing requirements for backyard space for buildings. These requirements preserve access to light and fresh air for many residents, who under the current proposal could find multi-story walls of new developments directly abutting their rear yards. Rear yards also help divert storm water runoff away from the sewer system, which is a major concern for a community which regularly must deal with pollution and sewage releases during heavy rains.

Be it further resolved that both the ZQA/MIH proposals do not speak specifically to the role that there will be inter-agency assurance that the already threatened and dwindling affordable housing stock that exists will not be further threatened by these potential development pressures. And that there will be sufficient anti-harassment measures in place to counter those.

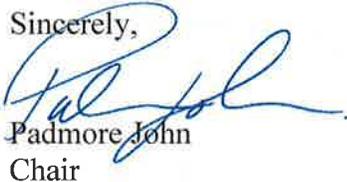
Be it further resolved that CB9 requests that the period for public comment be extended to allow for additional study, particularly of the possible impacts the proposals may have on existing affordable units and of the possibility that the proposals could encourage the tearing down of existing high-quality housing stock already in our community.

Mr. Carl Weisbrod
November 24, 2015
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In conclusion, be it resolved that CB9, while supporting and lauding many of the goals that the Mandatory Inclusionary Housing and Zoning for Quality and Affordability text amendments seek to achieve, cannot support the proposals in their current forms.

If you have any questions please feel free to contact me or District Manager, Eutha Prince at (212) 864-6200.

Sincerely,



Padmore John
Chair

cc: Hon. Bill DeBlasio, Mayor
Hon. Charles Rangel, Congressman
Hon. Gale Brewer, Manhattan Borough President
Hon. Bill Perkins, State Senator
Hon. Adriano Espaillat, State Senator
Hon. Keith Wright, Assemblymember
Hon. Daniel O'Donnell, Assemblymember
Hon. Herman D. Farrell, Jr., Assemblymember
Hon. Mark Levine, City Councilmember
Hon. Inez Dickens, City Councilmember
Community Boards Nos. 1-58
Beth Lebowitz, Director, Zoning Division-DCP
Edwin Marshall, Planning-DCP
James Caras, General Counsel/Director, Land Use, MBPO
Lucian Reynolds, Land Use, MBPO



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 10
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HENRIETTA LYLE
Chairperson

ANDREW LASSALLE
District Manager

November 6, 2015

Mr. Carl Weisbrod
Commissioner
New York City Department of City Planning
22 Reade Street
New York, NY 10007

Re: Proposed zoning text amendments: “Mandatory Inclusionary Zoning” and “Zoning for Quality and Affordability”.

Dear Chair Weisbrod:

Harlem residents are deeply concerned about the lack of affordable housing in our neighborhood and across the city. Enabling more affordable housing is an urgent priority for Manhattan Community Board 10 and we are glad that this is the stated goal of the administration in proposing the MIH and ZQA zoning text amendments.

However we are concerned that the Department of City Planning has not reached out to this Board while crafting the MIH and ZQA proposals, and that the public review process is unduly rushed. We have not been given the necessary time, tools or resources to fully grasp all the nuances of these highly technical and complex proposals. We regret this and cannot in good conscience take a vote to support or oppose the MIH and ZQA zoning text amendments.

Our dissatisfaction with the process has not stopped us from hearing a number of concerns with the MIH and ZQA proposals, and we would do a disservice to the Community that we represent if we did not raise them. We urge to take note of these concerns and to amend the MIH and ZQA proposals in response.

Concerns with MIH

- Requiring 25% or 30% of the units to be affordable is a step in the right direction, but it is too small. At minimum developments benefitting from rezoning should be required to provide 50% of the units as affordable.
- Affordable units should be targeted to very low-income and low-income households. This is what Harlem needs most desperately.
- MIH should also include opportunities for homeownership.
- If the affordable units are built off-site, the construction schedules should be required to ensure that affordable units are completed before or at the same time as the market-rate units.

- Units built off-site should be in the Community District or within a half mile in the same borough. Currently the half mile allowance could place the affordable units in the Bronx, which would defeat the purpose of having a community board preference in the application process for affordable housing.
- Eliminate the payment in lieu option for small buildings and require 50% of the units to be affordable.
- Require 50% affordability in small buildings, regardless of the number of units.
- Ensure that permanent affordability requirements are properly recorded, monitored, and that there are adequate enforcement mechanisms.
- Require a plan for the continued investment into permanently affordable housing. As buildings age, their capital needs will increase. If there is no plan to shore up buildings, they will deteriorate the way that public housing has deteriorated. We are concerned about the effect this will have on residents and the potential for rescinding the affordability requirements in order to attract private investment.

Concerns with ZQA

- There should be additional incentives for senior affordable housing relative to “regular” affordable housing. If the incentive for the two is to waive the mandatory parking requirements, developers will never build senior housing.
- Parking waivers for senior and affordable developments are permanent, so the housing that this facilitates should also be required to be affordable and senior housing in perpetuity. Parking waivers are an invaluable incentive which, once awarded, cannot be taken away. We want to prevent scenarios where parking is waived to promote senior or affordable housing but after a few years the housing becomes market-rate.

We hope that these concerns will be taken into consideration in a meaningful way, and we look forward to working proactively with the Department of City Planning in the future to find solutions to the housing needs of Harlem and of our city.

Sincerely,

Henrietta Lyle
Chairperson
Manhattan Community Board 10

Brian Benjamin
Chair of Land Use
Manhattan Community Board 10

Barbara J. Nelson
Chair of Housing
Manhattan Community Board 10

Cc: Gale Brewer, Manhattan Borough President
Inez Dickens, Council Member



Diane Collier
Chair

Angel D. Mescain
District Manager

COMMUNITY BOARD ELEVEN

BOROUGH OF MANHATTAN
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RESOLUTION

Date: November 23, 2015

Committee of Origin: Executive

Full Board Vote: 29 In Favor, 1 Opposed, 2 Absentions, 0 Present/Not Voting

Resolution on proposed Mandatory Inclusionary Housing Plan

WHEREAS, the development of new and the preservation of existing affordable housing is one of the foremost concerns for East Harlem and New York City (“NYC”) at-large;

WHEREAS, the cost of living in NYC has been increasing, the demand for housing has outpaced the supply of housing and the growth and desire for luxury development has posed immense hardships for many NYC—and specifically East Harlem—residents who desperately wish to remain members of their community;

WHEREAS, Community Board 11 of Manhattan (“CB11”), on behalf of the East Harlem community, has persistently advocated to local, state and federal officials that affordable housing must be both expanded and preserved;

WHEREAS, CB11 outlined and recommended a mandatory inclusionary housing program in 2013 in conjunction with its Park Avenue rezoning recommendations;

WHEREAS, governmental and political leaders desire to address the lack of affordable housing by promoting increased development of affordable housing units through changes to the NYC Zoning Resolution as well as through other initiatives that comprise “Housing New York,” NYC Mayor Bill de Blasio’s housing plan;

WHEREAS, the NYC Department of City Planning (“DCP”) has designed and proposed the implementation of a Mandatory Inclusionary Housing program (“MIH”) that will make affordable housing a mandatory component of new residential development as well as to guarantee the permanency of affordable housing;

WHEREAS, CB11 has consulted with various stakeholders, including representatives of DCP and other NYC agencies, and has evaluated the proposal in consultation with members of the public, including residents, neighbors and friends of East Harlem;

WHEREAS, a public hearing on this matter was held on November 9, 2015, where CB11 heard from other members of the public and their views of MIH;

WHEREAS, CB11 has recognized the historic import of MIH and the benefits it offers to the East Harlem community but has also identified a number of deficiencies in MIH that, if addressed and corrected, would substantially improve MIH and further benefit the East Harlem community;

THEREFORE BE IT

RESOLVED, MIH's proposed option to increasing new, permanently affordable units by permitting developers to provide the requisite affordable units in different zoning lots but in the same Community District or within ½ mile of the project must not be implemented as it exacerbates socioeconomic segregation and is clearly contrary to the MIH's planning goal of fostering economically diverse communities;

FURTHER RESOLVED, MIH's proposed "on-site, separate building" option to increasing new, permanently affordable units by permitting developers to provide the requisite affordable units on the same zoning lot but in a separate building must not be implemented as it exacerbates socioeconomic segregation. Additionally, no waivers should be provided to allow for "poor doors" or any type of separate entrances or buildings that could be interpreted as stigmatizing to residents;

FURTHER RESOLVED, MIH's proposed "payment-in-lieu option" must only be used within the Community District so as to guarantee that any payment made is used within a closer geographic proximity to the development site for which such payment is being made, in order to reduce the likelihood that such affordable units are disparately located and isolated from the market-rate developments. Additionally, allocations from the payment-in-lieu fund must be overseen by the Community Board and directed towards housing affordability measures including new construction, rehabilitation, or preservation of existing affordable housing. The vague "or other affordable housing purposes" clause must be removed from the MIH text;

FURTHER RESOLVED, MIH's minimum level of affordable housing production and the affordability of those units do not meet the need of the East Harlem community. MIH should require new MIH buildings to follow a 50/30/20 Mixed-Income Program, where 50% of the units would be market rate, 30% of the units would be for moderate incomes and 20% of the units would be for low and very low incomes, based on the Neighborhood Median Income of Community District 11. Implementation of this type of Mixed-Income Program would significantly increase the amount of affordable housing produced and also reach to lower levels of Area Median Income that better reflect the East Harlem community.

FURTHER RESOLVED, that CB11, on behalf of the East Harlem community and upon extensive consideration of MIH's potential effects on East Harlem, does not support or express approval of MIH, unless the articulated concerns in the foregoing resolutions are met.



Community Board 12 - Manhattan Washington Heights & Inwood

530 West 166th St. 6th Floor, New York, NY 10032

Phone: (212) 568-8500, Fax: (212) 740-8197

Website: www.nyc.gov/mcb12

George Fernández Jr. - Chairman
Ebenezer Smith, District Manager

Amended

Dec 2, 2015

Hon. Carl Weisbrod, Director
NYC Department of City Planning
Equitable Life building
120 Broadway 31st Fl.
New York, NY 10271

Hon. David Quart
Deputy Commissioner of Strategy,
Research & Communications
NYC Dept. of Housing Preservation & Dev.
100 Gold Street Rm 5-P1
New York, NY 10038

Dear Director Weisbrod & Dep. Commissioner Quart:

Please be advised that on Tuesday, November 24, 2015 at the General Meeting of Manhattan Community Board 12 a resolution passed with a majority vote of (29) In Favor, (0), Opposed, and (0) Abstain of not supporting the Zoning Quality Affordability text Amendments for these reasons; The proposed ZQA and MIH zoning text amendments require further study and refinement before they are considered for implementation. In its review to-date of ZQA and MIH the Manhattan Borough President's office ("MBPO") has identified certain deficiencies in the proposed text amendments.

For ZQA the deficiencies include: the "two-door"/"poor door" option remains; loose provisions with respect to off-site affordable units; the FAR bonus does not take into account neighborhood character and is the same everywhere; double-dipping is allowed with the 421-A program and there are inconsistent provisions for community review. For MIH the deficiencies are: the absence of anti-harassment requirements; a loop-hole that allows BSA to waive affordable housing requirements; an undefined trigger for "substantial new residential density"; and lowering the unit threshold that applies to a special permit for the option of payment in lieu of providing affordable housing. The MBPO also notes that ZQA and MIH do not address New York City Housing Authority developments, which house over 115,000 residents in Manhattan alone; and

Whereas:

As part of the City of New York's coordinated efforts under Housing New York, Mayor de Blasio's five-borough housing plan, the Department of City Planning ("DCP") is proposing a set of targeted zoning regulations to support the creation of new affordable housing and encourage better residential buildings. The targeted zoning regulations include Zoning for Quality and Affordability ("ZQA") and Mandatory Inclusionary Housing ("MIH"). ZQA seeks to advance numerous goals of Housing New York, including making the city more affordable to a wide range of New Yorkers, and fostering diverse, livable communities with buildings that contribute to the character and quality of neighborhoods. It aims to address several ways in which current zoning, drafted a generation ago, has in practice discouraged the affordability and quality of recent buildings. MIH is a new proposal to use zoning to require permanent affordable housing when future DCP actions encourage substantial new housing. It would require, through zoning actions, a share of new housing to be permanently affordable. Affordable housing would be mandatory, not voluntary and would be a condition of residential development when developers build in an

area zoned for MIH, whether zoned as part of a City neighborhood plan or a private rezoning application; and

Whereas: The goals of ZQA include promoting senior housing, reducing parking requirements for affordable housing and modifying the contextual building envelope. The goals of MIH include: promoting vibrant, diverse neighborhoods; ensuring affordable housing in areas in which DCP is planning for growth; meeting the needs of a range of low- and moderate income New Yorkers; ensuring that the MIH program meets legal standards, is applied consistently and supports the financial feasibility of housing creation; and

Whereas: The goals of ZQA and MIH are commendable, but these proposed text amendments will have broad, city-wide impacts and do not consider how these impacts will affect individual neighborhoods. Further, DCP has afforded community boards insufficient time to carefully and thoroughly review the proposed text amendments and to coordinate with the offices of their respective borough presidents, who are required to undertake their review of ZQA and MIH as the same time as the community boards; and

Whereas: DCP introduced the ZQA and MIH text amendment proposals for public review on September 21, 2015. Comments from community boards and from borough presidents are due by November 30, 2015. DCP presented the ZQA and MIH proposals to the Land Use Committee ("Land Use" or the "Committee") of Community Board 12- Manhattan at its November 4, 2015 meeting and also briefed the Committee on ZQA at its June 3, 2015 meeting. At the June 2015 briefing the Committee identified various concerns including: how affordable housing is defined and why nursing homes are included with affordable housing as opposed to healthcare facilities; the extent of communication and coordination between offices of New York City and New York State concerning New York State's long term plans for reducing the number of nursing home beds and how this reconciles with zoning changes that incentivize development of nursing homes; the analysis undertaken to support the recommendation to eliminate the parking requirement for new affordable housing developments; the impact of eliminating the parking requirement for new affordable housing on on-street parking and traffic congestion; why the development of micro-units appears to be encouraged and incentivized; and the absence of consideration to specific neighborhood characteristics and planning needs. The Committee requested that these concerns be relayed to DCP senior management. The Committee did not receive any response from DCP prior to its November 2015 meeting and the presentation made by DCP in November 2015 did not reflect any modifications to the zoning text proposal that responded to the concerns raised by the Committee; and

Whereas At the November 2015 presentation the following additional comments and concerns were raised with respect to ZQA and MIH.

1. The uniform application of the text amendments will have a disparate impact on low-income communities and will gradually promote displacement, decreased affordability and change neighborhood character.
2. The zoning changes made under ZQA encourages, but does not require the design of buildings with more interesting, articulated facades which leaves open the possibility and likelihood that new buildings constructed will be larger, but not more architecturally attractive.
3. The area median income (AMI) levels that apply to affordable units should not be based on "an average" percentage of AMI but a "not to exceed" percentage of AMI, should be tied to the AMI of the community district in which a project is to be developed, and the rent/income levels of affordable units should be tiered and not allowed to be concentrated near the upper income/rent limit.
4. Community Boards should have a role in the MIH application review process and should be consulted on which AMI options best fits the needs of its community.
5. There should be a 50% community preference for units developed under the MIH and ZQA.
6. Affordable units developed under MIH and ZQA should be permanently included in the rent stabilization system so that tenants are guaranteed lease renewals and rent increases are determined by the Rent Guidelines Board.

7. The assumption that parking spaces contained within affordable housing developments are underused due to unaffordable monthly fees is not supported with any documentation presented to the Committee, appears to be based on a limited sample of development projects that may be skewed towards low-income senior housing, and must be subjected to further, more detailed, transparent and inclusive research.
8. MIH allows the Board of Standards and Appeals ("BSA") to waive the affordable housing requirements; this defeats the purpose of MIH and should be eliminated.

Whereas: In its review to-date of ZQA and MIH the Manhattan Borough President's office ("MBPO") has identified certain deficiencies in the proposed text amendments. For ZQA the deficiencies include: the "two-door"/"poor door" option remains; loose provisions with respect to off-site affordable units; the FAR bonus does not take into account neighborhood character and is the same everywhere; double-dipping is allowed with the 421-A program and there are inconsistent provisions for community review. For MIH the deficiencies are: the absence of anti-harassment requirements; a loop-hole that allows BSA to waive affordable housing requirements; an undefined trigger for "substantial new residential density"; and lowering the unit threshold that applies to a special permit for the option of payment in lieu of providing affordable housing. The MBPO also notes that ZQA and MIH do not address New York City Housing Authority developments, which house over 115,000 residents in Manhattan alone; and

Whereas: The proposed ZQA and MIH zoning text amendments require further study and refinement before they are considered for implementation. Now, therefore,

Be It Resolved: Community Board 12-Manhattan understands and appreciates the goals set-forth for the Zoning for Quality and Affordability and Mandatory Inclusionary Housing zoning text amendments. However, it does not support the text amendments as they are currently drafted, but could support them if they are modified to satisfactorily address the various comments and concerns contained in this resolution and urges the Department of City Planning to make these modifications.

Sincerely,


George Fernandez, Jr., Chair
Manhattan Community Board 12

cc: Hon. Bill de Blasio, Mayor
Hon. Gail Brewer, Manhattan Borough President
Hon. Letitia James, Public Advocate
Hon. Scott Stringer, Comptroller
Hon. Charles B. Rangel, Congressman
Hon. Bill Perkins, NY State Senator

Hon. Adriano Espaillat, NY State Senator
Hon. Herman D. Farrell, Jr., Assembly Member
Hon. Guillermo Linares, Assembly Member
Hon. Ydanis Rodriguez, Council Member
Hon. Mark Levine, Council Member



City of New York
Community Board #1, Queens

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OFFICE OF THE
CHAIRPERSON

Melinda Katz
President, Queens
Vicky Morales
Director, Community Boards
Joseph Risi,
Chairperson
Florence Koulouris,
District Manager

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EXECUTIVE BOARD

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First Vice Chairperson
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Executive Secretary
Edward Babor
Sergeant-at-Arms

November 13, 2015

Hon. Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

RE: N160051 ZRY Mandatory Inclusionary Housing zoning text amendment

COMMITTEES & CHAIRPERSONS

Airport Access
Rosemarie Poveromo
Access and Disability Concerns
Daniel Aliberti
Capital/Expense, Community Development
Norma Nieves-Blas
Consumer Affairs
John C.V. Katsanos
Education
Linda Perno
Environmental Protection
Joan Asselin
Health & Social Services Senior
Judy Trilivas
Housing
Mary O'Hara
Industrial/Commercial
Thomas Ryan
Parks & Recreation/Cultural Affairs
Richard Khuzami
Public Safety
Antonio Meloni
Street Festivals
Ann Bruno
Transportation
Robert Piazza
Youth
Jose Batista
Zoning & Variance
John Carusone

Dear Chair Weisbrod:

Community Board 1 Queens (CB1Q), after a duly advertised public hearing held during its full board meeting on November 10, 2015, voted 33 in favor, 0 opposed and 0 abstaining to approve with stipulations the proposed zoning text amendment N160051 ZRY for Mandatory Inclusionary Housing. The stipulations supported by CB1Q include:

A. GENERAL STIPULATIONS

- 1. Infrastructure (sewers, utilities and mass transit) and social services must be upgraded in any rezoning area to accommodate the additional population and dwelling units.
2. Buildings with affordable units must distribute affordable units throughout the building and not cluster those units in less desirable sections of the structure.
3. All building amenities must be accessible to both market and affordable units.

B. SETTING AFFORDABLE RENTS

The rental levels that are considered "affordable" do not correlate with the income levels of CD1Q residents. To bring affordable rents to a level more in line with area income:

- 1. Index affordable housing rents to the Average Median Income (AMI) of the Community District where the project is developed rather than using a citywide AMI figure.

BOARD MEMBERS (cont.)

Rose Anne Alafogiannis
George Alexiou
Gerald Caliengo
Joanna D'Elia
Dolores DeCrescenzo
Mary Demakos
Antonella Disaverio
Katie Ellman
Elizabeth Erion
Mackenzi Farquer
Dean O. Feratovic
Evie Hantzopoulos
Amy Hau
Pauline Jannelli
Vanessa Jones-Hall
Nancy Konipol
Jerry Kril
Melanie La Rocca
Vincent G. Marsanico
Frances Luhmann-McDonald
Prabir Mitra
Kevin Mullarkey
Stella Nicolaou
Gus Prentzas
Yawne Robinson
Rudolfo Sarchese
Nancy Silverman
Dominic Stiller
Danielle Tharrington
Marie Torniali

2. **Apply the phrase TERM OF THE TENANCY (instead of TERM OF THE LEASE) to any Affordable Housing unit agreement when referring to Preferential Rent.** This will eliminate future problems for seniors or the disabled who apply to freeze their rent through SCRIE/DRIE (Senior Citizen Rent Increase Exemption or Disabled Citizen Rent Increase Exemption). Since affordable senior housing will be subject to rent stabilization increases, a senior's rent could be frozen at a considerably higher "legal" rent if the above phrase is not substituted.

C. PAYMENT IN LIEU

Most of CD1Q is zoned for medium density development - buildings with 11 to 25 units - where the option to pay into a housing fund would apply instead of constructing actual affordable units. This approach does little to support the City's goal of preserving economically diverse neighborhoods when developments in newly rezoned areas can opt out of providing affordable housing. The option as presented instead encourages higher density market rate developments with affordable housing segregated into off-site locations.

It is premature to offer this option for affordable housing since guidelines for its application and operation have not yet been defined. What are the criteria that determine whether a project can make such a payment in lieu of constructing the units? If a payment is made, who determines the site location of units that receive these payments? After a time, the amendment states that payments in lieu can ultimately be applied to housing outside the Community District where the payment was originally generated.

Recognizing that the City intends to provide this option for developers, **the following stipulations should be incorporated into any guidelines:**

1. **Payments in lieu of affordable units must be used to produce *new or additional* affordable housing units within the same Community District as the project that generates the payment.**
2. Community Boards must be **notified at the time of rezoning of intent** by the developer to use the payment in lieu option.
3. Community Board must **review the proposed locations** for affordable units that are to be placed off site from the source project.
4. **Reduce the ½ mile catchment area for sites that receive payments in lieu.** To foster economic diversity in newly rezoned areas, receiving sites must be in close proximity to the revenue-generating building.
5. Once formulated, there must be **Community Board review and comment on the rules and guidelines for payments in lieu.**
6. There must be **Community Board review and comment on any future changes to the rules and guidelines** for payments in lieu.

CB1Q expects that with fine-tuning the new Mandatory Inclusionary Housing text amendment can ultimately provide much needed affordable housing in our District. We look forward to working with your agency and with the Department of Housing Preservation and Development to ensure that the program is workable for both builders and residents, the economic diversity of our area is maintained and the needs of our residents.

Sincerely,



Joseph Risi
Chairperson

cc: Hon. Vicki Breen
Hon. Melinda Katz
Hon. Costa Constantinides
Hon. Aravella Simotas
Hon. Michael Giannaris
John Carusone, Chair, CBIQ Land Use and Zoning Committee
Elizabeth Erion, Assist. Chair, CBIQ Land Use and Zoning Committee



Melinda Katz
Queens Borough President

Community Board No. 2

43-22 50th Street, 2nd Floor
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www.nyc.gov/queenscb2

Patrick A. O'Brien
Chairman

Debra Markell Kleinert
District Manager

**RESOLUTION OF COMMUNITY BOARD NO. 2 IN THE BOROUGH OF QUEENS
REGARDING "ZONING FOR QUALITY AND AFFORDABILITY (ULURP Application No.
N160049ZRY) ("ZQA") and "MANDATORY INCLUSIONARY HOUSING (N160051ZRY) ("MIH")**

WHEREAS, in May 2014, Mayor de Blasio released a city-wide, ten-year plan to build and preserve 200,000 units of affordable housing throughout New York City known as Housing New York through the creation and implementation of a set of strategies to accomplish that goal; and

WHEREAS, after considerable effort and community outreach, the Department of City Planning ("DCP") and the Department of Housing Preservation and Development ("HPD") have identified several such strategies and amendments to the Zoning Resolution that they believe would effect changes that, among other things, encourage affordable, quality housing; and

WHEREAS, on September 21, 2015, DCP officially launched for public review two proposed changes to New York City's Zoning Resolution designed to promote more affordable housing in better quality buildings, and foster more inclusive and diverse neighborhoods, in furtherance of the goals of Housing New York, which proposals are known respectively as "ZONING FOR QUALITY AND AFFORDABILITY (ULURP Application No. N160049ZRY) ("ZQA") and "MANDATORY INCLUSIONARY HOUSING (N160051ZRY) ("MIH"); and

WHEREAS, Community Board No. 2 In The Borough Of Queens ("CB2") has thoroughly examined, reviewed, and considered each of the numerous aspects and provisions of both ZQA and MIH, both at meetings of its Land Use Committee and its full Board, and at a public community information meeting; and

WHEREAS, CB2 finds ZQA to be deficient in the following respects, among others, the exclusion of a mandatory parking requirement for the development of Senior Housing, the allowance of additional height (other than 5' at the ground floor), the permissible development of irregularly shaped lots, and the inclusion of hardship exceptions for development; and

WHEREAS, CB2 finds MIH to be deficient in the following respects, among others, the allowance of affordable units off site or in on-site but separate buildings, the allowance of a fund contribution for developments between 11-25 units with no corresponding details of how such monies would be used or administered within CB2, the distribution of affordable units on

every other floor (as opposed to evenly distributed throughout the entire building), no inclusion of lower AMI bands or AMI bands that are directly reflective of CBs actual AMIs, no inclusion of a preference for CB2 residents, and the inclusion of hardship exceptions for development; and

WHEREAS, CB2 recognizes the need for the provision of more and better affordable housing in New York City, and has been a strong and vocal advocate for same in the development of Hunters Point South and other areas within its district in the past, and will continue such advocacy in the future; and

WHEREAS, notwithstanding its strong and consistent record of advocacy for affordable housing, CB2 is constrained by the mandate of the City Charter to first consider the needs of its community district and its residents before considering city-wide or other broader initiatives, such as Housing New York; and

WHEREAS, CB2 has experienced a unprecedented growth in residential and other development, and population growth, in the immediate past, and will experience exponentially more such development in the immediate future; and

WHEREAS, the aforementioned development, and population growth, has not been accompanied by the simultaneous construction, or commitment to construct, infrastructure improvements necessary to provide the current, or future, residents of CB2 with an adequate level of the basic services to which they are entitled, including, among other things, effective and sufficient transportation, schools, medical facilities, parks and open space, sewer and sanitation, and other essential services; and

WHEREAS, neither ZQA nor MIH, nor Housing New York, addresses any of the aforementioned existing and anticipated infrastructure deficiencies within CB2 in any manner;

NOW, THEREFORE, IT IS HEREBY:

RESOLVED that Community Board No. 2 votes to oppose ZONING FOR QUALITY AND AFFORDABILITY (ULURP Application No. N160049ZRY), unless each of the above deficiencies can be fully addressed to its complete satisfaction; and

RESOLVED that Community Board No. 2 votes to oppose MANDATORY INCLUSIONARY HOUSING (N160051ZRY), unless each of the above deficiencies can be fully addressed to its complete satisfaction.

[This RESOLUTION was duly adopted, upon a motion made and seconded, at the regularly held monthly meeting of CB2 held on November 5, 2015, at which a quorum was present. The vote on the motion to oppose ZQA was 28 in favor of the motion, 2 opposed to the motion, and 3 abstaining. The vote on the motion to oppose MIH was 28 in favor of the motion, 1 opposed to the motion, and 4 abstaining]



COMMUNITY BOARD # 4Q

Serving: Corona, Corona Heights, Elmhurst, and Newtown

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Melinda Katz
Borough President

Louis Walker
Chairperson

Melva Miller
Deputy Borough President

Christian Cassagnol
District Manager

December 7, 2015

OFFICE OF THE
CHAIRPERSON

Hon. Carl Weisbrod, Commissioner
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

DEC 9 - 2015

29006

RE: HOUSING NEW YORK

*Zoning for Quality and Affordability (Z.Q.A.)
(Mandatory Inclusionary Housing (M.I.H.))*

Dear Commissioner Weisbrod:

After a presentation by the Queens Department of City Planning on October 22, 2015, Community Board 4's ULURP/Zoning Committee reviewed the above-mentioned applications. Because a quorum was not present, a vote could not be taken. However, the committee members brought up the following concerns:

Affordability—What does it mean?

The bulk of the housing units will be market rate with a minority of those units affordable. It's not enough.

On the ZQA text amendment, parking was a major concern. Parking in our neighborhoods is difficult enough without adding more vehicles taking up spaces that do not exist.

The \$50,000 for off street parking per parking space was questioned. To sacrifice parking is problematic because many seniors still drive.

On November 10, 2015, a presentation was given to the full Board. Following the presentation, after a careful review and discussion, the Board voted to deny both proposals.

- For the MIH proposal the vote was: 17 to deny, 3 to approve, with 8 abstentions.
- For the ZQA proposal the vote was 22 to deny, 3 to approve, with 3 abstentions.

Some of the reasons for the denial were:

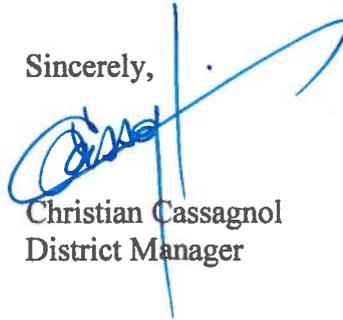
- The lack of parking for any new affordable housing
- Undoing various rezoned areas

- Developers can choose to pay a fee that would fund affordable housing elsewhere
- Who would manage the fund and how the fund would be invested

The Board also noted recommendations could not be made because they did not have the expertise to do so. If the Board would accommodate a change in zoning, it needs to be an incentive. Otherwise, developers will build as of right.

Although the Board recognized the very real need for affordable housing, more research needs to be done to build affordable housing that benefits all.

Sincerely,



Christian Cassagnol
District Manager

Cc: Kathi Ko
Department of City Planning-Queens



COMMUNITY BOARD 6, QUEENS

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Whitepot Settled 1653

November 17, 2015

JOSEPH C. HENNESSY
CHAIR

FRANK P. GULLUSCIO
DISTRICT MANAGER

GAIL M. GORDON
1ST VICE-CHAIR

STEVEN GOLDBERG
2ND VICE-CHAIR

NAOMI ALTMAN
VICE-CHAIR · SECRETARY

GREGORY CARLSON
VICE-CHAIR · FINANCE

NORMAN LEIBOWITZ
VICE-CHAIR · LAND USE

LYNN SCHULMAN
VICE-CHAIR · SCOPING

MELINDA KATZ
BOROUGH PRESIDENT

John Young, Director
Queens City Planning
120-55 Queens Blvd.,
Kew Gardens, NY 11424

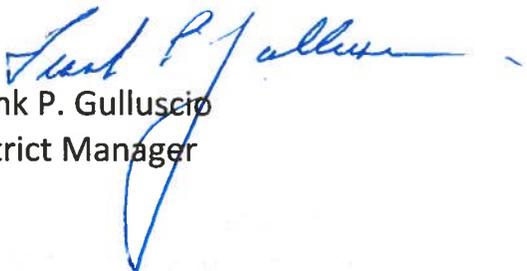
Dear Mr. Young:

At the November 12, 2015 meeting of Community Board 6, the Board voted as follows:

Zoning for Quality and Affordability – the Board voted against this proposal. The vote was 22 in favor, 2 against, 3 abstentions.

Mandatory Inclusionary Housing – the Board voted against this proposal. The vote was 16 opposed, 8 in favor, 3 abstentions.

Very truly yours,


Frank P. Gulluscio
District Manager

Notification of
Community/Borough Board
Public Hearing

FILE COPY

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

INSTRUCTIONS

1. Return this completed form to the Calendar Information Office, City Planning Commission, Room 2E, at the above address at least fourteen (14) days before the scheduled hearing date.
2. Send one copy to the applicant's representative at the address listed below at least (10) days before the scheduled hearing date.

APPLICATION # ULURP# N160049 ZRY and ULURP # N160051 ZRY

DOCKET DESCRIPTION

ULURP # N160049 ZRY - Application submitted by Dept. of City Planning, pursuant to Section 200 of the NYC Charter, for a citywide zoning text amendment to promote affordable housing, including mandatory inclusionary housing, contextual height and set back changes, modifications to senior and supportive housing regulations and parking requirements.

ULURP # N160051 ZRY - Application submitted by the Dept. of City Planning, pursuant to Section 200 of the NYC Charter, for a zoning text amendment to establish a requirement for affordable housing as part of new development over 10 units within a "Mandatory Inclusionary Housing area".

THE VOTE TAKEN FOR ULURP #N160049 ZRY TO APPROVE THE APPLICATION WAS AS FOLLOWS:

(2) APPROVED (35) DISAPPROVED (1) ABSTENTION/CONFLICT

THE VOTE TAKEN FOR ULURP #N160051 ZRY TO DENY THE APPLICATION WAS AS FOLLOWS:

(35) DENIED (1) APPROVED (1) ABSTENTION/CONFLICT (1) LEFT ROOM

APPLICANT _____

APPLICANT'S REPRESENTATIVE _____

COMMUNITY BOARD NO. 7
BOROUGH BOARD OF _____

BOROUGH Queens

DETAILS OF PUBLIC HEARING

DATE NOVEMBER 9, 2015 TIME 7 P.M.
LOCATION QUEENS PLAZA CARE CENTER
33-23 UNION STREET, 9th FLOOR, FLUSHING, NY

EUGENT T. KELTY
COMMUNITY/BOROUGH BOARD OFFICER
NOVEMBER 10, 2015
DATE

CHAIRPERSON
TITLE



Chairman, Alvin Warshaviak

The City of New York
Borough of Queens

Community Board 8

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Hollis, NY 11423-2126
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Fax: (718) 264-7910
Qn08@cb.nyc.gov
www.nyc.gov/queenscb8



District Manager, Marie Adam-Ovide

November 25, 2015

Carl Weisbrod, Director
City Planning Commission
22 Reade Street, Room 4E
New York, NY 10007

**RE: Mandatory Inclusionary Housing Text Amendment
Zoning for Quality and Affordability Text Amendment**

Dear Director Weisbrod:

This is in response to the above referenced zoning text amendments that were sent to our Community Board for review.

Members of Community Board 8, Queens cited issues with the removal of the parking requirement under the Mandatory Inclusionary Housing Text Amendment. The affordable housing in the context used in the Mandatory Inclusionary Housing Text Amendment is not affordable to the majority of New Yorkers. In addition, the Board received letters of opposition from civic groups.

In light of the above, the Board voted unanimously against the Zoning for Quality and Affordability Text Amendment and overwhelmingly against the Mandatory Inclusionary Housing Text Amendment at our meeting held on November 12, 2015.

Sincerely,

Alvin Warshaviak
Chairman

AW/mao



COMMUNITY BOARD NO.9

Queens Borough Hall
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Kew Gardens, NY 11424

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Fax (718) 286-2685
Meeting Hotline (718) 286-2689
Email: communitybd9@nyc.rr.com
Website: www.nyc.gov/queenscb9

Raj Rampershad, Chairperson * Lisa Gomes, District Manager * Melinda Katz, Borough President

November 18, 2015

OFFICE OF THE
CHAIRPERSON

DEC 3- 2015
29075

Mayor Bill de Blasio
City Hall
New York, NY 10007

Carl Weisbrod, Chairman
New York City Planning Commission
22 Reade St.
New York, NY 10007-1216

Dear Mayor de Blasio and Mr. Weisbrod,

Queens Community Board 9 commends the initiative to address the crisis in affordable housing. Accordingly, we have carefully reviewed the City's proposals to achieve this: "Zoning for Quality and Affordability" (ZQA) and "Mandatory Inclusionary Housing (MIH). Unfortunately, the ZQA and MIH proposals are so seriously flawed that we must strongly oppose and reject them. Our reasons are detailed in the enclosed resolution, which was unanimously passed at our regular monthly meeting on November 10, 2015.

We have taken these proposals very seriously -- and rejected them. They claim to increase affordable housing. Yet, after learning of the recent Stuyvesant Town/Peter Cooper Village deal between the City and the Blackstone Group, we wonder whose interests are really being advanced. This deal, awarding the Blackstone Private Equity firm \$571 million of tax payer and other funds, makes one wonder how serious this Administration is about providing affordable housing to ordinary New Yorkers. An opportunity to maintain and quickly create well-placed affordable housing seems to have been missed. Even Crain's Business magazine (October 26, 2015) calls it a raw deal for ordinary New Yorkers, who are paying \$571 million to Blackstone, a private equity giant whose assets total \$81 billion. Why waive the City's \$77 million in mortgage recording taxes? Why call the \$144 million coming through the Housing Development Corporation a "loan" to Blackstone when they need never repay it? And why give them 700,000 square feet of air rights valued modestly at \$350 million? One can be reasonably certain those air rights will not be used to provide affordable housing. More than half a billion dollars is awarded to Blackstone in exchange for keeping 44% (some 5000 units) of Stuyvesant Town housing "affordable" and then only for 20 years -- a brief moment in the life of the city. And are these units truly affordable even in the short run? Moreover, as Crain's so aptly puts it: "Those enduring long commutes to Manhattan because they cannot afford to live there might well wonder why their tax dollars should help, for example, a family of three earning \$128,000 to rent in the most expensive borough for \$3,200 a month when lots of others would happily pay more." Why couldn't the City have worked with local and non-profit groups to plan permanent affordable housing, instead of the ZQA and MIH proposals which we believe will primarily benefit developers?

If enacted, the ZQH and MIH proposals would undo careful re-zonings in our community and many others. They would increase density with no provision for addressing the many concomitant increases in infrastructure. They would invite developers to purchase vulnerable properties to erect profitable housing, in return for a "blank check" to rezone these properties. These concerns, and many others, are detailed in the enclosed resolution. We know our concerns are shared by many other communities in Queens and throughout New York City. We urge you to take these concerns very seriously.

Sincerely,


Raj Rampershad
Chairman

Z:\Committees\Land Use Committee\By ZQA-MIH-Resolution11815.docx

Cc:

BP Melinda Katz
Comptroller Scott Stringer
Jessica Douglas Queens Borough Director CAU
CM Eric Ulrich
CM Elizabeth Crowley
CM Karen Koslowitz
CM Rory Lancman
CM Ruben Wills
CM Melissa Mark-Viverito
Assemblyman Michael Miller
Assemblyman Michael Simanowitz
Assemblyman Andrew Hevesi
Assemblyman David Weprin
Assemblyman Phillip Goldfeder
Assemblywoman Vivian Cook
Senator Joseph Addabbo, Jr.
Senator Leroy Comrie
Senator James Sanders, Jr.
Senator Michael Gianaris
Queens Community Boards
Woodhaven Residents Block Association
Richmond Hill Block Association
Kew Gardens Civic Association
Queens Civic Congress
Queens Chronicle
Leader Observer
Forum

Queens Community Board 9 (CB9) Resolution on NYC Affordable Housing Proposals

Resolution

Queens Community Board 9 strongly opposes and rejects the proposed zoning text amendments re Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH).

Community Board 9's opposition is outlined below. We do not pretend to detail the text which covers hundreds of pages. What we read in these texts and understand from presentations is that little "affordable" housing will result from these amendments and most of such housing will only be affordable for what is the blink of an eye in the life of the city. We see the undoing of years of careful rezonings done throughout Community Board 9, and an open door policy inviting developers to gain much while potentially destroying vibrant working communities.

The Proposals

The de Blasio administration has initiated a much-publicized "Housing New York" plan, proposing rezoning to promote affordable housing. The rezoning proposals are referred to as "Zoning for Quality and Affordability" (ZQA) and "Mandatory Inclusionary Housing" (MIH). The following links provide more details on these proposals.

- [Zoning for Quality and Affordability \(ZQA\)](#)
- [Mandatory Inclusionary Housing \(MIH\)](#)

The NYC Department of City Planning (DCP) has been enlisted to promulgate these proposals and has dutifully and diligently done so. We appreciate the DCP's efforts to present and explain the zoning proposals, but we must be careful not to confuse the messenger with the message. In fact CB9 has serious concerns about the ZQA and MIH proposals.

CB9 Overview

We certainly recognize the dire need for affordable housing and strongly support reasonable initiatives to provide it. But it must be done in a way that preserves and protects the hard-won rezoning that has already been achieved, in CB9 and other low density communities throughout the city. We are especially concerned that the current proposals will encourage developers to increasing density at the expense of community character and without providing the increased infrastructure and services (police, schools, sanitation, etc.) dictated by increased density.

The proposals are complex, voluminous and sweeping. Further, the City Planning Commission (CPC) has "fast-tracked" them: the ULURP process formally began on September 21, 2015, and communities have only 60 days to respond. Proper evaluation of proposals of this magnitude and complexity requires many years, not a few weeks. In fact, CB9's recent contextual rezoning required several years of painstaking cooperation between the community and the Department of City Planning.

CB9 Recommendation

While CB9 supports any reasonable initiative to address the affordable housing crisis in New York City, we emphatically oppose the ZQA and MIH proposals as they now stand, for the reasons explained below.

We believe zoning and permitting could become meaningless under these proposals and that developers would be given more license to act as they pleased without realizing an increase in quality and affordability. Moreover, the effect will be detrimental to current community character and threatens to undo current re-zonings that were achieved after years of hard work and cooperation between communities and the DCP.

If the proposals as they now stand are implemented, they will serve to intensify the “Tale of Two Cities” on which our mayor’s election campaign was based. We will be happy to support any affordable housing proposal in which ALL segments of New York City’s economy, including developers, the real estate industry and the very wealthy, contribute fairly to providing affordable housing.

The remainder of this resolution itemizes our specific concerns with each of the above proposals.

Zoning for Quality and Affordability

- **Senior Housing and Affordable Housing**

The proposal cites overall population growth and wage gaps as causes of the housing crisis. Yet, the bulk of the proposal focuses on senior housing which provides institutional care, ranging from nursing homes to assisted living. Institutional care that provides professional medical care – as in nursing homes – is extremely costly. While it is true that the “baby boom” segment of the population will tax social resources that provide health care, it is not at all clear how this health care need is synonymous with the need for affordable housing. While costly institutional care may provide a healthy revenue stream for institutional care owners, it is an unconvincing argument to claim that it is a way to provide affordable housing. Moreover, the national trend is moving away from institutional care, in favor of home-based medical care, because it is significantly less expensive; it is now understood that it is best to keep seniors in their homes as long as possible.

- **Space and the Elimination of Minimal Dwelling Unit Size**

The CPC suggests eliminating minimal dwelling unit size in affordable senior housing. Thus the FAR allowed in a building could accommodate many more dwelling units, increasing population density. The zoning document describes significant increases in FAR in nearly every zone for “affordable” and “affordable senior housing.” The document raises the possibility of mixed uses, both affordable and senior housing within the same market rate building. This kind of mix could be a good step in reducing isolation between seniors and the rest of the population. However, what will mixed use of such housing in a market rate building add or enable of the “new” FAR? And how much affordable housing is actually required? Nor is it clear whether or not more FAR is only for seniors. What happens when the senior leaves?

- **Parking**

In the apparent belief that seniors don’t drive cars and that low income people don’t own cars, parking is either totally eliminated or reduced in what are referred to as “transit zones” -- within ten blocks of public transport, and construction would be permitted on current parking lots. Further, eliminating parking is permitted even outside the transit zone.

As for low income people not owning cars, public housing in NYC provides reasonably priced parking to its tenants - some \$60 to \$538 a YEAR, depending on whether it is reserved, not reserved, indoor or outdoor parking. At this cost it is hard to believe these spaces go begging, particularly since they are also open to non-residents. In fact, over 200 NYC Housing Authority developments offer parking (http://www.nychaparking.com/parking_maps.php), most of which have long waiting lists.

Community Board 9 does not lack for seniors nor for seniors with cars. What we greatly lack (especially with the closing of the Municipal Parking garage) is adequate parking. In areas close to mass transit ("transit zones"), parking is already limited as drivers from outside the area drive in and park to take advantage of the nearby mass transit. During the work day, one moves at one's peril out of a parking spot. Yet travelling in Queens without a car is an exercise in time consumed waiting for and changing buses. Queens, aside from Staten Island, has the least subway transit in the city. In CB9, street parking is a scarce commodity, as DCP is well aware.

In addition, parking at senior housing and long-term care facilities allows visitors to come without spending hours on buses, an effort which discourages visiting. Also, most workers are at the same disadvantage for mass transit, so must drive and park.

- **Building Heights**

Building heights are revised to accommodate new zoning definitions. Much has been made of the statement that DCP is only *tweaking* the zoning, that in most cases only one story would be added to a building. It's unclear how the increased FAR in the proposal results in just one additional story.

- **Removing Setbacks**

Mandated setbacks perform two functions in this city - ensuring light and air, and in very high density areas making the streetscape appear less overwhelmed by the heights permitted. We are opposed to easing mandated setbacks.

- **Reduce Side Yards and Rear Yards**

Not only does the proposal allow one to reduce the rear yard distances between adjacent structures, from 30 feet to 25 feet, the change would permit construction in rear yards, although not for housing use and not, supposedly, in B districts. So what remains of the rear yard?

In addition, mixing affordable and senior housing creates a wide open door. For example, there are over 60 references to what one can or cannot do with and to rear yards. The present Zoning Resolution is convoluted and can lead a builder and architect into a labyrinth, but this proposal will only make this worse. We are opposed to reducing side and rear yards.

- **Odd Shaped Building Lots**

Greater flexibility for building on odd lots would simply reduce the need for the BSA (Board of Standards and Appeals), which some might agree with. If one buys a small lot and fills it, does this lead to encroaching on the light and air of adjacent buildings? By reducing the required distances in side lots and rear yards, these odd lots become usable as-of-right, but what effect does this have on adjacent structures? What are the controls?

- **Eliminate Certain Certificate and Special Permits**

Today, certain certificates and special permits are required for certain types of long-term care facilities, e.g., nursing homes. The proposal suggests that these uses could thus become as-of-right, thus creating building and population density in areas now of low density given their zoning.

- **Affordable Housing and 421-a Tax Exemptions**

Right now, according to the IBO (Independent Budget Office) the City loses **one billion dollars in tax revenue EVERY year** (<http://ibo.nyc.ny.us/cgi-park2/?p=1045>). The 421-a exemption has led to such travesties as reducing the property taxes on a \$100 million Manhattan apartment to less than many NY state residents pay on houses costing less than \$1 million. One billion dollars could go a long way to building non-profit or even regulated for-profit affordable housing.

Mandatory Inclusionary Housing

The inclusionary housing that now exists in the city is not mandated to provide a fixed mix of affordable units or even such units within the new building. The recent award by NY State HUD to RockRose of \$270 million dollars to help erect a luxury apartment building in Long Island City mandates 20% of affordable housing for a term of 30 years. Such affordable Inclusionary Housing apartments have generally been made available through a lottery.

Mandatory Inclusionary Housing (MIH) would require through zoning actions that a share of new housing to be permanently affordable. A developer would submit a new Mandatory Affordable housing application to the City Planning Commission. The developer would commit to one of three options.

1. 25% affordable units at an average cost of 60% AMI* (\$46,620)
2. 30% affordable units at an average cost of 80% AMI* (\$62,160)
3. (Overlay**) 30% affordable units at an average cost of 120% AMI* (\$93,240)

**AMI: Average Median Income. In New York City this is currently set at \$77,700 for a family of four.*

AMI levels are averages, meaning a variety of income levels can exist in a given development.

***Overlay: Must be applied along with one of the previous options.*

East New York is the first of at least 15 neighborhood rezonings proposed by the City for Mandatory Inclusionary Housing. Other areas under consideration are Jerome Avenue (Bronx), Bay Street (Staten Island), Flushing and Long Island City (Queens), and East Harlem (Manhattan), and at least nine more to come.

We believe the MIH proposal invites developers to seek out and purchase vulnerable properties in existing communities, in order to construct profitable housing in return for rezoning and providing a token number of “affordable” housing units.



The City of New York

Queens Community Board 11

Serving the Communities of Auburndale, Bayside, Douglaston, Hollis Hills
Little Neck and Oakland Gardens

Christine L. Haider Chairperson / **Susan Seinfeld** District Manager

October 9, 2015

Carl Weisbrod, Chair
City Planning Commission
Calendar Information Office
22 Reade St., Room 2E
New York, NY 10007

OFFICE OF THE
CHAIRPERSON

OCT 21 2015

2 8882

Re: Mandatory Inclusionary Housing
N160051ZRY

Dear Mr. Weisbrod:

On October 5, 2015, Community Board 11 held a public hearing to discuss the above referenced zoning text amendment. The board voted to oppose the amendment.

Board members were concerned that DCP would rezone areas for higher density to accommodate inclusionary housing in areas they fought to preserve for low density housing, preserving the character of their neighborhoods.

Sincerely,

Christine L. Haider



Community Board 12
The City of New York
Borough of Queens

Jamaica, Hollis, St. Albans, South Ozone Park, and Springfield Gardens

OFFICE OF THE
CHAIRPERSON

OCT 23 2015

28874

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Melinda Katz
BOROUGH PRESIDENT

Adrienne Adams
CHAIRPERSON

Melva Miller
DEPUTY BOROUGH PRESIDENT

Yvonne Reddick
DISTRICT MANAGER

October 18, 2015

Mr. Stephen Everett
New York City Planning
120-55 Queens Blvd
Kew Gardens, NY 11415

Dear Mr. Everett:

Thank you for presenting the Proposed Zoning for Quality and Affordability and Mandatory Inclusionary Housing to the Land Use Committee of Community Board 12. The Members of Community Board 12 emphatically support the Mayor's initiative to create more affordable housing; however we believe that the overall plan represented remains Manhattan-centric and would cause a disruption in the quality of life that currently exists in the great Borough of Queens.

The following bullet points outline concerns of the Queens Community Board 12 Land Use Committee:

- **Basic Residential Height:** The proposal provides minor increases in height and minimal design flexibility. It is still unclear how the mixing of affordable housing and market rate housing will be impacted by this proposal.
- **The Mixing of Affordable Housing and Senior Housing, which ranges from Nursing Homes to Senior Assisted Living:** There is ambiguity and vagueness regarding managing and/or enforcing the responsibilities of developers.
- **Definitions still need to be updated for "Long-Term Care Facilities" and "Assisted Living":** The idea of creating additional capacity by increasing the building height requirements makes sense if the developers are inclined to utilize and abide by it. The façade changes and the set back reductions may help improve the building capacity and impact first floor commercial space.
- **Parking:** As with most Community Boards in the Borough of Queens, the proposed parking reductions will cause a severe hardship in Community Board 12. Because much of Queens is a

transit desert, the reality is that most families depend on driving their own vehicles for purposes of work, shopping, and recreation. With regard to seniors and affordable housing tenants, mass transit systems (subway, buses, Access-A-Ride) are not sufficient alternatives to driving their own vehicles. The reduction of parking requirements to 10% for ANY building construction in our area is completely UNACCEPTABLE. There are development projects that have come before Community Board 12 in the past that were severely opposed solely based on requests for reduced parking. As a whole community, we are constantly forced to cram more into less space, and we CANNOT support the reduction of parking in any instance going forward.

In summation, the Community Board 12 Land Use Committee cannot support either amendment nor recommend a favorable vote for acceptance to the full Board. Although we understand the overall intention, we do not feel that these amendments provide enough clarity or emphasis regarding: how developers can co-mingle market with affordable and senior housing in Queens (which we know they will), and we certainly cannot support the notion of reduced parking without reducing our fundamental quality of life in any instance.

Sincerely Yours,

Adrienne Adams, Chairperson, Queens Community Board 12

Glenn Greenidge, Queens Community Board 12 Land Use and Economic Development Chairperson

Cc: Mayor Bill deBlasio
Queens Borough President Melinda Katz
Carl Weisbrod, Department of City Planning
Senator Leroy Comrie
Senator James Sanders
State Assembly Member Vivian Cook
Council Member Rory Lancman
Council Member I. Daneek Miller
Council Member Ruben Wills



Queens Community Board 13

219-41 Jamaica Avenue
Queens Village, NY 11428
Telephone: (718) 464-9700
www.QCB13.Org

Melinda Katz
Borough President

Vicky Morales
Director of
Community Boards

Bryan J. Block
Chairman

Mark McMillan
District Manager

December 2, 2015

Stephen Everett
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

Dear Mr. Everett:

On October 26, 2015, Queens Community Board 13 at its monthly General Meeting voted on two zoning text amendments.

After a detailed presentation by Debra Carney of the Department of City Planning, the two items, Mandatory Inclusive Zoning, and Zoning for Quality and Affordability, were discussed and subsequently voted on.

Queens Community Board 13 voted against both text amendments by a vote of 32-7.

If you need any additional information, please call me at 718.464.9700.

Sincerely,

Mark McMillan
District Manager
Queens Community Board 13



COMMUNITY
BOARD #14

COMMUNITY BOARD #14
City of New York
Borough of Queens

DOLORES ORR
Chairperson

JONATHAN GASKA
District Manager

1931 Mott Avenue, Room 311
Far Rockaway, NY 11691
Tel.: (718) 471-7300
Fax: (718) 868-2657
cbrock14@nyc.rr.com



November 12, 2015

Mayor Bill DeBlasio
The City of New York
Office of the Mayor
New York, NY 10007

Dear Mayor DeBlasio:

Community Board 14 at its November 10, 2015 board meeting voted unanimously 32-0 to oppose the proposed Zoning Text Amendment N160049 / N160051 ZRY / Mandatory Inclusionary Housing / Zoning for Quality and Affordability Text Amendments.

Within the boundaries of Community Board 14, we have almost 6,000 nursing and adult home beds, 5,000 units of Public Housing, the highest Section 8 voucher client placement in the Borough of Queens, over two dozen group homes, the St. Johns Boys Home, the recently opened homeless shelter, more than a handful of alcohol and drug rehabilitation centers, the highest unemployment rate in the Borough of Queens and according to the Department of City Planning over 28% of our population receives some type of Public Assistance. The largest employer in the district, Peninsula Hospital closed three years ago leaving no job prospects for any new resident.

Community Board 14 has done more than its fair share to help those in need. The burden of these unfortunate statistics has strangled our community economically, and is partially to blame for the closure of Peninsula Hospital. We continue to be poorly served by mass transportation and our limited roads and infrastructure cannot handle the already large increase in population that has occurred over the last decade. In 2008 in an effort to preserve quality of life and stop overcrowding in our district, we worked diligently with the Queens Borough office of the Department of City Planning to contextually down zone our community.

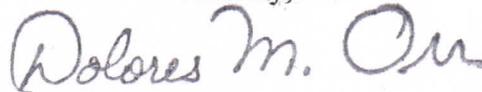
This proposed amendment allows for more Dense and Higher residential units to be built, reducing, or eliminating parking requirements and potentially further burdening our community economically and straining our already fragile and limited health care facilities. It also allows for more adult and nursing home and other health related beds to be built without a special permit.

Our Land Use and Housing Committee made the following comments in their motion to the Board to object to the proposed text amendment:

1. The Board does not support any additional affordable housing units to be built or created in Community Board 14 that are not at 60% of AMI or greater and that the focus be on homeownership and that higher AMI's and Market rate housing are strongly preferred.
2. That special permits continue to be required for any proposed additional Adult, Nursing, Federal or State sponsored or licensed facilities / housing projects, as well as any other type of skilled or semi health care beds.
3. That NO reduction in parking requirements be allowed in any zoning district, under any circumstances including new senior housing units.
4. That height limits not be increased or any Zoning restriction be reduced nor waived for ANY type of housing or in any Zone without following ULURP process for each individual building and or project.

We thank you in advance for supporting our position on this important matter.

Sincerely,



Dolores Orr
Chairperson

JG/dls

Cc:
Hon. Melinda Katz
Hon. Donovan Richards
Hon Eric Ulrich
Carl Weisbrod, Chairperson CPC

City of New York

1 Edgewater Plaza, Suite 217 • Staten Island, New York 10305

Tel: 718-981-6900

Fax: 718-720-1342

Community Board No. 1

December 9, 2015

Mr. Carl Weisbrod, Director
City Planning Commission
22 Reade Street
New York, New York 10007

Dear Mr. Weisbrod:

On December 8, 2015 Community Board #1, Staten Island voted 28-1-0 to oppose Application No. N160051ZRY "Mandatory Inclusionary Housing" as follows:

Resolution on the Department of City Planning's Application No. N160051ZRY "Mandatory Inclusionary Housing"

Whereas, Department of City Planning presentation was given at a Community Board #1 Land Use Public Hearing on December 1, 2015, and;

Whereas, this is a voluminous proposal that warranted numerous public review sessions to properly vet, and;

Whereas, there is a lack of infrastructure on Staten Island especially on the north shore, and;

Whereas, Staten Island is transit poor, and;

Whereas, there is a potential for overcrowding, and;

Whereas, there are currently insufficient school seats, and;

Whereas, there exists a voluntary inclusionary housing program and programs such as 421-A and Housing and Preservation & Development subsidies, and;

Whereas, the amendment appears to benefit developers more than the population it proposed to help, and;

Whereas, the concept to finance affordable housing through zoning is problematic, and;

Whereas, an expenditure of \$8.2 Billion fulfilling MIH is substantial and could be used more efficiently,

Pg. 2 of 2
CB#1-MIH

BE IT HEREBY RESOLVED THAT: Community Board #1 opposes the Mandatory Inclusionary Housing zoning text amendment No. 160051 ZRY

If you need further information or have any questions, please do not hesitate to call or e-mail.

Sincerely,


Nicholas Siclari
Chairman


Vincent Accornero
Land Use Chairman

Cc: Hon. James Oddo
Hon. Debi Rose
Hon. Steve Matteo
Len Garcia-Duran

City of New York

1 Edgewater Plaza, Suite 217 • Staten Island, New York 10305

Tel: 718-981-6900

Fax: 718-720-1342

December 9, 2015

Mr. Carl Weisbrod, Director
City Planning Commission
22 Reade Street
New York, New York 10007

Dear Mr. Weisbrod:

On December 8, 2015 Community Board #1, Staten Island voted 27-2-00 to oppose Application No. N 160049ZAY "Zoning for Quality and Affordability Test Amendment" as follows:

Resolution on the Department of City Planning's Application No. N 160049ZAY, "Zoning for Quality and Affordability Test Amendment"

Whereas, Department of City Planning presentation was given at a Community Board #1 Land Use Public Hearing on December 1, 2015, and;

Whereas, this is a voluminous proposal that warranted numerous public review sessions to properly vet. and;

Whereas, Community Board #1 does acknowledge the advantages of the flexibility afforded by the increased height available and strengthened commercial environment, and;

Whereas, changes to as-of-right lower density affordable senior housing in lower density residential zones without community input and ULUP oversight is ill advised for Staten Island, and;

Whereas, Staten Island is a transit poor borough, and;

Whereas, the reduction or elimination of parking is not feasible for any potential development on Staten Island, and;

Whereas, the proposal allows units as small as 250 square feet to be constructed for senior citizens,

Pg. 2 of 2
CB#1-ZQA

Be it hereby resolved that: Community Board #1 is opposed to City Planning's Application No. N 160049ZRY zoning for quality and affordability

If you need further information or have any questions, please do not hesitate to call or e-mail.

Sincerely,


Nicholas Siclari
Chairman


Vincent Accornero
Land Use Chairman

Cc: Hon. James Oddo
Hon. Debi Rose
Hon. Steve Matteo
Len Garcia-Duran



DANA T. MAGEE
CHAIR

DEBRA A. DERRICO
DISTRICT MANAGER

THE CITY OF NEW YORK
Community Board 2
BOROUGH OF STATEN ISLAND

460 BRIELLE AVENUE
STATEN ISLAND, NEW YORK 10314
718-317-3235
FAX: 718-317-3251

December 10, 2015

Honorable Carl Weisbrod, Chair
City Planning Commission
120 Broadway, Floor 31
New York, New York 10007

Re: Mandatory Inclusionary Housing
ULURP Number N160051ZRY

Dear Chair Weisbrod,

I am writing to inform you that at its December 9, 2015 monthly Full Board meeting, Community Board 2 unanimously resolved by a vote of **25 in favor of rejecting** the proposed Mandatory Inclusionary Housing Text Amendment, ULURP Number N160051ZRY. There was no opposition to the rejection and no abstentions.

WHEREAS, the Mandatory Inclusionary Housing Program would substantially increase density, and have a negative impact on already overtaxed infrastructure;

and, Staten Islanders are already overburdened with poor transportation in a borough lacking viable transportation options. This program will add to the challenges we are faced with as a result of over-development in this borough.

We, the members of Community Board **reject** the Mandatory Inclusionary Housing Program.

BE IT RESOLVED that, we, the members of Community Board 2 **reject** the Mandatory Inclusionary Housing Program proposed by the Mayor and the New York City Department of City Planning.

Sincerely,

Dana T. Magee
Chair

Frank G. Marchiano
Chair, Land Use

Copy to: Honorable Bill de Blasio
Honorable James S. Oddo
Honorable Steven Matteo
Honorable Joseph Borelli
Len Garcia-Duran, Director of DCP/Staten Island
New York City Speaker Melissa Mark-Viverito

Application #: **N160051ZRY**

Project Name: **Mandatory Inclusionary Housing**

CEQR Number: 16DCP028Y

Borough(s): **Staten Island**

Community District Number(s): **3**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by NYC Department of City Planning The Department of City Planning (DCP) is proposing a city-wide Zoning Text Amendment to create a Mandatory Inclusionary Housing ("MIH") program within the existing Inclusionary Housing program authorized in the New York City Zoning Resolution ("ZR") Section 23-90 (the "Proposed Action"). The Proposed Action would amend ZR Sections 12-10 (Definitions), 23-10 (Open Space and Floor Area Ratios), 23-90 (Inclusionary Housing), 62-80 (Special Review Provisions), 74-00 (Powers of the City Planning Commission), and 74-30 (Special Permits Uses and Bulk Modifications). The proposed text amendment would have no effect until mapped or implemented through subsequent discretionary actions of the City Planning Commission. The analysis year for the proposed text amendment is 2024. Absent the Proposed Action, there would be no program in place to require affordable housing.

Applicant(s): NYC Department of City Planning		Applicant's Representative: NYC Department of City Planning
Recommendation submitted by: Staten Island Community Board 3		
Date of public hearing: November 12, 2015		Location: 1243 Woodrow Road, 2nd Floor - Suite 8
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>
Date of Vote: November 24, 2015		Location: Woodrow Methodist Church Hall, 1075 Woodrow Rd, SI
RECOMMENDATION <input type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input checked="" type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 5px;">See Attached Resolution</div>		
Please attach any further explanation of the recommendation on additional sheets, as necessary.		
Voting		
# In Favor: 42 # Against: 0 # Abstaining: 0		Total members appointed to the board: 50
Name of CB/BB officer completing this form Frank Morano	Title Chairman	Date 12/8/2015



**BOROUGH OF STATEN ISLAND
COMMUNITY BOARD 3**

*1243 Woodrow Road, 2nd Floor – Suite 8
Staten Island, New York 10309*

*Telephone: (718) 356-7900
Email: sicb3@cb.nyc.gov
Website: www.nyc.gov/sicb3*

Resolution on the Department of City Planning's Application No. N160051ZRY "Mandatory Inclusionary Housing"

WHEREAS, Community Board 3, Staten Island received the Mandatory Inclusionary Housing "MIH" Department of City Planning "DCP" Application No. N160051ZRY on October 2, 2015;

WHEREAS, on October 14, 2015 the Community Board 3 Land Use Committee held a public hearing and representatives from DCP presented the Mandatory Inclusionary Housing Application at that hearing;

WHEREAS, November 5, 2015 Community Board 3 convened a special meeting to review the Mandatory Inclusionary Housing Application;

WHEREAS, the actual proposal is 700 pages, coupled with the fact that Community Board 3 Staten Island was presented with a mere portion of the proposal and the presentation did not adequately address our concerns;

WHEREAS, Community Board 3 Staten Island is uniquely knowledgeable, possesses firsthand experience with the individual composition of our neighborhoods, and is in the best position to determine the impact of zoning text changes;

WHEREAS, Community Board 3 Staten Island supports and defends The Special South Richmond Development District "SRD" that was established in 1975 to control the development of the south shore of Staten Island to ensure that public infrastructure is tantamount to development, and to avoid obliteration of natural resources that define the community;

WHEREAS, Community Board 3 Staten Island absolutely supports the objective of the Staten Island Growth Management Task Force and their mission to examine and protect against density, and influence planned proposals that enhance Staten Island's quality of life;

WHEREAS, Community Board 3 Staten Island supported and approved Prince's Bay/Pleasant Plains/Richmond Valley DCP approved (2006) down-zoning text amendment that safeguards neighborhoods from overdevelopment and upholds character by mapping low-density districts;

WHEREAS, Community Board 3 Staten Island supported and approved Andrew J. Lanza's, the Civic Association of the Sandy Ground Area's, and the Pleasant Plans/Prince's Bay/Richmond Valley Civic Association's DCP approved application (2010) to down-zone a section of Rossville to preserve the established low-density character and ensure that future residential development will reinforce the existing patterns of semi-detached and detached homes;

WHEREAS, the MIH is objectionable because its approach to planning by attempting to finance affordable housing through zoning is not suitable for a wide range of situations or individual borough centered problems;

WHEREAS, the MIH's EAS dated September 18, 2015 was not written and reviewed by an independent third party, but rather by the Department of City Planning which has a vested interest in its approval, thereby creating the appearance of a conflict of interest, if not a conflict;

WHEREAS, the Department of City Planning's self-certified conclusion is a "negative declaration" indicating that affordable units will not have an adverse effect on public health, safety or welfare of our city, and no basis has been shown for the merit of such a certification and, certainly the DCP has failed to demonstrate in response to direct questioning that such is the case;

WHEREAS, the requirement that the mandated percentage of affordable units be distributed over more than 50% of the floors of a building so as not to stigmatize the residents of those units is suspended and dispensed with for senior citizens;

WHEREAS, the MIH allows developers to construct apartments as small as 250 square feet for senior citizens;

WHEREAS, the MIH text creates a new board of Standards & Appeals "BSA" special permit that allows developers to request waiver to each and every MIH requirements upon a claim of failure to make a reasonable return. However, the newly drafted findings required for the granting of this BSA special permit omits a standard finding of no adverse impact on community character.

WHEREAS, the EAS is silent on the number of affordable housing units expected as a result of the zoning text changes;

WHEREAS, Community Board 3 Staten Island believes that the City's plan to spend over \$8.2 billion fulfilling MIH could be used more efficiently in other strategies rooted in community planning to create and preserve affordable housing;

WHEREAS, any mandated affordable housing proposal is subsidized housing whether it is funded by the government or the private sector;

WHEREAS, the MIH does not decree that this affordable housing program is temporary assistance and encourage people to become independent as soon as possible;

NOW, THEREFORE,

BE IT RESOLVED THAT, Community Board 3 Staten Island is opposed to the Mandatory Inclusionary Housing zoning text amendment No. N160051ZRY in its entirety.

Bronx Community Board #2

Borough President Ruben Diaz, Jr.

1029 East 163rd St.

Bronx, NY 10459

718-328-9125 • 718-991-4974 Fax

E-mail: brxcb2@optonline.net



Dr. Ian Amritt
Chairperson



Rafael Salamanca, Jr.
District Manager

November 10, 2015

Carl Weisbrod
Chairman
NYC Planning Commission
22 Reade Street
New York, NY 10007

**RE: Mandatory Inclusionary Housing Text Amendment
CEQR No. 16DCP028Y
ULURP No. N 160051 ZRY
Citywide**

Dear Mr. Weisbrod,

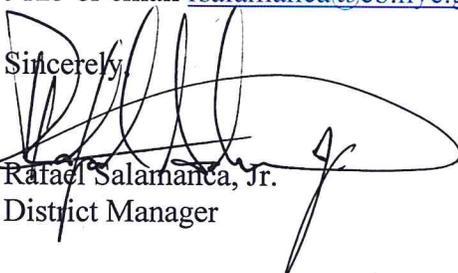
Please be advised that on Wednesday, October 28, 2015 Bronx Community Board #2 Full Board unanimously voted on a motion to NOT approve the proposed Mandatory Inclusionary Housing Text Amendment.

Concerns raised in the public hearing held on Wednesday, October 28, 2015 were:

- Text Amendments were being rushed through community boards
- Text Amendments are written as a one size fits all plan and does not take into consideration that all districts are different.
- Proposal does not address housing for low income families and single individuals with not families.
- Removing parking for transit accessible areas within ½ mile will have a detrimental effect on our senior population.

Should you have any questions or need further information, please feel free to contact me at 718-328-9125 or email rsalamanca@cb.nyc.gov.

Sincerely,


Rafael Salamanca, Jr.
District Manager



**The City of New York
Bronx Community Board Three**

1426 Boston Road, Bronx, NY 10456
Telephone No.:(718)378-8054 – Fax No.:(718)378-8188/8226
E-mail Address: brxcomm3@optonline.net

DIAL	Government Services
311	& Information for NYC
Comm. Bd. Info go to: bronxmail.com	

**RUBEN DIAZ, JR.
BRONX BOROUGH PRESIDENT**

**GLORIA ALSTON
CHAIRWOMAN**

**JOHN W. DUDLEY
DISTRICT MANAGER**

November 25, 2015

MR. CARL WEISBROD
CHAIRPERSON
CITY PLANNING COMMISSION
CALENDAR INFORMATION OFFICE
22 READE STREET, ROOM 2E
NEW YORK, NY 10007

MR. CARL WEISBROD
CHAIRPERSON
CITY PLANNING COMMISSION
120 BROADWAY, 31ST FLOOR
NEW YORK, NY 10271

**RE: N 160049 ZRY
ZONING FOR QUALITY AND AFFORDABILITY
TEXT AMENDMENT**

**N 160051 ZRY
MANDATORY INCLUSIONARY HOUSING
TEXT AMENDMENT**

Dear Mr. Weisbrod:

The following commentaries and recommendations of Bronx Community Board Three, related to the above text amendments **N 160049 ZRY** and **N 160051 ZRY**, were approved by the full board at its meeting held November 10, 2015, in which there was a quorum of members present and entitled to vote.

ZONING FOR QUALITY AND AFFORDABILITY TEXT AMENDMENT (N160049ZRY)

The citywide text amendment, according to DCP, is aimed at targeting changes to zoning regulations which would address the needs of affordable housing, aid in the efficient use of housing subsidies and encourage higher quality residential buildings in NYC medium to high density neighborhoods. Despite the coordinated efforts of the citywide administration to construct and preserve 200,000 units of affordable housing in 10 years under "Housing New York", this recommended text amendment was developed by DCP, absent of a comprehensive and deliberate approach to educate local community boards in understanding the existing zoning text, and the development implications of the proposed text amendment related to individual districts with varying neighborhood characteristics and zoning designations.

EXECUTIVE OFFICERS

Rev. Bruce Rivera 1 st Vice-Chairperson	Lind Kemp 2 nd Vice-Chairperson	Gail Gadsden Secretary	Leslie Phipps Treasurer	Rita Jones Sgt.-at-Arms/Parliamentarian
---	---	---------------------------	----------------------------	--

Of particular concern with ZQA, related to the administration's goal of promoting housing affordability, is the notion that city capital resources would be "freed-up" to create more affordable housing, by eliminating parking requirements for affordable, senior housing and voluntary inclusionary housing developments in transit accessible zones, which are areas within a ½ mile radius of public transportation. According to DCP, these developments would become less costly and easier to construct; nevertheless, there is no commitment under this amendment, that the capital resources would be assigned to other development projects within the respective community board from which the savings are realized through the optional waiver.

Bronx Community District Three, in its virtual entirety, has been identified as a transit zone, to make allowances for implementation of optional parking requirements for developers seeking to develop affordable, senior housing and voluntary inclusionary housing developments. Existing parking requirements under current zoning, make allowances for reduced parking utilization for affordable and senior housing to nearly ½ of what would be required for market rate housing. The contention that DCP data collected and verified by affordable housing providers, showing lower parking utilization rates for seniors and low income residents, is already established and accounted for through the existing zoning text. ZQA would serve to impose further restrictions through an optional waiver, adding to the suggestion that the ZQA text amendment is punitive on this issue of parking needs for low income residents, now and into the future.

Additionally, if the ZQA were approved, parking requirements within Transit Zones for existing affordable senior housing developments could be removed as of right, while other existing affordable housing could apply for a new Board of Standards and Appeals (BSA) special permit (Section 73-434), to remove previously provided parking that is not needed.

Furthermore, through a separate BSA special permit, other new buildings being constructed as mixed income developments, could apply to reduce or eliminate their parking requirements under the existing zoning text, provided it would not have an adverse affect on the surrounding area. The ZQA opens the possibility for unlimited complications resulting in on street parking demands, which would otherwise not be exacerbated under the existing zoning resolution.

The ZQA, if approved, would place considerable hardships on residents with mobility impairments and those living in two fare zones. Residents residing within the area of the recently completed Melrose Commons Housing Development have seen the number of vehicles parked on street skyrocket, wherein it may routinely take an hour to find local area parking in the evening.

The ZQA does not take into consideration other options for use of unused parking spaces at affordable, senior housing and voluntary inclusionary housing developments. Owners should be afforded the ability to market unused parking spaces for monthly rental to other community residents, while certain other unused spaces could serve as a resource for caregivers and other professionals attending to the needs of the elderly.

RECOMMENDATION: The Zoning Quality Text Amendment is **not recommended** for support due to the complexities of issues stated.

MANDATORY INCLUSIONARY HOUSING TEXT AMENDMENT (N160051ZRY)

The citywide text amendment, according to DCP, is designed to use zoning to require permanently affordable housing when future City Planning Commission actions encourage substantial new housing. This text amendment would require that for all public and private applications to CPC for re-zoning to encourage substantial new housing, the developer is required to elect one of three options:

- Provide 25% of housing at an average of 60% AMI
- Provide 30% of housing at an average of 80% AMI or in limited emerging or mid-market areas, provide 30% of housing at an average of 120% AMI—no subsidies under this option. (option not available in Manhattan CDs 1-8)

EXECUTIVE OFFICERS

Rev. Bruce Rivera
1st Vice-Chairperson

Lind Kemp
2nd Vice-Chairperson

Gail Gadsden
Secretary

Leslie Phipps
Treasurer

Rita Jones
Sgt.-at-Arms/Parliamentarian

Locations of inclusionary housing units can be on site in same building as market rate units and spread on at least half the buildings stories, with a common street entrance and lobby; on site, separate building, completely independent from the ground to the sky and off-site on a different zoning lot located within the same community district or within a half mile radius.

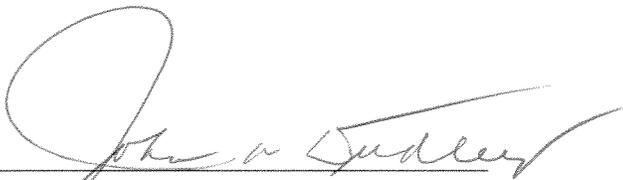
DCP has also provided other considerations including a payment in lieu option for buildings between 11-25 units, into a development fund. Requirements for affordable units could be reduced or waived through BSA, where they would make the development infeasible (legal requirement for hardship relief).

The concern with MIH relates to the consideration, under the text, that the affordable units could be created at a separate building or different zoning lot, which may or may not rest within the boundaries of the community district which is the subject of the re-zoning. These requirements undermine the spirit of the mixed income development options and foster isolation of market rate units from affordable units. Additionally, it is important to understand the means by which affordable developments that are constructed off site, will meet sufficient development timelines and be managed and maintained.

Most importantly as it relates to this proposed amendment, is the question as to how the payment in-lieu option funds will be allocated and spent and whether the payment in-lieu funds from the community board MIH sites, will be spent within the community board, on affordable housing projects.

Lastly, Bronx CB 3 has asked the NYC Department of HPD and HDC, to give consideration to re-evaluating affordable housing eligibility indexes, so that eligibility is based on income derived from census tracts within the county and proposed neighborhood where the project is to be located, as opposed to the NYC AMI which is greater. This approach will afford greater opportunities for admission by residents living in and around the proposed new affordable housing site.

RECOMMENDATION: The Mandatory Inclusionary Housing text amendment is **not recommended** for support due to the complexities of issues stated.



John W. Dudley
District Manager
Bronx Community Board Three

November 25, 2015

CC: Gloria Alston, Chairwoman
Hon. Ruben Diaz Jr., Bronx Borough President
Hon. Ritchie J. Torres, Councilman, 15th District
Hon. Vanessa L. Gibson, Councilwoman, 16th District
Hon. Maria Del Carmen Arroyo, Councilwoman, 17th District

EXECUTIVE OFFICERS

Rev. Bruce Rivera
1st Vice-Chairperson

Lind Kemp
2nd Vice-Chairperson

Gail Gadsden
Secretary

Leslie Phipps
Treasurer

Rita Jones
Sgt.-at-Arms/Parliamentarian



The City of New York
COMMUNITY BOARD 4
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Email: bx04@cb.nyc.gov

Honorable Ruben Diaz, Jr.
Bronx Borough President

Ms. KATHLEEN SAUNDERS
Board Chair

MR. JOSÉ RODRIGUEZ
District Manager

November 9, 2015

City Planning Commission
Calendar Information Office
22 Reade Street, Room 2E
New York, New York 10007

RE: N 160049 ZRY
Zoning for Quality and Affordability Text Amendment
N 160051 ZRY
Mandatory Inclusionary Housing Text Amendment

Dear Members of the Commission:

At a meeting of Bronx Community Board Four held on 27 October 2015, which I chaired, the Board voted not to support the Zoning for Quality and Affordability (ZQA) Text Amendment (N 160049 ZRY) and the Mandatory Inclusionary Housing (MIH) Text Amendment (N 160051 ZRY).

While not voted on, the following recommendations and or comments were discussed:

- Displacement and preservation of current housing stock.
- Lowering of the percentage of the AMI.
- Developing a forth option within the MIH that will allow for higher percentage of the AMI, viable within our Community District.
- Restructuring of transit radius.
- Limiting Board's involvement in community development planning.

Sincerely,


Kathleen Saunders
Board Chair.



THE CITY OF NEW YORK
BOROUGH OF THE BRONX
COMMUNITY BOARD 7



RUBEN DIAZ, JR., BOROUGH PRESIDENT

ADALINE WALKER-SANTIAGO, CHAIRPERSON

November 23, 2015

Hon. Carl Weisbrod
Chairman
New York City Planning Commission
120 Broadway 31st Floor
New York, NY 10271

OFFICE OF THE
CHAIRPERSON

DEC 2-2015
29032

Dear Chairman Weisbrod:

Community Board #7, Bronx, at its meeting of November 17, 2015, voted to oppose both ULURP application # N 160049 ZRY "Zoning for Quality and Affordability Text Amendment", by a vote of 20 "ayes", 0 "nays" and 7 "abstentions" and ULURP # N 1600051 ZRY, "Mandatory Inclusionary Housing" by a vote of, 19 "ayes" and 0 "nays" and 8 "abstentions".

The Community Board members and members of the public who attended the various Housing and Land Use Committee meetings, as well as the public hearing on these two applications had the following concerns regarding the proposals.

The following concerns were raised regarding the "Zoning for Quality and Affordability Text Amendment," N 160049 ZRY:

1. An increase in the height of new buildings does not conform to the characteristics of the board area, which is composed of primarily 5 and 6 story apartment buildings with some single-family homes.
2. The one size fits all philosophy of the proposal does not allow for any input from the community.
3. The reduction and elimination of parking at affordable and senior housing sites would be detrimental to our neighborhood which already suffers from a lack of available parking spots for current residents.
4. The proposal does not include any improvements to our infrastructure. Our schools, parks, transit facilities and shopping areas are already overcrowded and over utilized.

The following concerns were raised regarding the "Mandatory Inclusionary Housing Text Amendment N 1600051 ZRY:

1. The formula for calculating the Average Median Income (AMI) and the subsequent rent for these new buildings do not match the income levels in Community Board #7. One formula for the entire city does not fit every neighborhood.



THE CITY OF NEW YORK

BOROUGH OF THE BRONX

COMMUNITY BOARD 7



RUBEN DIAZ, JR., BOROUGH PRESIDENT

ADALINE WALKER-SANTIAGO, CHAIRPERSON

2. The community board is removed from the negotiating process with developers. Under MIH the developer has 3 options for affordability. The need for more middle or lower income developments for a given area is lost by the lack of community input.
3. Community Board #7 already has over 20 new projects in the pipeline. Some are in construction and many are in the process of being approved by the Department of Buildings. Many of these projects are supportive complexes with an affordability component.

We hope that these concerns are addressed as you move forward with these proposals.

Sincerely,

Adaline Walker-Santiago
Chairperson

cc: Hon Ruben Diaz Jr., Bronx Borough President
Hon. Fernando Cabrera, NYC Councilman, 14th C.D.
Hon. Andy Cohen, NYC Councilman, 11th C.D.
Hon. Ritchie Torres, NYC Councilman, 15th C.D.



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Honorable Ruben Diaz, Jr.
Bronx Borough President

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DISTRICT MANAGER:

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Public Safety

Joseph O'Brien

Traffic & Transportation

Michael Heller

Youth

Lamont Parker

November 12, 2015

Carl Weisbrod, Chair
NYC Planning Commission
22 Reade Street
New York, NY 10007

Re: **Mandatory Inclusionary Housing** **DCP Land Use Review Application No. N160051ZRY**

Dear Chair Weisbrod:

At its regular Board meeting held on November 10, 2015, Bronx Community Board No. 8 approved the following resolution by a vote of 35 in favor, 0 opposed and 2 abstentions to disapprove the above referenced application:

WHEREAS, the Mayor has proposed a plan entitled Housing New York which is a ten-year plan for 80,000 new units of affordable housing and preserving 120,000 units of affordable housing;

WHEREAS, the range of initiatives the Mayor has set forth includes two, city-wide zoning text proposals, one of which is Mandatory Inclusionary Housing ("MIH");

WHEREAS, the proposed zoning text amendment known as MIH was certified to Bronx Community Board 8 ("CB 8") on September 21, 2015;

WHEREAS on October 14, 2015 and November 9, 2015, the Land Use Committee of CB 8 held hearings on and received both Department of City Planning ("DCP") and public comment on MIH, following prior circulation to Board Members of a link to or a copy of the text thereof;

WHEREAS, Bronx CB 8 believes that each community board has a special understanding of the unique character of its neighborhoods and is in the best position to determine the impact of zoning text changes;

WHEREAS, in 1997 Bronx CB 8 conducted extensive public outreach to develop a community-wide comprehensive 197-a Plan entitled CD8 2000: A River to Reservoir Preservation Strategy, which included the stated goals of the creation of affordable housing, the protection of the area's unique character and natural assets and the enhancement of the economic, cultural and social opportunities for its residents;

WHEREAS, on October 22, 2003 the New York City Planning Commission adopted a Resolution confirming the 197-a Plan submitted by Bronx CB 8;

WHEREAS, on November 19, 2003, the New York City Council adopted a Resolution enacting into law the same 197-a Plan;

WHEREAS, the MIH as presented is not a product of community-based planning, nullifies the advances of the 197-a Plan, and does not take into account the special character of any neighborhood within the City of New York;

WHEREAS, the MIH is a one-size-fits-all approach to planning and in an attempt to finance affordable housing through zoning, places our communities at peril for generations to come;

WHEREAS, the DCP was asked to demonstrate how and in what particularized respects the MIH will, as represented by DCP, advance the integration of communities, particularly given the suggestion by DCP that the presently contemplated communities targeted for implementation are areas such as East New York, Brooklyn, and potentially Inwood, the South Bronx and other like communities, as contrasted with, more affluent areas, of Manhattan:

WHEREAS the Environmental Assessment Statement ("EAS") fails to demonstrate that consideration has been given to issues such as gentrification in areas such as East New York and, despite request to DCP, to provide a showing that such consideration was specifically addressed, none has been forthcoming;

WHEREAS, the MIH requires the inclusion of 25-30% of units in a development to be affordable by increasing the floor area ratio for such developments, increasing density, height and number of units across the City of New York which will diminish air, light and space to all New Yorkers;

WHEREAS, the MIH's draft EAS was not written and reviewed by an independent third party but rather by the Department of City Planning which has a vested interest in its approval, thereby creating the appearance of a conflict of interest, if not a conflict;

WHEREAS, the Department of City Planning's self-certified conclusion is a "negative declaration" meaning that any resulting affordable units will not have any effect on the public health, safety and welfare of our city, and no basis has been shown for the merit of such a certification and, indeed, the DCP has failed to demonstrate, in response to direct questioning and request, that such is the case;

WHEREAS, the requirement, that the mandated percentage of affordable units in a development be distributed over more than 50% of the floors of a building so as not to stigmatize the residents of those units, is suspended and dispensed with for senior citizens;

WHEREAS, the MIH allows developers to construct apartments as small as 250 square feet for senior citizens;

WHEREAS, the MIH text creates a new Board of Standards & Appeals (“BSA”) special permit that allows developers to request waivers to each and every MIH requirement, upon a claim of failure to make a reasonable return, but the newly- drafted findings required for the grant of this BSA special permit omits a standard finding of no adverse impact on community character;

WHEREAS, the EAS is silent on the number of affordable housing units expected as a result of the zoning text changes;

WHEREAS, City Planning was specifically asked to submit and has failed to establish how the MIH will significantly advance the creation of affordable housing, particularly in the context of current initiatives and accomplishments of the Department of Housing Preservation and Development (“HPD”) and the NYC Housing Development Corporation (“HDC”);

WHEREAS, Bronx CB 8 supports the underlying general principles of the Mayor’s initiative for Housing New York to create 80,000 units of affordable housing and preserving 120,000 units by the year 2025 but takes issue with the means used, especially the Zoning mandates of MIH, to effectuate the desired result;

WHEREAS, the MIH as written does not include evidence of or a mandate for inter-agency cooperation that would be required to accommodate new residents attracted by developer incentives in already resource-deprived areas of CB 8;

WHEREAS, Bronx CB 8 believes that any resources spent on MIH could be used more efficiently in other plans rooted in community planning to create and preserve affordable housing;

WHEREAS, Bronx CB 8 supports all city and state programs that rehabilitate and preserve affordable housing including the Article 8A Loan Program which creates low interest loans for owners to preserve affordable housing;

WHEREAS, Bronx CB 8 supports the increase of the bonding cap for NYCHDC which creates low interest loans for developers to create affordable housing;

WHEREAS, Bronx CB 8 supports the funding of city and state programs that protect the rights of tenants to remain in their apartments;

NOW, THEREFORE,

BE IT RESOLVED THAT, Bronx CB 8 is opposed to any zoning text amendment that does not set a minimum unit size at 400 square feet, especially for our senior citizens;

BE IT RESOLVED THAT, Bronx CB 8 is opposed to any zoning text amendment that increases the floor area ratio of buildings as of right;

BE IT RESOLVED THAT, Bronx CB 8 is opposed to the Mandatory Inclusionary Housing zoning text amendment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel Padernacht', written in a cursive style.

Daniel Padernacht
Chairman

Original letters sent to:

Mayor Bill de Blasio
Carl Weisbrod, Chair, NYC Planning Commission
New York City Speaker Melissa Mark-Viverito
Bronx Borough President Ruben Diaz, Jr.

Carbon Copy sent to:

Members of New York City Council
New York City Community Boards



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RUBEN DIAZ JR.
 BRONX BOROUGH PRESIDENT

WILLIAM RIVERA



DISTRICT MANAGER

November 23, 2015

CAROL J. SAMOL
 BRONX BOROUGH DIRECTOR
 NYC DEPARTMENT OF CITY PLANNING
 1 FORDHAM PLAZA, 5th FLOOR
 BRONX, NY 10458

SERVING

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CLASON POINT

HARDING PARK

PARKCHESTER

PARK STRATTON

**SOUNDVIEW/
 BRUCKNER**

UNIONPORT

Dear Ms. Samol:

I am writing to formally inform you of our Boards vote on Mandatory Inclusionary Housing & Zoning for Quality Affordability.

On November 18, 2015 the Board voted as follows:

1. Mandatory Inclusionary Housing
 DCP Land Use Review Application No. N160051ZRY

The Board voted unanimously against this application, zero opposed and zero abstentions, because of unsatisfactory information, facts, and lack of time to review concerns. In addition, the board will examine resolution with elected officials, city planning and other available resources, to fully understand the concerns and facts of this amendment to make an informed decision at a future board meeting.

2. Zoning for Quality & Affordability Text Amendment
 DCP Land Use Review Application No. N160049ZRY

The Board voted unanimously against this application, zero opposed and zero abstentions, because of unsatisfactory information, facts, and lack of time to review concerns. In addition, the board will examine resolution with elected officials, city planning and other available resources, to fully understand the concerns and facts of this amendment to make an informed decision at a future board meeting.

If you have any questions feel free to contact me.

Thank You

William Rivera
 District Manager

Cc: Bronx Borough President Ruben Diaz Jr.



Ruben Diaz, Jr.
Borough President

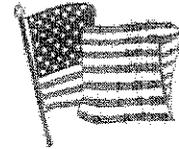
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Martin A. Prince
Chairperson

Kenneth Kearns
District Manager

November 4, 2015

Hon. Bill de Blasio, Mayor
Of the City of New York
City Hall
New York, NY 10007

Re: Zoning for Quality and Affordability and Mandatory Inclusionary Housing

Dear Mayor de Blasio:

Bronx Community Board # 10, at its Public Hearing of October 27, 2015, rejected the above proposals. The proposals were rejected for the following highlighted reasons:

1. The Zoning for Quality and Affordability Text Amendment, or ZQA, if adopted, will result in a serious threat to the downsizing efforts that this Board had put into place. The plan paves the way for the up-zoning of the Board.
2. The decisions regarding the construction of housing under the Mandatory Inclusionary Housing Text Amendment, or MIH, vest the authority in making decisions regarding housing squarely with the City Council and the City Planning Commission. The Community Boards are shut out of the process.
3. The ZQA envisions the construction of senior and affordable housing without parking. This aspect of the plan ignores the fact that seniors (who are defined as 55 years of age and above for eligibility for the Ft. Schuyler House assisted living facility in my Board area) own cars. In Bronx CB #10, we are dependent on the bus system to deliver commuters to the #6 Train. In many cases the communities of our Board are geographically isolated. This system is subject to the vagaries of MTA funding, which three years ago saw drastic cuts in service, necessitating a long and arduous battle to restore service. This experience further cemented in the minds of residents the need for car ownership, which bespeaks a need for parking.
4. The ZQA speaks of locating this housing along transit routes. The #6 train is the only subway line operating in the Board's service area. It only has two stations that are equipped with escalators and elevators. The other five stations along the line require commuters to climb four flights of stairs to reach train platforms. Seniors and those who are physically challenged will have to take buses to the train stations that are equipped with these amenities, exposing them to long commutes.

November 4, 2015

ZQA/MIH

Page two

5. The proposed MIH envisions housing developments that are linked to an economic formula that supposedly will ensure that the developments will have a healthy income mix. Quite frankly, we do not see this happening in our Board area. What we see are large buildings featuring desirable apartments with a 70/30 ratio and no one being able to move in; rent at the 70 percent level is too high for working people, who by the way, will also be ineligible for any subsidy because they make too much. This will leave the property being inhabited solely by those in the 30 percentile, thus defeating the purpose of an economic mix.
6. We are told at every opportunity that there are 68,000 homeless, mostly women and children in our City. Your administration, as well as past administrations has used any and every resource to house people, yet the policy is severely wanting, because it is too expensive, offering little more than basic accommodation in an often unsavory environment. The system is unfair because not every Community Board shares the burden of having shelters. Some have many, and others none.

Under a free market system, several buildings have been built as of right on the sites of former 1-3 family homes in our Board service area. Aside from the fact that they have altered the context of the community forever, they are economic failures, and in the case of one, originally marketed as a condominium, it was flipped overnight into a shelter. This was done without any warning to the Community Board or the electeds. The presence of advocacy groups that work with the real estate community to identify properties in distress and will work to fill the properties with either formerly homeless people or those transitioning out of other settings is a reality. Neither the ZQA nor the MIH discuss the issue of the necessity of providing quality social services to these residents.

7. The literature for both the ZQA and MIH allude to how experts were brought in to develop the Text Amendments. This is a top down plan and not organic in scope. The Community Boards were never consulted, and now the plan is being imposed on the City by power elite.

Attached to this letter you will find a Resolution that was passed by the full Board and a series of bullet points. Each of the points represents a sentiment that was articulated at our Public Hearing. As Chairman of Bronx Community Board #10, I respectfully ask that you read this letter with a critical eye, and not respond with a perfunctory response. The issue of housing is a thorny one and we commend your administration for taking it on.

All we ask is that you be more inclusive and actively solicit the inputs of the Community Boards. We, above all know the needs of our communities, and we stand ready to assist you. After all, our true name is Community PLANNING Board; let us help you to re-design this plan.

November 4, 2015
ZQA/MIH
Page 3

Thank you for your attention and assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Prince". The signature is fluid and cursive, with a long horizontal stroke at the end.

Martin Prince, Chairman
Bronx Community Board #10

Cc: L. James, NYC Public Advocate
S. Stringer, NYC Comptroller
Members of the NYC Council
Members of NYC Community Boards

C: #4



Ruben Diaz, Jr.
Borough President

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Martin A. Prince
Chairperson

Kenneth Kearns
District Manager

October 27, 2015

“Resolved...At the Recommendation of the Housing and Zoning Committee of Bronx Community Board #10, that the Committee’s no vote on the Zoning for Quality and Affordability Text Amendment and the Mandatory Inclusionary Text Amendment, be communicated by letter accompanied by a list of recommendations, to all of the elected officials in the City government and each Community Board.”



Ruben Diaz, Jr.
Borough President

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Martin A. Prince
Chairperson
Kenneth Kearns
District Manager

JOINT MEETING WITH BRONX COMMUNITY BOARDS #10 and #11 October 22, 2015

Present: M. Prince; P. J. Sullivan; A. Chirico; R. Barbarelli - Board #10; J. McManus;
J. Rubino; J. Warneke -- Board #11;
M. Rivadeneyra- Council member Vacca
Staff: K. Kearns

The purpose of this session was for the leadership of both Boards to come together to discuss the upcoming Mayor’s Housing Plan and its affect upon the communities served by both Boards. There was a thorough examination of the Zoning for Quality and Affordability Text Amendment and the Mandatory Inclusionary Housing Program. Also discussed was the Borough President’s recent meeting with Community Boards, where each Board spoke about their position regarding the Plan. The Borough President suggested that in the event a community board voted no, that the no vote be accompanied with a series of suggestions. This suggestion was discussed among last night’s meeting attendees, and it was determined that this was a viable strategy. Briefly the Plan is as follows:

1. There are two portions of the Mayor’s Housing Plan, one is the Zoning for Quality and Affordability Text Amendment or ZQA and the other is the Mandatory Inclusionary Housing Text Amendments or MIH.
2. The ZQA reviews all of the City’s existing zoning regulations and removes those regulations that are outdated and replaces them with new ones that foster housing growth and affordability.
3. The MIH allows developers to provide high quality housing that features mixed income tenancy. The MIH establishes targets for developments that will receive tax abatements for the construction of affordable housing. It creates an opportunity to build permanency for affordable housing into the development of each project if it is over 10 units and it establishes an affordable housing fund to foster development. The MIH creates two options that pair set aside percentages, with different affordability levels for apartments. When the MIH is applied, the City Planning Commission and the City Council would choose one or more of the two primary options, Option 1. That 25% of the residential floor area shall be deemed affordable to households in the 60% of Area Median Income Index (AMI) with no unit targeted to a level exceeding 130% of the AMI. Option 2, at least 30% of the residential floor area shall be provided as affordable housing to households at an average of 80% of the AMI, with no unit targeted to a level exceeding the AMI of 130%. In areas where housing subsidies to developers are not usually applicable and where the City wants to encourage economic diversity a Workforce Option exists that requires at least 30 % of the residential floor area be provided to households at an average of 120%

of the AMI, with no single household exceeding 130 % of the AMI. This option would apply mainly to Manhattan CB's 1-8. However, it could have applicability in Board #10 and #11.

4. The MIH has no applicability to a zoning district, unless the City Planning Commission authorizes it and after it is subject to a public review.

This discussion gave impetus to a larger conversation, regarding the issues that are not addressed in the ZQA or MIH, which are inclusive of the following:

- The problem with the description of the AMI in the MIH, is that it is highly technical and it is not easy to read or understand, its applicability only allows for interaction with the Council member and the City Planning Commission, leaving out the community boards and civic groups, it does not describe the origin of, or the mechanism for the application of the proposed subsidies for developers or the administrative requirements that will be placed on tenants to ensure that they are eligible (i.e. income affidavits).
- The Plan essentially makes all of this housing “as of right”, severely limiting the ability of the community board structure to comment.
- The Plan is a direct reversal of the Board’s efforts to downzone its area, thus preserving its low-density quality.
- The Plan is discriminatory, in that it exempts certain neighborhoods and community boards. This is a citywide plan and all communities should be treated equally.
- The Plan rewards developers for increasing the affordability factor of a building, by allowing them to build higher or to put more apartments in the building. This will serve to increase the density of neighborhoods.
- There is a lack of parking in both the senior and affordable housing complexes; this will have an adverse affect upon the elderly and those with handicapping conditions. They will have to park and walk to their homes.
- The plan does not only affect traditional housing, but it also addresses nursing homes and assisted living facilities. The renovation of older housing for seniors can be conducted under the provisions of these plans. However, with respect to the renovation of older buildings housing seniors, renovations can be conducted in buildings without elevators or which are not compliant with the Americans with Disabilities Act. This will have a negative effect upon the elderly and those with handicapping conditions.
- The literature for the plans contains no discussion on whether the buildings envisioned will be compliant with the Americans with Disability Act. Again, the Plan is disrespectful to the elderly and the handicapped.
- The Program in its present form appears to be a gift to developers who will not only rake in the subsidies associated with the housing, but will also be allowed to develop anywhere and in any way they choose.
- The Plan does not appear to allow for any community benefit packages for a neighborhood to accept a development.

- The Program allows for the development of side or angled lots and increases the Floor Area Ratio or FAR for all buildings. Floor Area refers to the gross area of each floor of a building, excluding the space that holds the (mechanicals i.e elevator equipment), cellar space, floor space in open balconies, elevators or stairwells in most cases, except for projects built under the Mayor's Housing Plan, parking that is located less than 23 feet above curb level. The Floor Area Ratio (FAR) is the main bulk related regulation controlling the size of buildings. The FAR is the ratio of total building floor area to the area of its zoning lot. Each zoning district has a FAR assigned to it. The FAR when multiplied by the lot area of the specific zoning lot, produces the maximum amount of floor area allowed on that lot. Example – on a 10,000 square foot zoning lot in a zoning district with a maximum FAR 1.0, the floor area of the zoning lot cannot exceed 10,000 square feet. Some of these buildings will be built on side lots and both Boards are concerned about zero lot line issues, where a multiple dwelling will be built right up against an existing 1-3 family home, occupying the entire lot and obliterating light and air from one wall on the neighboring house.
- The program has no veterans' housing component.
- There is no definition of what a transit hub really is.
- If the buildings are built along transit hub, seniors and physically challenged residents who use public transportation will be forced to take buses (which are handicapped accessible), to the nearest subway stations that are equipped with handicapped accessible amenities. (In the case of Bronx Community Board #10, only two stations, the terminal stop for the #6 line at Pelham Bay have an elevator and escalator and Parkchester has an escalator. The Pelham Parkway Station on the #2 line in Board #11 has an elevator and escalator). This will prove to be difficult for those who are elderly or handicapped.
- In transit corridor starved districts like Board #10, there is a reliance on buses. There are very few bus shelters in this Board. These shelters are needed for the seniors and the challenged, to wait in, during inclement weather and the construction of such shelters should be part of the senior and affordable housing components.
- Boards like #10 and #11 have a significant amount 1-3 homes in areas that are zoned for low density districts. In the case of Board #10, the eastern half of the Board has been downzoned on several occasions. Additionally, Board #10 has benefitted from the Lower Density Growth Management Area (LDGMA) as well as a Special Zoning District on City Island. Neither Community Board #10 or #11 is interested in having these areas upzoned. The belief is that if the Mayor's Housing Plan goes through, the upzoning will arbitrarily take place. The upzoning of these areas to accommodate multiple dwellings will forever alter the character of these communities and it is not wanted.
- In some instances, senior housing will be constructed without access to elevators.
- The plan makes only vague reference to the upgrading of City services such as infrastructure improvements, new schools, sanitation, fire and police services.

- No reference is made to using local city labor contractors or suppliers to build any of the senior or affordable housing developments. Nor is any reference made to employing New York based minority or women owned firms, in furnishing the supplies or workers for the buildings' construction.
- It seems that the Mayor is not making the project a prevailing wage initiative.
- The plan makes no reference to support services offered to residents of any supportive or transitional housing that will be built under the program.
- The Plan makes no reference to the possibility of developers turning a property that has failed economically, over to social service agencies. This has happened in the past in our Board's area.
- There was a concern about the material used in the construction of so called "quality housing".
- There is no provision in either plan guaranteeing green space, or front or rear yards.
- The plans envision raised entrances off the sidewalks for multiple dwellings and the development of retail space at the sidewalk level. Given that the plans provide for no parking, how will deliveries be accomplished? Will the entrances to the buildings be handicapped accessible?
- The description of the plans makes no mention of EMMA, an initiative that benefits extremely low income tenants, even though we have spoken to City officials that stated EMMA would be part of this Plan.
- Due to the fact that neither the senior, nor the affordable housing programs provide parking for the buildings, no provision exists for vehicular turn arounds to drop tenants off at the front entrances of the buildings. Under the present scenario, tenants will be dropped on busy streets. This will prove to be difficult for senior and the handicapped.
- It was determined that each respective Board would attach suggestions (those presented above for Boards 10 and 11) to their decision. It should be noted that Bronx Community Boards 11 and 12 have subsequently turned down the plans. It was further felt that the Boards should send a letter to every elected official expressing their reservations.



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Borough President Ruben Diaz Jr.

Chairman Anthony Vitaliano

District Manager Jeremy Warneke

COMMITTEES

Leadership

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*Education, Culture &
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*Health & Social
Services*

Housing

Land Use

Parks & Recreation

Public Safety

*Sanitation &
Environmental
Protection*

Transportation

November 13, 2015

Carl Weisbrod, Chairman
Department of City Planning
City of New York
22 Reade Street
New York, NY 10007-1216

Dear Mr. Weisbrod:

At its full board meeting of October 22, 2015, Bronx Community Board 11 voted unanimously to object to the Mayor's proposed Mandatory Inclusionary Housing (MIH) and Zoning for Quality and Affordability text amendments (N1600151ZRY and N160049ZRY). There were 37 of the 49 members present for the meeting, and their objections were as follows:

- The lack of parking in both senior and affordable housing complexes.
- The literature for the proposals contains no discussion on whether the buildings envisioned will be ADA compliant.
- The proposal in its present form leaves very little room for any community input in future projects. In the MIH proposal, it was explained that the City Council will navigate the options provided by the plan.
- The proposal allows for the development of side or angled lots and increases the FAR for all buildings. Some of these buildings will be built on side lots and community boards are concerned about zero lot line issues, where a multiple dwelling will be built right up against a 1-3 family home, obliterating light and air on the side homes.
- The complete absence of a veterans housing component within the program.
- If the proposed buildings are sited along the transit corridors of Community Board 11, only the Pelham Parkway 2-line station has both an elevator and escalator. No other station has either. As a result, some housing will be constructed without immediate access to elevators or escalators, and relying primarily on MTA buses is not sufficient for the disabled and elderly residents of our district.
- In some instances, senior housing will be allowed as of right in R3-R10 districts without any input from the community.
- We object to the claim that senior buildings will only be built higher to accommodate elevators.
- No reference is made to using union labor to build any of the senior or affordable housing developments. Nor is any reference made to employing New York-based minority- or women-owned firms in furnishing the supplies or workers for building construction.

- The proposals make no reference to support services offered to residents of any supportive or transitional housing which will be built.
- There was a concern about the material used in the construction of “quality” housing. Is the design quality or are the materials used quality?
- The proposals make only vague reference to the upgrading of City services such as infrastructure improvements, new schools and other services.
- The proposals also allow for the development of irregular lots, which makes their property value more and is de facto up zoning, to which we object.

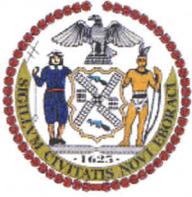
If you have any questions, please do not hesitate to contact the Community Board 11 Office.

Sincerely,



Jeremy Warneke

Cc: Bronx Borough President's Office
Council Members Vacca, Torres and King
Mayor Bill de Blasio's Office
Bronx Community Boards 1-10 and 12



THE CITY OF NEW YORK THE BOROUGH OF THE BRONX



Community Board #12 (The Bronx)

4101 White Plains Road

The Bronx, New York 10466

Telephone: 718 - 881 - 4455/56

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FATHER RICHARD F. GORMAN, ESQ.
Chairman

GEORGE L. TORRES, II
District Manager

27 November 2015

The Honorable Bill de Blasio
Mayor of the City of New York
City Hall
New York City, New York 10007

RE: HOUSING NEW YORK

*Zoning for Quality and Affordability (Z.Q.A.) [Land Use Review Application #N160051ZRY]
Mandatory Inclusionary Housing (M.I.H.) [Land Use Review Application #N160049ZRY]*

Your Honor:

At its Stated Meeting for October 2015, convened on Thursday evening, 22 October 2015 at 7:30 P.M. in Town Hall -- *i.e.*, 4101 White Plains Road in the Borough of The Bronx -- the membership of Community Board #12 (The Bronx) unanimously voted against a motion endorsing your Zoning for Quality and Affordability (Z.Q.A.) Initiative as well as against a motion endorsing your Plan for Mandatory Inclusionary Housing (M.I.H.). All TWENTY-SIX (26) Members of Community Board #12 in attendance voted in the **NEGATIVE** on the aforementioned motions with **NO** ("0") Members voting in the **AFFIRMATIVE** or to **ABSTAIN** or to **RECUSE**. **FOUR** (4) Members were **ABSENT WITH AN EXCUSE** and **SIXTEEN** (16) Members were **ABSENT WITHOUT AN EXCUSE**.

The aforesaid votes were conducted subsequent to a well-attended Public Hearing convened by the Standing Committee on Land Use of Community Board #12 (The Bronx) on Thursday evening, 15 October 2015 at Town Hall. Messrs. Shawn Brede, Deputy Director of the Bronx Borough Office of the New York City Department of City Planning (N.Y.C.D.C.P.) and Dana Driskell, an Associate at said Office, delivered a presentation on your **HOUSING NEW YORK** Text Amendments to both Members of Community Board #12 along with neighborhood residents. At the conclusion of the Public Hearing, the Standing Committee on Land Use voted to recommend to the entire Community Board that it vote against these two (2) proposals.



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The ensuing list is an enumeration of the various reasons why Community Board #12 (The Bronx) is opposed to both Zoning for Quality and Affordability (Z.Q.A.) and Mandatory Inclusionary Housing (M.I.H.):

- **Community Board #12 seriously questions the need for the aforesaid Plans. The stated objective of your Administration is the availability of two hundred thousand (200,000) units of affordable housing -- eighty thousand (80,000) new units to be created and one hundred twenty thousand (120,000) to be rehabilitated -- within a period of ten (10) years. The Board is of the opinion that HOUSING NEW YORK is a matter of overreach as its method and manner of generating approximately eight thousand (8,000) new units of affordable housing *per annum* is neither reasonable nor warranted, specifically its requirements to amend THE ZONING ORDINANCE OF THE CITY OF NEW YORK, negate progress achieved in contextual zoning and in the downzoning of Districts, and the further diminishment of the role of local government -- *viz.*, Borough Presidents and Community Boards -- in the planning process. Furthermore, the Community Board notes that the annual construction of eight thousand (8,000) units of affordable housing was nearly realized in prior years during previous Municipal Administrations without the aforesaid secondary effects as it also does with great admiration your recent arrangement to preserve five thousand (5,000) units of affordable housing in the purchase of Stuyvesant Town and Peter Cooper Village by The Blackstone Group. The aforementioned were all accomplished without resorting to the rather sweeping undesirable consequences that *HOUSING NEW YORK* involves.**
- **Community Board #12 invested a goodly number of years and energy endeavoring with the New York City Department of City Planning (N.Y.C.D.C.P.) to zone contextually our entire Community District. The slapdash and anarchic development that permeated Bronx Community District #12 during the 1990's and the initial years of the twenty-first century left our District devoid of open spaces and robbed many of our locales of their unique flavor and character. In their stead, tasteless, unattractive housing that crammed several families into a space formerly occupied by one appeared. The concomitant increase in population was not matched by a corresponding expansion of municipal services. HOUSING NEW YORK effectively annuls the advantages attained by contextual zoning and re-imposes prior detriments -- *viz.*, bigger buildings, more people, inadequate infrastructure, over-crowded transportation and educational facilities, greater insufficiency of parking, and**

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overall denser neighborhoods. Peculiarly, neither of these Plans makes any precise mention of or allowance for the analogous provision of the municipal services necessitated by an augmented local population as they likewise fail to identify any actual material benefits that will accrue to a neighborhood as a consequence of participating in HOUSING NEW YORK.

- **The overall effect of your HOUSING NEW YORK Formulas will be a spike in the general population of our Community Districts. As just remarked, HOUSING NEW YORK makes no concurrent commitment to amplify proportionally available municipal services as it further fails to indicate any parallel upgrade in local infrastructure, such as roadways and sewers. Providing folks a *place* to live may resolve one (1) issue, but it creates any number problems absent the aforementioned in affording people the *capacity* to live with a satisfactory quality of life.**
- **While touting Mandatory Inclusionary Housing (M.I.H.) and Zoning for Quality and Affordability (Z.Q.A.) as advantageous to those in need of housing at reasonable rents, these Initiatives are much more to the benefit of developers than tenants. The “*as of right*” stipulations to be written into THE NEW YORK CITY ZONING ORDINANCE relieves developers of the requirement to seek endorsement from agencies of local government -- *viz.*, Community Boards, Borough Presidents, and Borough Boards. In addition to shrinking the planning prerogatives of these local governmental actors as previously posited, it further eliminates the time and the cost of seeking variances and/or special permits and of bringing appeals before the New York City Board of Standard and Appeals (N.Y.C.B.S.A.). Making development of whatever sort under whatever rationale quicker, cheaper, and without adequate local review is big bucks in the pockets of developers and an injurious blow to the quality of life of citizens in our localities.**
- **Your HOUSING NEW YORK Initiatives neglect to include any provisions for the engagement of local labor, the payment of a living wage to workers, the hiring of a diversified work force, or incentives to assist the Veterans of our Armed Forces in procuring housing. The aforesaid are all worthy purposes embraced by Your Honor’s Administration. These glaring deficiencies are further evidence that your HOUSING NEW YORK Plans promote the welfare of powerful developers and real estate interests at the expense of us “*little folk*” who look to Government and to our elected officials to even up the playing field a bit for us.**

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- **Along this same argument, HOUSING NEW YORK does nothing to rescue the “working poor” -- *i.e.*, those New Yorkers with low or working class incomes or those surviving on disability, Social Security, or modest pensions. Those of our fellow New Yorkers who must contend with an increasingly more expensive cost of living while subsisting on fixed or diminishing incomes are astonishingly disregarded in your signature housing initiatives. Indeed, the issue of whether affordable housing is truly affordable must be carefully scrutinized. Recent articles in local newspapers, such as THE NEW YORK DAILY NEWS, report that nearly one-half (½) of all families who now reside in affordable housing are “rent-burdened” -- *i.e.*, expending more than thirty percent (30%) of their disposable income on housing. Even more shockingly, roughly fifteen percent (15%) fall into the category of “severely rent-burdened” with more than one-half (½) of their consumable income eaten up by rent. Apparently, incremental rent increases in affordable developments, many of which are in the Borough of The Bronx, were permitted to increase while tenant income shrunk or remained flat. One-third of affordable renters witnessed their rent growing by greater than twenty percent (20%) and more than one (1) in ten (10) were afflicted with a greater than forty percent (40%) hike in their rental charges. The aforementioned hikes significantly exceed the average rent increase City-wide in the last decade or so.**
- **Considerable apprehension exists on the part of Community Board #12 (The Bronx) as to the issue of what occurs if and when the affordable housing created under the formulations of HOUSING NEW YORK fails to be marketed. In Bronx Community District #12, we have had the unfortunate experience of a developer who constructed a vast array of affordable units -- having received affordable housing tax abatements from the New York City Department of Housing Preservation and Development (N.Y.C.D.H.P.D.) -- not being able to rent them and subsequently turning initially to the New York City Department of Homeless Services (N.Y.C.D.H.S.) and subsequently to not-for-profit (N-F-P) organizations to acquire said units as housing for the homeless. What ironclad guarantees will be given that housing units created for affordable purposes will not similarly be dangled before and gorged by a City with an exploding homeless population as a solution for sheltering the homeless? Kindly note in this regard that, despite assurances by the ranking leadership of N.Y.C.D.H.S. that all scatter site housing for the homeless would be identified for affected Community Boards and that the scatter site policies of the prior Municipal Administration would be terminated, neither commitment**

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has been honored and recently N.Y.C.D.H.S. has announced, not only the perpetuation of the scatter site program, but its expansion in Community Board #12 (The Bronx).

- The most glaring deficiency in your HOUSING NEW YORK Proposals is that, while endeavoring to augment the availability of affordable housing in the City of New York, it utterly ignores the flaws in the City's affordable housing program as currently devised. The rooms in affordable units are too small for comfortable living, especially if one has children. Moreover, these apartments have a paucity of closet space. They are, far and away, nothing as comfortable and as spacious as units in public housing or in developments such as Co-op City in The Bronx. Interestingly, in areas such as Community Board #12 (The Bronx), in which we have been burdened as referenced above with affordable housing schemes, we have simultaneously witnessed the construction of warehouse storage facilities, ostensibly because families in affordable housing want for sufficient closet and storage space.**
- A final trepidation relative to HOUSING NEW YORK, which is of critical concern to Community Board #12 (The Bronx), is the provision that all details of this proposal are subject to alteration by application to the New York City Board of Standards and Appeal (N.Y.C.B.S.A.) and/or to the Council of the City of New York. The intervention of said actors in Municipal Government negates the argument that your HOUSING NEW YORK Proposals will be adhered to in a uniform, reliable, consistent, and apolitical fashion. This Community Board has long suffered under the imperious decisions of N.Y.C.B.S.A., which have been indifferent and injurious to local neighborhoods. Furthermore, since undoubtedly any number of individual projects will undergo review by these bodies, why not allow the longstanding present practice of assessing each affordable housing project on an individual, case-by-case basis to continue? To continue to incorporate roles for N.Y.C.B.S.A. and the City Council maintains the privileged position of the wealthy, the well-lawyered, and the politically astute to the detriment of average, ordinary New Yorkers.**

Particularly with reference to your Plan for Mandatory Inclusionary Housing (M.I.H.), Community Board #12 (The Bronx) raises the ensuing concerns:

- Presentations and materials relative to M.I.H. supplied by the New York City Department of City Planning (N.Y.C.D.C.P.) do not supply reasonable and adequate demonstration of the precise manner in which the sound integration**

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of neighborhoods, an objective of M.I.H. averred by N.Y.C.D.C.P., will be accomplished. The fear, in this instance, is that viable, healthy neighborhoods comprised of families with a diversity of income levels will neither be established nor sustained by this proposal.

- Your Mandatory Inclusionary Housing (M.I.H.) does not involve all neighborhoods and areas universally and equally throughout the City of New York. Notably, affluent Districts, specifically Community Boards #1 through #8 in the Borough of Manhattan, are exempt from compliance with its strictures.**
- The draft Environmental Assessment Statement (E.A.S.) for the Mandatory Inclusionary Housing (M.I.H.) Text Amendment was neither composed, studied, or appraised by an independent, third-party entity, but by the New York City Department of City Planning (N.Y.C.D.C.P.) *per se*. The E.A.S. Form, with any supporting documentation, describes the proposed action and provides an initial analysis of its potential effects upon the environment. Its function is to aid the lead agency, in this case N.Y.C.D.C.P., in a determination as to whether any identified adverse impact on the environment may be significant enough to warrant further analysis in an Environmental Impact Statement (E.I.S.). The fact that the Department itself wrote the E.A.S. for M.I.H., since N.Y.C.D.C.P. has a palpable interest in the realization of this project, is an apparent conflict of interest at best and, in all likelihood, an egregious one. The draft Statement does not furthermore include any reference to issues such as gentrification and the Department has heretofore not deemed fit to provide any information that said subject matter was even contemplated.**
- The New York City Department of City Planning (N.Y.C.D.C.P.) self-certified its own conclusion that any units of affordable housing generated by Mandatory Inclusionary Housing (M.I.H.) will not have any bearing or consequence upon the public safety, health, and welfare of the various neighborhoods of New York City. No justification or rationalization for N.Y.C.D.C.P.'s "negative declaration" in this regard has been provided by the Department, despite various requests for it.**
- The possibility that housing units of a mere two hundred fifty square feet (250 sq. ft.) can be constructed for senior citizens under the provisions of Mandatory Inclusionary Housing (M.I.H.) is objectionable and unacceptable to Community Board #12 (The Bronx). It is, practically speaking, relegating our "golden agers" to an S.R.O.-style -- *i.e.*, Single Room Occupancy -- tenancy.**
- Rather than the Mandatory Inclusionary Housing Text Amendment, Community Board #12 (The Bronx) would prefer that existing programs and those**

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ingrained in sound neighborhood planning that create and/or maintain affordable housing be utilized -- *e.g.*, the Article 8-A Loan Program that creates low-interest loans for owners to conserve affordable units; increasing the bonding cap of the New York City Housing Development Corporation (N.Y.C.H.D.C.) which will produce more low-interest loans to erect affordable housing; and the support of both Municipal and State Programs that enable tenants to remain in their homes, markedly those that assist and/or subsidize tenants in paying their rent.

Relative to Zoning for Quality and Affordability (Z.Q.A.), Community Board #12 (The Bronx) is in opposition to the subsequent stipulations provided in it:

- Its ploy to do away with contemporary parking requirements is so ridiculous as to be unworthy of serious proposal or debate. To postulate that seniors and/or those meeting affordable housing requirements can do without any, or, at the very least, less, parking defies sound reasoning and planning. In areas such as Bronx Community District #12, the need for automotive availability is more than a trifling convenience and its absence can deprive one of the convenience of access needed for shopping, health care, and worship. Seniors and those with lower incomes do and must drive in Community Board #12 (The Bronx). They do and truly need to own a motor vehicle. Moreover, these residents do have family members, friends, and other social acquaintances who, in all likelihood, come to be with them. These visitors require and should have adequate opportunities for parking as well. In the course of discussions relative to this point, it was divulged that the New York City Department of City Planning (N.Y.C.D.C.P.) had relied in part upon the registration records of the New York State Department of Motor Vehicles (N.Y.S.D.M.V.) in order to arrive at its conclusions in this instance. This decision is a serious shortcoming as it should be recognized at this point that far too many City residents register their motor vehicle out-of-state for insurance purposes. The number of vehicles bearing license plates from such States as Florida, Pennsylvania, Ohio, and Georgia -- just to list a few -- are legion.**
- Zoning for Quality and Affordability (Z.Q.A.) identifies so-called "transit zones" that conform to subway lines and extend in area to one-half (1/2) mile on both sides of these routes. Including the line of reasoning just previously mentioned, it should be additionally noted that those Community Districts with more subways lines will be impacted to a greater extent by Z.Q.A. than those**

with less or none. Similarly, no consideration is given to the reality that not all subway stations are compliant with the stipulations of the Federal Americans with Disabilities Act (A.D.A.) and that even those stations that do comply with the law quite frequently are plagued by recurrent equipment failure. The aggravation and the annoyance to be inflicted upon senior citizens of advanced age and/or physical limitations as well as to younger individuals with children, especially those in strollers, by this circumstance will not be insubstantial.

- The argument advanced in my prior comments relative to the Mandatory Inclusionary Housing (M.I.H.) Initiative concerning the construction of units as small as two hundred fifty square feet (250 sq. ft.) for seniors applies equally with regard to the Zoning for Quality and Affordability Text Amendment (Z.Q.A.) as well.
- Zoning for Quality and Affordability (Z.Q.A.) promotes a greater density, floor area, height, and number of units for senior affordable housing projects throughout the City of New York. Such an allowance has adverse consequences for a proper enjoyment of air, light, and living space along with its reversal of the value of local contextual zoning efforts.
- Zoning for Quality and Affordability (Z.Q.A.) encourages the first-time and unparalleled utilization of a heretofore proscribed use by sanctioning the erection of multiple dwelling units labeled “Continuing Care Retirement Communities” (C.C.R.C.) in R-1 and R-2 Single-Family Districts without any stipulation for affordable housing. The consequence of this feature, which is without precedent, will be structures of greater height and overall number of units. Adding to the objectionable nature of this proposal is that such C.C.R.C.’s, despite the affirmations of the New York City Department of City Planning (N.Y.C.D.C.P.) that they are not being developed “as-of-right,” need authorization solely from the New York City City Planning Commission (N.Y.C.C.P.C.), a proviso that bypasses the Uniform Land Use Review Process (U.L.U.R.P.) that provides for review by local Community Boards, Borough Presidents, Borough Boards, and the New York City Council.
- The New York City Department of City Planning (N.Y.C.D.C.P.) itself certified the Draft Environmental Impact Statement (D.E.I.S.) for Zoning for Quality and Affordability (Z.Q.A.). This undertaking should have been the purview of an independent, third-party entity as N.Y.C.D.C.P. is not a disinterested party in the approval of the suggested Z.Q.A. Text Amendment. Hence, the statements made earlier relative to the Environmental Impact Statement (E.I.S.) connected with Mandatory Inclusionary Housing (M.I.H.) Initiative also

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apply in this instance -- *viz.*, that the Department has ensnared itself in an ostensible conflict of interest, if not an actual one.

- Furthermore, also with regard to the Draft Environmental Impact Statement (D.E.I.S.), it gives no indication of how Zoning for Quality and Affordability (Z.Q.A.) will bear upon such issues as infrastructure in impacted neighborhoods. While silent on the topic of how Z.Q.A. will meaningfully advance the construction of affordable housing and how many actual affordable units will be generated as a product of this Initiative, the D.E.I.S. utters nary a comment, too, relative to the manner in which new development spawned by Z.Q.A. will environmentally impact the public health, the safety, and the quality of life of all New Yorkers.
- In addition to the above-stated beliefs pertaining to the unwelcome repercussions of your HOUSING NEW YORK Text Amendments upon contextual zoning successes realized in Bronx Community District #12, it must equally be noted that the changes in contextually zoned areas engendered by Zoning for Quality and Affordability (Z.Q.A.) are for aesthetic and enhanced visual purposes only and do not, in any consequential fashion, contribute to a growth in the quantity of affordable housing units.
- Community Board #12 (The Bronx) proposes that the goal of more affordable housing in the City of New York can be achieved by reliance upon already existing Municipal and State programs that (1) seek to preserve presently existing affordable housing units -- *i.e.*, the Article 8-A Loan Program; (2) create low-interest loans for the building of more affordable housing -- *i.e.*, New York City Housing Development Corporation (N.Y.C.H.D.C.) bonds; and strategies that underwrite rent support, stabilization, and subsidization.

Community Board #12 (The Bronx) avers that it wholehearted concurs with the Municipal Administration's worthy and necessary objective to increase the availability and to insure the excellence of affordable and senior housing. The means to this end are that with which the Community Board takes exception. Notwithstanding the lofty goals sought, the burdens imposed by the proposed methods to realize these aims and the detrimental repercussions engendered by the methods recommended cannot be abided. Community Board #12 will support any affordable housing initiative that takes into consideration and respects the ensuing principles:

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- **The employment of City-based and of minority and women-owned businesses must be specified and statistically verified as must the payment of a living wage to labor and of incentives to house our Veterans.**
- **Any affordable housing initiatives must uniformly and proportionately impact all Community Boards in all five (5) Boroughs of New York City.**
- **All reviews, such as the Environmental Assessment Statement (E.A.S.) and the draft or final Environmental Impact Statement (E.I.S.) must be compiled by independent, third-party outfits extrinsic to the New York City Department of City Planning (N.Y.C.D.C.P.) in order to preclude a conflict-of-interest or the appearance thereof.**
- **Affordable housing development must not diminish the number of currently mandated spaces for parking.**
- **The elimination of local planning input by Community Boards, Borough Presidents, and Borough Boards by the creation of new-fangled “as-of-right” uses or by authorizations to develop solely on the basis of approval from the New York City City Planning Commission (N.Y.C.C.P.C.) must not be enacted.**
- **Local planning participation by Community Boards, Borough Presidents, and Borough Boards must not be constrained and reduced by a “one-size-fits-all” approach to neighborhood planning that inhibits or prohibits the singular contributions to be made by Community Boards and Borough Presidents due to their comprehension and estimation of the particular characteristics and needs of localities and of how planning amendments will shape them.**
- **No multiple housing development must occur in R-1 and R-2 Single Family Zones.**
- **Where it has been enacted, contextually-zoned Districts must not be impaired by “as-of-right” uses that eliminate structural height limitations, side and/or back yards, or contemporary Floor Area Ratio (F.A.R.) requirements.**
- **The construction of affordable units of less than four hundred forty square feet (440 sq. ft.) is to be prohibited unless specifically promoted and sanctioned by the local Community Board and the appropriate Borough President.**

In conclusion, Your Honor, I express the disappointment of my colleagues in the family of New York City Community Boards relative to the mode in which your HOUSING NEW YORK Initiatives were forwarded to us by the New York City Department of City Planning (N.Y.C.D.C.P.). The mammoth magnitude of the papers and the documents to be absorbed merited way more than the sixty (60) days afforded to us and simultaneously to our five (5) Borough Presidents. Indeed, lumping review of the Text Amendments by the Community Boards and the Borough

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Presidents into a single, sixty-day period, was ill-chosen, ill-timed, and insensitive to local constituencies. Borough Presidents should have been afforded a separate and further sixty-day evaluation period subsequent to that of Community Boards. Since HOUSING NEW YORK entails issues and aspirations so wide-reaching, novel, and essential to the people of a great City, there is no need to rush to judgment, hurtling headlong into a new zoning paradigm *via* “document dump” and absent prudent reflection and sober evaluation.

I thank you for your kindness in considering the extensive comments contained in this correspondence and trust that they will contribute to formulating a concluded and comprehensive program to build and to maintain affordable and senior housing in the City of New York that is satisfactory and agreeable to all.

With respect,


**FATHER RICHARD F. GORMAN, ESQ.
Chairman**

**pc The Honorable Letitia A. James, Public Advocate for the City of New York
The Honorable Scott M. Stringer, Comptroller of the City of New York
The Honorable Ruben Diaz, Jr., Borough President of The Bronx
The Honorable Eric L. Adams, Borough President of Brooklyn
The Honorable Gale A. Brewer, Borough President of Manhattan
The Honorable Melinda R. Katz, Borough President of Queens
The Honorable James S. Oddo, Borough President of Staten Island
All Members of the Council of the City of New York
All Members of the New York City Planning Commission (N.Y.C.C.P.C.)
All New York City Community Boards
Files: Mayor, City Planning, land Use, Correspondence**

Brooklyn Borough Board Resolution to Disapprove According to Modifications to the Mandatory Inclusionary Housing Zoning Text Amendment

Affordability Requirements – Qualify Rent Burdened Households and Mandate Percentage at 40 Percent AMI by Community Districts

The Borough Board is concerned that 55 percent of City renter households are rent-burdened. *In order to ensure that rent burdened households receive the maximum opportunity to secure regulated permanent Mandatory Inclusionary Housing Text facilitate housing, the Borough Board seeks to have AMI qualifications adjusted to include those who would reduce their rent burden*

*This requires ZR 23-154 (d)(3) (i)(ii) and (iii) of the Inclusionary Housing provisions and ZR 23-91 General definitions – income bands, income index, low income household, low income limit, middle income floor area, middle income household, moderate income floor area, moderate income household, moderate income limit, qualifying household, to be modified to clarify that that the AMI income index and income bands have an **equivalent for allowing those rent burdened household that would be able to pay the same or have a reduction in their rent to lease such mandatory unit also be deemed a qualifying household for eligibility***

It also requires ZR 23-912 Definitions applying to rental affordable housing – maximum monthly rent to reflect the equivalency of income band as a measure to accommodate rent burdened households.

It also requires ZR 23-961 (a)(1) and (c)(2) Additional requirements for rental affordable housing – Tenant selections and Income, to reflect the rent burdened low, moderate and middle income households as qualifying households and that the administering income shall verify the household the rent history in lieu of income for rent burdened households

The Borough Board is concerned that there is no obligation to reach households at 40% AMI (or rent-burdened equivalent). *The Borough Board seeks a mandated set-aside for percentage (determined individually by Community Districts- at 40% AMI for both the 60% and 80% average AMI options.*

This requires ZR 23-154 (d)(3) (i)(ii) to note such obligations

Location – Preserve Existing Apartments to Preclude Displacement

The Borough Board is concerned that unlike the Voluntary Inclusionary Housing program, Mandatory Inclusionary Zoning does not provide any opportunity preclude displacement. For those being displaced, lottery units do not guarantee lottery selection or even having the proper income to be eligible for such units. *The Borough Board seeks to expand eligibility to a*

preservation option so that more tools are available to keep residents permanently in their apartments according to rent-regulated protection.

This requires ZR 23-91 General definitions – Preservation affordable housing to be applicable as a Mandatory Inclusionary Housing generating site.

It also requires ZR 23-94 (a) Methods of Providing Affordable Housing, to allow preservation affordable housing to be applicable to satisfy the requirements in Mandatory Inclusionary Housing areas

It also requires ZR 23-961 (d)(3)(1) Additional Requirements for rental affordable housing – affordable housing plans and MIH applications to include preservation affordable housing

BSA Special Permit (ZR73-624) – Establishing Parameters for the Extent that BSA Might Modify Mandatory Requirements

The Borough Board is concerned that the preamble of what BSA might modify merely defines income levels without any accommodation for rent burdened household equivalents.

Furthermore, there are no set parameters to what extent BSA may modify income levels for qualifying households. The Borough Board is also concerned that finding (a) to be made by the Board of Standards and Appeals does not provide for a demonstration that the City has not been provided adequate opportunity to enhance its subsidies and it does not adequately define reasonable return in the context of what would be the rate of return prior to the property being rezoned according to MIH. *The Borough Board seeks for buildings in excess of 25 units for a demonstration that the City is not prepared to provide enhanced subsidies. For all developments, that the qualifying households to include rent burdened AMI equivalents and to preclude the conversion of AMI restricted housing to market rate housing according to the following standards.*

- *For workforce housing 120 percent AMI rental basis option, BSA should not exceed 165 percent AMI average income rental basis, with maximum eligibility extended to no more than 200 percent AMI and its rent burdened equivalent),*
- *For the 80 percent AMI rental basis option, BSA should not exceed 120 percent AMI average income rental basis, with maximum eligibility extended to no more than 165 percent AMI and its rent burdened equivalent;*
- *For the 60 percent AMI rental basis option, BSA should not exceed 90 percent AMI average income rental basis, with maximum eligibility extended to no more than 130 percent AMI and its rent burdened equivalent;*
- *BSA shall limit market rate floor area, and its commercial equivalent, to the equivalent value of the non-bonused percentage of the as-of-right permitted Floor Area Ratio (70-75% of FAR).*

The Borough Board seeks that as a condition of precluding any provision of mandatory affordable housing the BSA would be mandated to reduce the allowable height in recognition of the reduction of provided floor area.

- *As a condition of limiting floor area to the 70 to 75 percent of the allowable FAR based on providing market rate only floor area, BSA shall restrict market rate only height per Borough Board Quality and Affordable Height Recommendation per Zoning Resolution section 23-662b, which reduces permitted height*

The Borough Board seeks the following consideration by BSA in regards to determining reasonable rate of return.

- *In addition, BSA shall define a reasonable return as what was a the reasonable return of the property prior to the effective date of the adoption of Mandatory Inclusionary Housing Text adjusted by the Consumer Price Index or the earlier date of any rezoning plans filed with the Department of City Planning.*

Payment In Lieu of Option – Smaller Developments Need to Participate

The Borough Board is concerned that zoning lot developments of ten units or less (12,500 sf or less) of exempted from the proposed affordable housing obligation. *The Borough Board seeks to extend applicability of the payment in lieu of option to the minimum number of apartments that defines a multiple dwelling (three units).*

*This requires ZR 23-154 (d)(4)(i) to be amended to **three units***

Bedroom Mix – Promoting Family-Sized Units

The Borough Board is concerned that there is not sufficient leverage/flexibility to provide for a greater number of bedrooms for the affordable units as part of mixed-income buildings. Further, it does not reflect unique needs in specific communities. *The Borough Board seeks to require a minimum threshold for non-independent residences for seniors and non-supportive housing to accommodate family-sized apartments.*

This requires ZR 23-96 Requirements for Generating Sites or MIH Sites (c)(1) Bedroom mix of affordable housing units shall not be proportional to the bedroom mix of the dwelling units in the generating site as long as not less than 50 percent of the affordable housing units contain two (three in Community District 12) or more bedrooms and 75 percent of the affordable housing units shall contain one (two in Community District 12) or more bedrooms.

Additional Matters That Would Further the Proposals' Goals of Promoting Affordability but Are Beyond the Scope of the Current Proposal and Should be Considered as Part of Future Actions or Zoning Reviews

Mapping Additional Voluntary Inclusionary Designated Areas – More Opportunities to Create Affordable Housing

Be it further resolved that in order to maximize opportunities to provide affordable housing, that for the following areas that were already upzoned without consideration for obtaining affordable housing opportunities and where further upzoning would be inappropriate, the Borough Board seeks to establish additional Voluntary Inclusionary Housing Designated Areas, in Community Boards and Local Elected Officials, as follows:

- CD 2: Bridge Plaza, non-R10 equivalent rezoned districts in Downtown Brooklyn, the western section of DUMBO and Fourth Avenue.
- CD 6: Fourth Avenue;
- CD8 Grand Army Plaza, Eastern Parkway, Vanderbilt Avenue and Washington Avenue;
- CD 15: Kings Highway and Ocean Avenue;

MANDATORY INCLUSIONARY HOUSING (MIH)
MANHATTAN BOROUGH BOARD
RESOLUTION

RECOMMENDING CONDITIONAL DISAPPROVAL OF AN APPLICATION BY THE DEPARTMENT OF CITY PLANNING PURSUANT TO SECTION 201 OF THE NEW YORK CITY CHARTER FOR AN AMENDMENT TO THE ZONING RESOLUTION OF THE CITY OF NEW YORK TO MODIFY ARTICLES AND RELATED PROVISIONS CONCERNING SECTIONS 12-10, 23-10, 23-90, 62-80, 73-62, 74-00 AND 74-40 IN ORDER TO CREATE A MANDATORY INCLUSIONARY HOUSING PROGRAM.

WHEREAS, The Department of City Planning (DCP) seeks a text amendment (N 160051 ZRY) in order to require that a share of new housing be permanently affordable; and

WHEREAS, Mandatory Inclusionary Housing requirements would be attached to public and private applications to the City Planning Commission (CPC) that allow for or create substantial new residential area. Zoning map changes that allow for greater amounts of residential density and special permits will be the major vehicle for applying the MIH requirements; and

WHEREAS, the population for New York City in 2040 is projected to be more than a million residents greater than the population that was counted by the 2010 Decennial Census; and

WHEREAS, the need for affordable housing in New York City is apparent and growing as the share of New Yorkers that are considered to be “rent burdened” -- with more than 30% of their income going towards payment of residential rent -- increases, while older affordable housing programs such as Mitchell-Lama, and rent stabilized apartments are becoming more scarce; and

WHEREAS, the many residential communities of Manhattan have diverse housing needs. The degree of affordability and formulaic requisite cross-subsidy will vary greatly within small geographies. Varied needs in Manhattan require that any program offer a diversity of affordability mandates; and

WHEREAS, the DCP reviewed the Environmental Assessment Study for the MIH program and determined that the proposed action would have no significant effect on the quality of the environment as the text amendment would have no impact until mapped or implemented through subsequent discretionary actions of the City Planning Commission; and

WHEREAS, Borough Boards shall review and make recommendations with respect to applications and proposals of public agencies and private entities for the use, development or improvement of land located in more than one district; and

WHEREAS, the proposed text amendment has the potential to change or impact the built environment in all 12 of Manhattan's Community Boards; and

WHEREAS, Borough Boards shall otherwise consider the needs of the Borough; and

WHEREAS, On November 19, 2015 the full board of Community Board 1 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 19, 2015 the full board of Community Board 2 approved a resolution recommending approval of the Mandatory Inclusionary Housing zoning text amendment with certain conditions; and

WHEREAS, On November 24, 2015 the full board of Community Board 3 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 4, 2015 the full board of Community Board 4 approved a resolution recommending approval of the Mandatory Inclusionary Housing zoning text amendment with certain conditions; and

WHEREAS, On November 12, 2015 the full board of Community Board 5 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 18, 2015 the full board of Community Board 6 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment; and

WHEREAS, On November 4, 2015 the full board of Community Board 7 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 10, 2015 the Land Use Committee of Community Board 8 (which is constituted as a committee of the whole board) agreed to submit a letter voicing its concerns regarding the text amendment; and

WHEREAS, On November 19, 2015 the full board of Community Board 9 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 6, 2015 the full board of Community Board 10 submitted a letter stating that the public review process was unduly rushed and that the Board could not take a position in support or opposition and outlining its concerns; and

WHEREAS, On November 23, 2015 the full board of Community Board 11 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, On November 24, 2015 the full board of Community Board 12 approved a resolution recommending denial of the Mandatory Inclusionary Housing zoning text amendment unless certain conditions are met; and

WHEREAS, Manhattan Borough President Gale A. Brewer on November 16, 2015 held a public hearing on Mandatory Inclusionary Housing, at which 55 speakers testified, of which 26 speakers testified in opposition to the proposal and 9 speakers testified in favor of the proposal; and

WHEREAS, Manhattan Borough President Gale A. Brewer and 27 other Manhattan elected officials at the city, state, and federal levels, after reviewing the proposal, and in consultation with community groups, wrote a letter dated November 17, 2015 to Chair Weisbrod of the City Planning Commission outlining the following concerns with the proposal known as MIH:

1. The proposal does not require all affordable units to be built within the main development and could allow construction of separate "poor buildings;"
 2. The proposal institutes lower distribution requirements for affordable units throughout the building than other programs, moving in the direction of concentrating affordable units on "poor floors;"
 3. The proposal fails to incorporate strong anti-harassment requirements to protect against forced displacement of existing tenants where new construction is strongly incentivized;
 4. The proposal needs more specifics on how and when the MIH requirements would be triggered and enforced;
 5. The proposal needs to lay out specifics on how the affordable housing fund will be run;
- and

WHEREAS, the Manhattan Borough Board has considered all of the aforementioned Manhattan Community Board resolutions in its deliberations and discussions, the testimony received and heard at the Manhattan Borough President's Public Hearing on this matter on November 16, 2015, the letter submitted by Manhattan elected officials on November 17, 2015, and all relevant materials provided by the Department of City Planning pursuant to Section 201 of the New York City Charter as related to the text amendment N 160051 ZRY and;

WHEREAS, the Manhattan Borough Board believes that the proposal for a Mandatory Inclusionary Housing program is an important tool in engaging the affordable housing crisis in New York City. There has been limited success with the previous voluntary incarnations of the inclusionary housing program and requiring the inclusion of affordable units in medium and high density zoning districts could be a potent generator of housing for New Yorkers if the program is designed to target populations that are in the greatest need with respect to each neighborhood in

this incredibly diverse borough. Given the limited scope and capacity and desire to rezone significant land area in Manhattan and the likelihood that the strength of the real estate market will endure, the proposed MIH amendment:

1. Provides a positive step to ensuring affordable units are constructed in the future;
2. Guarantees additional opportunities to require MIH units in Manhattan outside of rezoning neighborhoods by expanding applicability to special permits;

WHEREAS, the Manhattan Borough Board believes the MIH proposal, as currently drafted, raises the following concerns which are universal to the Borough of Manhattan:

1. There is an absence of anti-harassment measures for residential tenants;
2. Provisions allowing for on-site separate buildings and concentration of units within buildings, may create poor floors and poor buildings instead of poor doors;
3. If the program needs to be universal, then Area Median Income (AMI) options are not broad enough or deep enough to address all neighborhood needs;
4. Whether the requirements for affordable housing are sufficient given benefits, incentives and options provided to developers including an offsite option;
5. The lowering of required unit distribution in buildings from the minimum threshold of 65 percent in the Voluntary Inclusionary Housing Program to 50 percent in the MIH proposal concentrates, rather than integrates affordable housing units in a building, despite community board requests that the unit distribution exceed 65 percent;
6. There is no requirement for elements of universal design, equal amenities or equal finishes;
7. Triggers for when the MIH program would be triggered including certain unclear definitions, and minimum thresholds add uncertainty to the proposal;
8. The Payment-In-Lieu Option which allows for payments to be made into a "fund" raises concerns regarding threshold criteria for its use, timeframe for use of funds in the community, management of the fund and, transparency and oversight;
9. The text does not define the minimum action necessary to be considered an act of preservation or rehabilitation and thus eligible for monies from the fund;
10. Community Board review requirements are unclear and should be explicitly set forth so as to avoid issues with existing voluntary program;
11. There is no central plan for monitoring or oversight over affordable units, including their re-lease;
12. The provisions for Board of Standards and Appeals (BSA) review for waivers from the program could create a significant loophole;
13. Provisions are lacking to ensure a reasonable mix of unit sizes.

THEREFORE BE IT RESOLVED, that the Manhattan Borough Board recommends disapproval of the citywide text amendment, N 160051 ZRY, known as Mandatory Inclusionary Housing Text Amendment, unless the following conditions are satisfied:

1. The Administration recognizes and responds to the need for anti-harassment protection for residential tenants. Such protection is a necessary step to prevent the accelerated loss of stabilized units in areas where increased development potential incentivizes redevelopment of the existing housing stock;
2. The proposal is amended to provide greater clarity regarding on site, separate buildings and off-site provisions to ensure equal access to amenities and a higher standard of affordability when providing units off-site; and
3. The menu of AMI options should include a wider menu of options to cater to community preference when a project is otherwise ineligible for 421a benefits or when MIH is mapped to a development site through a special permit.
 - a. Expanded options should include the Workforce option and an extremely low AMI band option that captures a lower average income levels. The overall percentage of affordable units for the entire project should be adjusted up or down according to the cross subsidy required.
 - b. Projects that take advantage of the offsite provision should be required to build at deeper levels of affordability unless they acquire a special permit allowing them to build using the standard menu option.
 - c. Establish an option that would allow for increased affordable housing units in stronger real estate markets, adjusted up according to the cross subsidy provided.
4. Ensuring that the requirements for affordable housing are sufficient given benefits, incentives, and options provided to developers and multiple incentives result in additive benefits; and an elimination of the offsite option or, in the alternative, a requirement for significantly more affordable housing within the community district if the offsite option is employed;
5. The text should establish minimum thresholds for consideration, as is done elsewhere in the text, for applicability triggers for the program;
6. Payment-in-lieu (PIL) threshold should be lowered and the text clarified to reflect, especially given the larger new construction unit sizes in our communities, that the threshold is the lesser of the square footage or unit count;
7. The zoning text should set a new standard for housing development monies by enshrining specific frameworks for governance, baselines, transparency, and strategy for use of the PIL funds, thus eliminating the possibility that future administrations may have different priorities and can unilaterally change the nature of such funds;
8. The fund is allowed to be used for preservation and rehabilitation of units, and therefore there should be no sunset clause that allows those funds to be used elsewhere; Furthermore, the text should also elaborate that HPD will report on the strategy and usage

of each fund to the relevant Community Board and elected officials. All funds generated through the PIL option must supplement, not replace, other city capital dollars for affordable housing;

9. Text is amended to encapsulate a community referral process that establishes how much time the Community Board has to review the documents, and an acknowledgement that those concerns will be taken under advisement and that HPD will not act before their review timeframe is completed;
10. The Board of Standards and Appeals (BSA) loophole must be tightened so that it will only be used in the presence of real hardship and not as the path of least resistance for developers who do not wish to build affordable housing. This could be achieved by adding specificity as to what might be considered “unique conditions” under which developers could seek BSA approval;
11. Increase the affordable unit distribution threshold in the Mandatory program from 50% to 65% to come up to the minimum threshold currently in the Inclusionary Housing program;
12. Ensure a reasonable mix of unit sizes; and
13. Create a central plan, including recordkeeping, for monitoring or oversight over affordable units including their re-lease.

THEREFORE BE IT FURTHER RESOLVED, that, as an additional condition of this resolution, the Department of City Planning and the administration should also respond to and address the individual concerns and conditions of the Manhattan Community Boards issued in response to the referral of the text amendment, as should the City Council in the case of any concerns and conditions that remain at the time of City Council action; and all agencies should provide information and seek feedback from community boards as the implementation of the text amendment progresses.

Adopted by the Manhattan Borough Board on the 30th day of November 2015.



Gale A. Brewer
Manhattan Borough President
Chair of the Manhattan Borough Board

Queens Borough Board Recommendation

APPLICATION: ULURP #160051 ZRY

COMMUNITY BOARD: CW

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the Department of City Planning, pursuant to Section 200 of the NYC Charter, for a citywide zoning text amendment to establish a requirement for affordable housing as part of new development over 10 units within a "Mandatory Inclusionary Housing Area".

PUBLIC HEARING

A Public Meeting was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Monday, November 16, 2015, at 5:30 P.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation at the October 19, 2015 meeting of the Borough Board. The applicant was present at the November 16, 2015 Borough Board to respond to questions.

CONSIDERATION

Subsequent to a review of the application and consideration of testimony received at the public meeting, the following issues and impacts have been identified:

- o Affordable housing would be mandatory in areas rezoned either by the city or as part of a private application. The rezoned areas would be mapped as Inclusionary Housing areas.
- o Such affordable housing would be permanent. Annual filings would have to be made with the Department of Housing Preservation and Development identifying numbers and levels of affordability
- o The City Planning Commission and finally the City Council would determine the neighborhood need and the mix of income mix options during the ULURP review process. The minimums would be:
 - 25% of total floor area would be set aside for residents with incomes averaging 60% of AMI (\$46,620 family of 3)
 - 30% of total floor area would be set aside for residents with incomes averaging 80% of AMI (\$62,150 family of 3)
- o In specific areas, by City Council approval moderate-income affordable units that do not receive direct subsidy could be applied. 30% of total floor area for residents with incomes averaging 120% of AMI (\$93,240 family of 3)
- o The new provisions are meant to be the floor or minimum number of units to be required. Developers would be encouraged to provide more than these minimal amounts of affordable housing.
- o Community Board 1 approved this application with conditions by a vote of 33-0-0 at a public meeting held on November 12, 2015. The conditions of approval were: infrastructure must be upgraded in any rezoned area to accommodate the additional population and housing, affordable units must be distributed throughout the building and not clustered, building amenities must be available to all market and affordable rate residents, the rents must be truly affordable to area residents, replace term of the lease with term of tenancy to protect seniors who still might be subject rent stabilization increases, payment in lieu of providing affordable housing must be used to produce affordable housing in in the same community district within a closer distance than the proposed ½ mile, community boards should be notified when such funding is proposed or used, community boards should be allowed to review and comment on the guidelines for the payment in lieu of providing affordable housing;
- o Community Board 2 disapproved this application by a vote of 28-1-4 at a public meeting held on November 5, 2015. The conditions were: affordable units should be built on the same site of the contributing market rate site in one building, details on the use and administration of the payment in lieu of providing affordable housing in Community Board 2, affordable units should be distribute on every floor of the building, the AMIs of the buildings should more closely reflect the actual AMIs of the host community board, hardship exceptions to providing affordable housing should not be available;
- o Community Board 3 approved this application by a vote of 16-11 at a public meeting held on November 12, 2015.;
- o Community Board 4 disapproved this application by a vote of 17-3-8 at a public meeting held on November 10, 2015;

- o Community Board 5 did not vote on this application.
- o Community Board 6 disapproved this application by a vote of 16-8-3 at a public meeting held on November 12, 2015;
- o Community Board 7 disapproved this application by a vote of 35-2-1 at a public meeting held on November 9, 2015.;
- o Community Board 8 disapproved this application by a vote of 31-1-0 at a public meeting held on November 12, 2015.
- o Community Board 9 disapproved this application by a vote of 33-0-0 at a public meeting held on November 10, 2015
- o Community Board 10 waived their hearing on this application.
- o Community Board 11 disapproved this application by a vote of 24-1-2 at a public meeting held on October 5, 2015.
- o Community Board 12 disapproved this application by a vote of 29-0-0 at a public meeting held on October 21, 2015.;
- o Community Board 13 disapproved this application by a vote of 32-7-0 at a public meeting held on October 26, 2015.;
- o Community Board 14 disapproved this application by a vote of 32-0-0 at a public meeting held on November 10, 2015.;
- o The Queens Borough Board disapproved this application by a vote of 12-2-6 at a public meeting held on November 16, 2015. The 6 abstentions were for cause.

RECOMMENDATION

Based on the above consideration, the Queens Borough Board hereby recommends disapproval of this application in its present form for the following reasons:

- It is unclear how effective this proposal would be in generating enough affordable and senior affordable housing to meaningfully address the shortages;
- Overall concerns that the proposed AMIs do not reflect the actual AMIs in many of the Queens neighborhoods
- There are concerns that the proposed new mandatory inclusionary housing may replace existing affordable housing with housing deemed affordable that is not within reach to the current residents and lead to displacement of longtime residents;
- Dissatisfaction with mechanisms that would be in place to assure that any payments in lieu of affordable housing are used to benefit the generating/host community district
- Concerns that the existing and future housing programs and subsidies would not be enough able to generate affordable housing
- Concerns that the proposal would withstand Fair Housing Act challenges



 PRESIDENT, BOROUGH OF QUEENS



 DATE

Application #: N160051ZRY CEQR #: 16DCP028Y	Project Name: MANDATORY INCLUSIONARY HOUSING Borough: STATEN ISLAND Community District(s): 1, 2 & 3
<i>Please use the above application number on all correspondence concerning this application</i>	

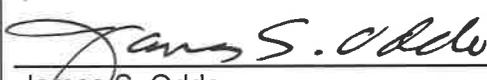
Docket Description:

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York to create a Mandatory Inclusionary Housing program that would require, through zoning actions, a share of new housing to be permanently affordable.

Recommendation:	
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve with Modifications / Conditions
<input type="checkbox"/> Disapprove	<input checked="" type="checkbox"/> Disapprove with Modifications / Conditions

Explanation of Recommendation, Conditions or Modification:

See explanation of Modifications and Conditions on Page 2
See Borough Board Resolution Addendum on Page 3

Related Applications:	
Contact: <i>Address questions about this recommendation to:</i> OFFICE of the STATEN ISLAND BOROUGH PRESIDENT ATTN: LAND USE DIRECTOR 10 Richmond Terrace, Room G-12 Staten Island, NY 10301 Phone: 718-816-2112 Fax: 718-816-2060	
 James S. Oddo President, Borough of Staten Island	<u>12/15/15</u> Date

Explanation of Recommendations, Conditions or Modification (continued):

The Department of City Planning has proposed a citywide text amendment to facilitate Mayor de Blasio's five-borough, ten-year plan to build and preserve affordable housing throughout New York City known as "Mandatory Inclusionary Housing" (MIH). MIH is intended to promote economic diversity in neighborhoods where the City plans for growth by ensuring that new housing meets the needs of a wider range of New Yorkers. Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing, whether rezoned as part of a City-initiated neighborhood plan or a private rezoning application.

- On November 24, 2015, Community Board 3 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 8, 2015, Community Board 1 overwhelmingly adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 9, 2015, Community Board 2 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 10, 2015, the Staten Island Borough Board overwhelmingly adopted a Resolution (appended hereto) recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH) (appended hereto)

After extensive review of the proposed text, communication with Chair Weisbrod and his staff on numerous occasions, and after discussing specific neighborhood concerns with local communities, I communicated my opinion and specific concerns to the Chair in a letter dated November 30, 2015.

I have now considered explanations, responses and additional clarifications articulated by Chair Weisbrod as well as the conditions outlined in the various resolutions of the Staten Island Borough Board and affected Community Boards.

I therefore recommend the **DISAPPROVAL** of the proposed application with the following modifications and conditions:

1. Establish a clear and predictable framework for the application of special floor area provisions for zoning lots in Mandatory Inclusionary Housing Areas:

- Section 23-154(d)(3)(i)(ii)(iii)(iv) ZR – Inclusionary Housing

2. Clarify program criteria and administration for neighborhoods with an existing diverse spectrum of income levels.

3. Provide guidelines for the application of future "City Neighborhood Planning" efforts and processes to be undertaken to determine feasibility of MIH applications.

• A clear process should be identified to better understand the planning rationale associated with the methodology. This process cannot be driven by discretionary actions sought by the private-sector. The City must have a clearer and more thoughtful strategy established before pursuing this application.

4. Identify strategies and funding streams to implement long-term planning associated with new potential MIH zones. MIH Text Amendment will divide neighborhoods. Without a sufficient level of infrastructure, public services, schools and public transportation options, regardless of economic diversity, neighborhoods could be exposed to a depletion of their quality of life.

5. A community-based review should be added to the MIH process to obtain feedback ensuring that decisions are being made with an appropriate level of local neighborhood input to better inform the process of community needs and priorities

6. Restrict all Board of Standards and Appeals (BSA) filings to conditions that exhibit real, practical difficulties or true unnecessary hardship. The BSA should not become a clearinghouse for developers seeking to circumvent established policy through a distortion of the terms associated with variance findings.

I look forward to continued conversations with Chair Weisbrod and staff to further address modifications necessary to protect the quality of life in all Staten Island communities.

Staten Island Borough Board Resolution

At a meeting on December 10, 2015, the Staten Island Borough Board adopted the following Resolution:

Whereas, the Department of City Planning has proposed two Citywide text amendments to facilitate Mayor de Blasio's five-borough, ten-year plan to build and preserve affordable housing throughout New York City known as "Zoning for Quality and Affordability" (ZQA) and "Mandatory Inclusionary Housing" (MIH); and,

Whereas, the Department of City Planning, working with the Department of Housing Preservation and Development and others, has developed these strategies to address zoning barriers thought to constrain the creation of new housing and add unnecessary costs; and,

Whereas, these amendments seek to advance a vaguely-defined framework to provide citywide guidelines for affordability that do not sufficiently address how the plan might be implemented in existing healthy communities throughout the Borough; and,

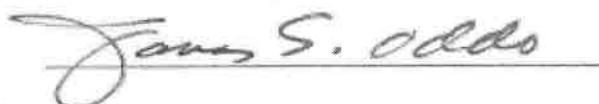
Whereas, these amendments seek to unilaterally address senior housing development opportunities without regard for existing neighborhood context, Borough dependency on the automobile, or the character of the built-environment; and,

Whereas, the long-term strategies associated with future "City Neighborhood Planning," including much-needed infrastructure improvements, has not been addressed; and,

Whereas, the Department of City Planning has notified Community Boards 1, 2 and 3 regarding the ZQA-MIH text amendment applications, and as all affected Community Boards have overwhelmingly recommended to disapprove the proposed changes for their respective districts;

Therefore, be it resolved, that the Staten Island Borough Board hereby unanimously approves this Resolution in opposition of the aforementioned zoning text amendment proposals.

By:



James S. Oddo
Staten Island Borough President
Chairperson, Staten Island Borough Board



OFFICE OF THE BRONX BOROUGH PRESIDENT
THE BRONX COUNTY BUILDING
851 GRAND CONCOURSE
BRONX, NEW YORK 10451

RUBEN DIAZ JR.
BOROUGH PRESIDENT

TEL. 718-590-3500
FAX. 718-590-3537
E-MAIL: rdiazjr@bronxbp.nyc.gov

November 30, 2015

Mr. Carl Weisbrod
Chairperson
New York City Planning Commission
22 Reade Street
New York, New York 10007

Dear Mr. Weisbrod:

Pursuant to Chapter 4, Section 85 of the New York City Charter, I convened a meeting of the Bronx Borough Board on Thursday, November 19, 2015. The meeting took place at 851 Grand Concourse. On the agenda as voting items were the text amendments for Zoning for Quality and Affordability (N 160051 ZRY) and Mandatory Inclusionary Housing (N 160049 ZRY). The vote of the Borough Board was as follows:

Zoning for Quality and Affordability (N 160051 ZRY)

The Borough Board vote was 0 in the affirmative; 19 in the negative; & 1 abstention

Mandatory Inclusionary Housing (N 160049 ZRY)

The Borough Board vote was 0 in the affirmative; 19 in the negative; & 1 abstention

Sincerely,


Ruben Diaz Jr.



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

ERIC L. ADAMS
President

December 14, 2015

Mr. Carl Weisbrod
Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Dear Mr. Weisbrod:

At its stated meeting on December 1, 2015, the Brooklyn Borough Board (“Borough Board”) adopted the enclosed resolution rejecting the Mandatory Inclusionary Housing Zoning Text Amendment (MIH), by a vote of 20 yes, 1 no, and 3 abstentions, and accepting the Quality and Affordable Housing Zoning Text Amendment (ZQA), by a vote of 20 yes, 2 no, and 2 abstentions. The resolutions include proposed modifications to each text amendment.

I applaud the Department of City Planning (DCP), along with the Department of Housing Preservation and Development for their extensive and thorough undertaking to develop these proposals. The production of the Community Board profiles as well as initially drafting zoning text for ZQA with instructional comments was ground breaking.

I thank the Brooklyn Borough Board for their thoughtful deliberation on Mayor de Blasio’s zoning amendments to improve the availability and affordability of housing in New York City. The Borough Board’s rejection of the DCP’s proposals, coupled with recommendations for improvements to the plans, is a thoughtful response to proposals that have merit but need to better protect existing communities and increase opportunities to build more affordable housing.

The Borough Board believes that the proposed MIH text amendment should include modifications incorporated by the City Planning Commission pertaining to affordability requirements: location, modifying requirements through the Board of Standards and Appeals, payment in lieu of applicability and family-sized units. One modification regarding a requirement

for having rent potentially for a percentage of the units established as affordable to households earning 40 percent of Area Medium Income requires further consideration from Community Boards and City Council Members to potentially customize percentages by Community Districts. In addition, it recommends a follow-up zoning text change action by DCP to promote affordable housing opportunities for previously upzoned areas.

As for ZQA, the Borough Board believes that the proposed text amendment should include modifications, to the extent within scope, by the City Planning Commission pertaining to: duration of affordability for senior housing; retaining discretionary review of long-term care facilities in certain instances; more appropriate height and bulk for senior housing and long-term care facilities; more appropriate building height and lot coverage; appropriate sizing of the transit zone; and senior housing parking requirements. As for the boundary of Transit Zone, a few Community Boards are undertaking further deliberation towards developing possible modifications to carve out additional blocks, with explicit recommendations remaining pending, though expected to be resolved prior to City Council consideration. Additional modifications would require follow-up actions by DCP, which the Borough Board seeks conceptual support from both the City Planning Commission and City Council, as well as a commitment from the Administration to provide resources to DCP to undertake the necessary actions.

I look forward to working with my colleagues in government and the community to ensure that any plan protects the character of communities, the permanency of affordability, and allows our seniors to age in place.

If you have any questions, your office may contact Mr. Richard Bearak, my director of Land Use, at (718) 802-4057. Thank you for this opportunity to comment.

Sincerely,



Eric L. Adams
Brooklyn Borough President

ELA/rb
encs.

cc: Members of the Brooklyn Borough Board
Winston Von Engel, Brooklyn Office Director, Department of City Planning
Ms. Beth Lebowitz, Director, Zoning Division, Department of City Planning

**Brooklyn Borough Board Resolution to Disapprove
According to Modifications to the
Mandatory Inclusionary Housing Zoning Text Amendment**

Affordability Requirements – Qualify Rent Burdened Households and Mandate Percentage at 40 Percent AMI by Community Districts

The Borough Board is concerned that 55 percent of City renter households are rent-burdened. *In order to ensure that rent burdened households receive the maximum opportunity to secure regulated permanent Mandatory Inclusionary Housing Text facilitate housing, the Borough Board seeks to have AMI qualifications adjusted to include those who would reduce their rent burden*

*This requires ZR 23-154 (d)(3) (i)(ii) and (iii) of the Inclusionary Housing provisions and ZR 23-91 General definitions – income bands, income index, low income household, low income limit, middle income floor area, middle income household, moderate income floor area, moderate income household, moderate income limit, qualifying household, to be modified to clarify that that the AMI income index and income bands have an **equivalent for allowing those rent burdened household that would be able to pay the same or have a reduction in their rent to lease such mandatory unit also be deemed a qualifying household for eligibility***

It also requires ZR 23-912 Definitions applying to rental affordable housing – maximum monthly rent to reflect the equivalency of income band as a measure to accommodate rent burdened households.

It also requires ZR 23-961 (a)(1) and (c)(2) Additional requirements for rental affordable housing – Tenant selections and Income, to reflect the rent burdened low, moderate and middle income households as qualifying households and that the administering income shall verify the household the rent history in lieu of income for rent burdened households

The Borough Board is concerned that there is no obligation to reach households at 40% AMI (or rent-burdened equivalent). *The Borough Board seeks a mandated set-aside for percentage (determined individually by Community Districts- at 40% AMI for both the 60% and 80% average AMI options.*

This requires ZR 23-154 (d)(3) (i)(ii) to note such obligations

Location – Preserve Existing Apartments to Preclude Displacement

The Borough Board is concerned that unlike the Voluntary Inclusionary Housing program, Mandatory Inclusionary Zoning does not provide any opportunity preclude displacement. For those being displaced, lottery units do not guarantee lottery selection or even having the proper income to be eligible for such units. *The Borough Board seeks to expand eligibility to a*

preservation option so that more tools are available to keep residents permanently in their apartments according to rent-regulated protection.

This requires ZR 23-91 General definitions – Preservation affordable housing to be applicable as a Mandatory Inclusionary Housing generating site.

It also requires ZR 23-94 (a) Methods of Providing Affordable Housing, to allow preservation affordable housing to be applicable to satisfy the requirements in Mandatory Inclusionary Housing areas

It also requires ZR 23-961 (d)(3)(1) Additional Requirements for rental affordable housing – affordable housing plans and MIH applications to include preservation affordable housing

BSA Special Permit (ZR73-624) – Establishing Parameters for the Extent that BSA Might Modify Mandatory Requirements

The Borough Board is concerned that the preamble of what BSA might modify merely defines income levels without any accommodation for rent burdened household equivalents.

Furthermore, there are no set parameters to what extent BSA may modify income levels for qualifying households. The Borough Board is also concerned that finding (a) to be made by the Board of Standards and Appeals does not provide for a demonstration that the City has not been provided adequate opportunity to enhance its subsidies and it does not adequately define reasonable return in the context of what would be the rate of return prior to the property being rezoned according to MIH. *The Borough Board seeks for buildings in excess of 25 units for a demonstration that the City is not prepared to provide enhanced subsidies. For all developments, that the qualifying households to include rent burdened AMI equivalents and to preclude the conversion of AMI restricted housing to market rate housing according to the following standards.*

- *For workforce housing 120 percent AMI rental basis option, BSA should not exceed 165 percent AMI average income rental basis, with maximum eligibility extended to no more than 200 percent AMI and its rent burdened equivalent),*
- *For the 80 percent AMI rental basis option, BSA should not exceed 120 percent AMI average income rental basis, with maximum eligibility extended to no more than 165 percent AMI and its rent burdened equivalent;*
- *For the 60 percent AMI rental basis option, BSA should not exceed 90 percent AMI average income rental basis, with maximum eligibility extended to no more than 130 percent AMI and its rent burdened equivalent;*
- *BSA shall limit market rate floor area, and its commercial equivalent, to the equivalent value of the non-bonused percentage of the as-of-right permitted Floor Area Ratio (70-75% of FAR).*

The Borough Board seeks that as a condition of precluding any provision of mandatory affordable housing the BSA would be mandated to reduce the allowable height in recognition of the reduction of provided floor area.

- *As a condition of limiting floor area to the 70 to 75 percent of the allowable FAR based on providing market rate only floor area, BSA shall restrict market rate only height per Borough Board Quality and Affordable Height Recommendation per Zoning Resolution section 23-662b, which reduces permitted height*

The Borough Board seeks the following consideration by BSA in regards to determining reasonable rate of return.

- *In addition, BSA shall define a reasonable return as what was a the reasonable return of the property prior to the effective date of the adoption of Mandatory Inclusionary Housing Text adjusted by the Consumer Price Index or the earlier date of any rezoning plans filed with the Department of City Planning.*

Payment In Lieu of Option – Smaller Developments Need to Participate

The Borough Board is concerned that zoning lot developments of ten units or less (12,500 sf or less) of exempted from the proposed affordable housing obligation. *The Borough Board seeks to extend applicability of the payment in lieu of option to the minimum number of apartments that defines a multiple dwelling (three units).*

*This requires ZR 23-154 (d)(4)(i) to be amended to **three units***

Bedroom Mix – Promoting Family-Sized Units

The Borough Board is concerned that there is not sufficient leverage/flexibility to provide for a greater number of bedrooms for the affordable units as part of mixed-income buildings. Further, it does not reflect unique needs in specific communities. *The Borough Board seeks to require a minimum threshold for non-independent residences for seniors and non-supportive housing to accommodate family-sized apartments.*

This requires ZR 23-96 Requirements for Generating Sites or MIH Sites (c)(1) Bedroom mix of affordable housing units shall not be proportional to the bedroom mix of the dwelling units in the generating site as long as not less than 50 percent of the affordable housing units contain two (three in Community District 12) or more bedrooms and 75 percent of the affordable housing units shall contain one (two in Community District 12) or more bedrooms.

Additional Matters That Would Further the Proposals' Goals of Promoting Affordability but Are Beyond the Scope of the Current Proposal and Should be Considered as Part of Future Actions or Zoning Reviews

Mapping Additional Voluntary Inclusionary Designated Areas – More Opportunities to Create Affordable Housing

Be it further resolved that in order to maximize opportunities to provide affordable housing, that for the following areas that were already upzoned without consideration for obtaining affordable housing opportunities and where further upzoning would be inappropriate, the Borough Board seeks to establish additional Voluntary Inclusionary Housing Designated Areas, in Community Boards and Local Elected Officials, as follows:

- CD 2: Bridge Plaza, non-R10 equivalent rezoned districts in Downtown Brooklyn, the western section of DUMBO and Fourth Avenue.
- CD 6: Fourth Avenue;
- CD8 Grand Army Plaza, Eastern Parkway, Vanderbilt Avenue and Washington Avenue;
- CD 15: Kings Highway and Ocean Avenue;

Brooklyn Borough Board Resolution to Disapprove According to Modifications to the Quality and Affordable Housing Zoning Text Amendment

In regards to Affordable Independent Residence for Seniors Being Retained as a Resource

The Borough Board is concerned that, but for zoning bonus enable floor area, there would be no obligation mechanism to prevent the conversion of affordable independent residences for seniors to market rate housing occupancy beyond the terms of its regulatory agreement (minimum of 30 years according to zoning definition for affordable housing). This is despite generous additional floor area and height, and relaxed parking requirements when compared to market rate housing.

The Borough Board seeks for the zoning text to deter affordable independent residences for seniors from being converted to market-rate housing by amending both Use Group 2 to include a new Use Group 2.B “affordable independent residences for seniors” and that the definition of this use states that to be considered an affordable independent residence for seniors such use is required to have incorporated into its Certificate of Occupancy for the City to be provided the opportunity to provide operating subsidies to extend the regulatory period prior to changing from Use Group 2.B.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 12-10 Affordable independent residences for seniors
- ZR 22-12 Use Group 2

In Regards to Affordable Independent Residence for Seniors and Long Term Care Facilities

- Appropriate Bulk When Developed on Detached, Semi-Detached Blocks and Attached Housing Blocks with no Front Yard Parking

The Borough Board supports the proposal to limit the height, bulk and floor area of independent residences for seniors and for long term care facilities in zoning districts designated for detached, semi-detached homes and low-density attached housing districts (R3A, R3X, R4A and R5A detached home, R3-1 and R4-1 semi-detached districts and R3-2 and R4B attached home districts). The Borough Board is concerned that the proposed as-of-right bulk provisions for affordable independent residences for seniors is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible bulk on many blocks in Brooklyn that are characterized as predominantly detached and/or semi-detached where they remain in R3, R4 or R5 multi-family housing zoning designated districts. These conflicts become more apparent along narrow streets. The Borough Board believes that there should be additional consideration in the zoning text for R3, R4 and R5 districts where such residential block fronts predominantly developed consistent with detached and/or semi-detached development, and attached homes with no front yard parking, as a means to preclude

uncharacteristic proposed bulk of affordable independent residences for seniors and long-term care facilities on with housing characteristics.

The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached, semi-detached residences or and row house districts without front yard parking, where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residences. The Borough Board believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities. In addition such affordable independent residences for seniors to be applicable to long-term care facilities floor area and bulk envelop should not be applicable to zonings lots exclusively fronting along narrow streets.

- Appropriate Height and Bulk for Both Affordable Independent Residences for Seniors and Long-Term Care Facilities When Developed in R3-2, R4 and R5 Multi-Family Districts

The Borough Board is concerned that the proposed one size fits all building height of up to 6 stories or 65 feet beyond 25 feet from the street line is intending to be applied equally without regard to the permitted floor area ratio being 0.95 FAR in R3-2 Districts, 1.29 FAR in R4 Districts and 1.95 FAR in R5 Districts, and without regards to the typical height of buildings in those districts.

The Borough Board seeks 3 stories or 35 feet in R3-2 Districts, 4 stories or 45 feet in R4 Districts and 5 stories or 55 feet in R5 Districts for zoning lots on blocks that do not meet that characteristics of defining detached or semi-detached homes, and attached houses with no parking in the front yard for the R4 district.

- Precluding As-of-Right Status for Long-Term Care Facilities on Detached Zoning Districts and Predominantly Detached Blocks

The Borough Board is concern that the proposed requirement for long-term care facilities to need to obtain discretionary approval (Community Board input) is limited to only R1 and R2 detached single-family home districts. For the remaining detached home districts (R3A, R3X, R4A and R5A) and blocks predominantly developed consistent with detached homes, the proposal would otherwise allow long-term care facilities homes to be permitted as-of-right. The Borough Board is concerned that the proposed as-of-right allowance for long-term care facilities is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible intensity of use, especially when fronting along narrow streets because many forms of long-term care facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas.

The Borough Board believes that similar standards for Community Board input should be applied to R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent with

detached homes as a means to preclude as-of-right placement of long-term care facilities amongst detached developed blocks.

The Borough Board understands that the proposed lot sizes and distances from residents for locating a long-term care facility in R1 and R2 single-family home districts would be too stringent for R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent with detached homes, though there should be Commission findings regarding the use, its scale and placement of the building that assures a long-term care facility would not alter the essential character of the neighborhood; and, there be adequate buffering from adjacent residences when locating a long-term care facility use in detached home districts as well as blocks predominantly developed consistent with detached homes.

The Borough Board seeks to restrict incompatible use and bulk from detached home areas by making development pursuant to an authorization or special permit approved by the City Planning Commission, as a means to provide standards of findings and Community Board input.

- Appropriate Bulk for Affordable Independent Residence for Seniors (required a City Planning Follow-Up Action) and Long Term Care Facilities Floor Area for R7A Districts fronting Narrow Streets (now affects CDs 3, 4, 8, 12 and 14)

The Borough Board is notes that the maximum floor area for R8B, a zoning district for narrow street frontages, does not provide additional floor area for affordable independent residences for seniors and long-term care facilities (remains 4.0 FAR). The equivalent floor area for R7A mapped on wide or narrow streets has been 5.01 FAR for affordable independent residences for seniors, and, for long-term care facilities, the floor area is proposed to be increased from 4.0 FAR to 5.0.1. The Borough Board believes that the affected mid-blocks should not be treated any different from zoning district designations that might be more in character with block development.

The Borough Board seeks for narrow street frontages to be treated the same by either retaining 4.0 on both the R7A fronting narrow streets and R8B should be increased to match the R7A Inclusionary Zoning FAR standard of 4.6 FAR.

- Assisting Existing Affordable Independent Residences for Seniors Buildings Expand

The Board of Standards and Appeals would have latitude to modify zoning requirement to allow development of Quality Housing Buildings on irregular sites. The Borough Board is concerned that even with more standard lot configuration, existing Affordable Housing for the Elderly developments seeking to utilize remaining development rights find it challenging to complying with zoning rules given initial site planning decisions that might have included accommodation of parking requirements, other site planning building placement considerations and underbuilding of height as a cost savings measure.

In order to assist Affordable Independent Residences for Seniors to develop from the resulting underutilization of permitted floor area, the Borough Board believes that practical difficulties according

to finding (b) should permit the Board of Standards and Appeals more latitude when the ownership of Affordable Independent Residences for Seniors remains the same.

- Limiting Applicability of Community Facility Bulk for Long-Term Care Facilities or philanthropic or non-profit institutions with sleeping accommodations for Blocks Characterized by Detached and Semi-Detached Development in R3, R4 and R5 Districts

The proposed text does not permit Community Facility Bulk being applied to long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations for R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached districts. A City Planning Commission special permit allowance community facility bulk would be applicable for R3, R4 and R5 Districts without regards to whether there is significantly consistent block fronts that are predominantly developed with detached homes and semi-detached homes and are along narrow streets. Approving special community facility floor area bulk permits could potentially result in out-of-context development of incompatible intensity of use. The Borough Board seeks to preclude uncharacteristic proposed bulk of long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations on block fronts predominantly developed with detached homes and semi-detached homes and along narrow streets as such facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas.

The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached or semi-detached residence where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residence be incorporated into sub-sections (2) and (3). The Borough Board believes that such provision would alleviate out-of-context facilities.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 23-01 Applicability and General Purposes
- ZR 22-13 Use Group 3 Community Facilities
- ZR 22-22 Uses Permitted by Special Permit by the City Planning Commission
- ZR 22-42 City Planning Commission Special Permit for Long-Term Care Facilities
- ZR 23-155 Affordable independent residences for seniors Floor Area Ratio
- ZR 23-631 (i) General Provisions Height and Setback Requirements in R3-2-R5 Districts Except for R4A, R4B, R4-1, R5A, R5B, R5D and Special Ocean Parkway Districts
- ZR 24-013 (a)(2) Special provision for certain community facility uses for buildings containing long-term care facilities in R3 through R5 districts except in R3A, R3X, R3-1, R4A, R4B, R4-1, R5A, and R5D Districts
- ZR 73-623 Bulk modifications for Quality Housing Buildings Sites
- ZR 74-903 (a) (2) and (3) Special Permit for certain community facility uses in R3 to R5 Districts and certain Commercial Districts by the City Planning Commission to permit the community

facility floor area ration and bulk provisions containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations

In Regards to Providing for Appropriate Building Height

- Transition Height of Taller Avenue Buildings (R6A-R10) to Lower-Rise Mid-Blocks (R1-R6B)

The Borough Board is concerned that the proposal intends to modify the height permitted within 25 feet when R6-R10 districts abut R1 through R6B Districts from 35 feet in R1 through R5 Districts and R6B requirements (50 feet) for R6B Districts to a height of 75 feet. The Borough Board believes that this modification goes totally against the intent of the many neighborhood-wide contextual preservation-based rezoning where the community supported increased density in appropriate locations.

The Borough Board seeks a rejection of this proposed text modification.

- Right Sizing Maximum Height of Buildings With Residential Occupancy for Quality Housing Buildings Providing Affordable Housing Pursuant to the Inclusionary Housing Program

The Borough Board supports providing additional height to provide assurance that developments would contain affordable housing. Though it is concerned that the maximum height and number of stories being proposed is too excessive of an increase to accommodate the intent for the Inclusionary Housing designated area permitted floor area ratio (FAR) to be utilized. The proposed heights would undermine community led efforts to impose contextual height limits in areas rezoned to promote housing development as part of neighborhood-wide contextual rezoning that included contextual preservation-minded rezoning.

The Borough Board seeks to reduce the Maximum Height of Building as follows:

**Maximum Height of Building with qualifying ground floor means second floor at least 13 feet above the sidewalk*

Zoning District	(proposed)non-qualify ground floor	Maximum Height of Building with qualifying ground floor	Maximum Number of Stories
R7A	(100)90	95	9
R7D	(120)110	115	11
R7D (CD 3)	(120)100	105	10
R7 outside Manhattan Core	(100)90	95	9

- Determining Maximum Height of Contextual Buildings (Not in City Planning’s proposal)

Height of contextual buildings are been measured from the level of the street line. It has become apparent that for zoning lots with sloped frontages determining maximum height by measuring from the level of street line is an ill-defined reference term as by itself it does not appear to preclude a developer from measuring height from the highest point of the street line.

The Borough Board seeks to establish the measurement from legal grade of the base plane or some equivalent standard that establishes a mean or average height for sloped frontages.

- Determining Height of the Second Story Above Grade (Qualifying Ground Floor Height Component)

Height of contextual buildings are been measured from the level of the adjoining sidewalk. In order to achieve the additional five feet of building height the height of at least 13 feet the level of the finished floor of the second story above grade. It has become apparent for zoning lots with sloped frontages determining where to measure the level of street line from is inadequately-defined. By itself, the street line reference does not appear to preclude a developer from measuring height from the highest point of the street line.

The Borough Board seeks to establish the measurement from legal grade of the base plane or some equivalent standard that establishes a mean or average height for sloped frontages.

- Zoning Floor Area Reduction for Lobby Ramps to Accommodate Persons with Mobility Disabilities as a Means to Encourage Elevating a First Floor Level

For Quality Housing buildings, a developer would be permitted to exclude up to 100 square feet for each foot above curb level up from the definition of zoning floor area. The Borough Board believes that 100 square feet is nearly 40 percent more than necessary to equate the floor space required to comply with an ADA compliant ramp and with landings, resulting up approximately up to 150 square feet of free development rights – enough to result in a master bedroom. The Borough Board seeks to limit compensation to the area needed to provide the ramp, with additional financial offset received by raising each floor up to five feet above a property where the ground floor remained a sidewalk level.

The Borough Board seeks to reduce the exemption to 70 feet per foot.

Therefore, modify the following sections of the Zoning Resolution:

- ZR23-693 Special Height Limitations Special provisions applying adjacent to R1 through R6B Districts for R6-R10 districts
- ZR 23-662 (b) Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings, building heights and number of permitted stories and corresponding Table 1 Minimum Base Height, Maximum Base Height, Maximum Building Height and Maximum Number of Stories for Contextual Districts and for Non-Contextual Districts and corresponding Table 1 as it pertains to Maximum Height of Building with non-qualify ground floor/Maximum Height of Building with qualifying ground floor/Maximum Number of Stories
- ZR 23-664 (a) Modified height and setback regulations for certain buildings R6-R10 Districts for Quality Housing buildings providing affordable housing pursuant to the Inclusionary Housing Program and corresponding Table 1 Modified Maximum Base Height and Maximum Building Height for Certain Quality Housing Buildings

- ZR 23-641 Front setbacks in R6-R10 Districts without a letter suffix, corresponding table Maximum Height of Front wall and Required Front Setbacks, ZR 23-642 Alternate Front Setbacks and corresponding table Alternate Required Front Setbacks
- ZR 23-631 (f) General Provisions Height and Setback Requirements in R5D Districts and ZR 23-662 Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings
- ZR 28-11 Elevated Ground Floor Units R6-R10 Districts

In Regards to Providing for Appropriate Yard Obstructions

- Relaxing Lot Coverage and Rear Yard Requirements for Shallow lots and Shallow Through Block Lots for R6-R10 Districts and Commercial Equivalents

The proposal would change the definition from 70 feet to 95 feet (*Note: Lower Density Districts would remain at 70 feet*) in depth to define a shallow lot and 190 feet to define a shallow through lot. The Borough Board believes such standard would be too permissive towards achieving City Planning's intent towards quality design and achieving permitted floor area without the need to obtain a Variance from bulk provisions. The Borough Board is concerned that adopting the proposal would result in overly permissive rear yard enlargements altering the character of the collective rear yards of a block. There are sections of Brooklyn blocks that are not characterize by the standard block width of 200 feet. For these blocks often there are a string of lots consistently at 80 or 90 feet in depth with yard character well-defined. The existing collective feel of rear yards might be compromised by more liberal lot coverage if the existing shallow lot standard were increased from 70 feet to 95 feet of depth.

The Borough Board seeks for shallow lot provisions to be increased from 70 feet to 80 feet and shallow through lots be defined by 180 feet as means to provide a degree of relief without the need for a Variance.

Permitted Obstructions in Required Yards or Rear Yard Equivalents in R6A and R7A Districts

- Restricting on Certain Narrow Street Frontages the Proposed Allowance of A One-Story Enlargement On Rear Yards That Contain Common Amenities Such as Laundry Rooms, Recreation Rooms, Etc. (now affects CDs 3, 4, 6, 8, 12, 14, 15)

Coverage of rear yards for a single story is permitted for certain zoning districts based on street right-of-way width and where parking is permitted to enclose a one level garage. The proposal would allow amenity spaces in such yards for contextual buildings for sites in certain zoning districts typically designated along wide street right-of-way properties.

The proposal would permit rear one-story building enlargements up to 15 feet in height might in R6A and R7A districts without regard to street right-of-way width. Equivalent height and density zoning districts meant to be designated along narrow street width (*R6B, R7B and R8B Districts*) would not be permitted to have rear yard placement of such amenities. If certain narrow street width blocks were

mapped R7B or R8B in lieu of R6A or R7A the rear of these properties would not permit the proposed one-story amenity space. Though, because of R6A and R7A zoning status, new enlargements could potential become an appropriate intrusion for the character of the collective rear yards for these blocks. The Borough Board believes that the collective rear yard experience for these blocks with narrow-street widths should remain protected as would be the case if initially zoned R7B or R8B.

The Borough Board seeks for zoning lots located in an R6A or R7A District that fronts along a narrow street to be regulated consistent with R6B, R7B and R8B districts, where such rear yard intrusion would not be applicable according to the proposed text.

- Appropriate Placement of Overlapping Buildings in NYCHA Campuses When Utilizing Excess Development Rights

The proposal seeks to use the more minimal standards of the New York State Multiple Dwelling Law for opposing wall condition for heights in excess of 50 feet to require not more than 40 feet between walls where legal windows are involved for building walls of undefined length of overlap for buildings up to 125 feet in height.

The Borough Board is concerned that the New York State Multiple Dwelling Law standard of 40 feet between building walls of undefined length of overlap does not adequately provide for light and air. Given the expectation of utilizing excess development rights of NYCHA campuses and existing affordable independent residences for seniors, there should be an expectation of quality light and air standards as opposed to provisions that allow less than desirable building placements.

The Borough Board seeks a maximum length where distance between building walls of connected buildings exceed 50 feet in height when at least one wall contains legal windows, with a maximum requirement of 60 feet between such building walls and a maximum length where distance between buildings up to 125 feet in height when at least one wall contains legal windows, should have a maximum length of overlap within the standard of 40 feet and then require up to a maximum requirement of 60 feet (standard for two abutting rear yards) between such building walls.

- Appropriate Corner Lot Coverage to Promote Wrap Around Building Walls

The proposal would modify the maximum residential lot building coverage for a corner lot to 100 percent, in lieu of the existing 80 percent provision, without regard to lot width. The Borough Board believes that the such design flexibility promoted by 100 percent lot coverage could promote substandard room layouts/proximity to windows, including so called offices and dens that would not meet light and air standards for living and sleeping rooms, with some merely having a lot line window that could be either blocked by the adjoining side street property or else introduces by overlooking the collective rear yard. Allowing 100 percent corner lots do promote the elimination of street wall gaps and allows maximum floor area to be achieved with less height. In order to promote these goals

without the risk of substandard floor plan layouts, the Borough Board believes there needs to be a maximum width to apply the corner lot 100 percent coverage standard.

The Board seeks to retain the 80 percent corner lot provision, except for sections of corner lots with lot width not exceeding 30 feet which may have 100 percent coverage.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 23-156 Special lot coverage provisions for shallow lots in R6-R10 Districts, ZR 23-52 (b)(2) Special Provisions for Shallow Interior Lots, ZR 23-533 Required rear yard equivalent for Quality Housing buildings and ZR 23-534 Special Provisions for Shallow Through Lots R6-R10 Districts
- ZR 24-164 Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses Location of Open Space Residential Portion R1-R9
- ZR 23-711(b)(1) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for separated portions of a building above roof of connecting abutting building portion
- ZR 23-711(b)(2) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for Two or more buildings on a single zoning lot
- ZR23-153 Quality Housing Buildings Corner Lot Coverage

In Regards to Providing for Appropriate Parking

Appendix 1: Transit Zone

The Borough Board is concerned that the Transit Zoned as mapped is too extensive. The following should be given consideration in terms of refining Transit Zone boundaries:

- All of Community Districts (CD) 1, 2 and 3 are considered to be within the transit zone in areas where the half mile from the subway station was limited to G Line service, a route that often is dependent on infrequent service and typically requires transfers.
- Certain areas of CD1 have added obstacles of crossing the Brooklyn-Queens Expressway trench and elevated sections to reach subway stations.
- Certain areas of CD 2 require crossing under the elevated BQE across Park Avenue and sustained walking up hill.
- For CD 3, pending determination of partial removing from the Transit Zone.
- For CD5, the section south of Linden Boulevard and east of Malta Street should be removed from the Transit Zone.
- For CD6, the section west of the Brooklyn-Queens Expressway trench and south of the elevated sections of the Gowanus Expressway across Hamilton Avenue.
- For CD 8, should be removed from the Transit Zone
- For Community District 9, the section west of Utica Avenue to south of Empire Boulevard extending east of Brooklyn Avenue, should be removed from the Transit Zone.

- For CD 11 should be removed from the Transit Zone.
- For CD 13, the section south of Coney Island Creek should be removed from the Transit Zone.
- For CD 14, pending determination of partial removing from the Transit Zone.
- For CD 15, the section to the south of Avenue P and north of Neptune Avenue between Coney Island Avenue and Ocean Parkway Avenue, and east of East 21st Street, should be removed from the Transit Zone.
- For CD 17, the section west of East 93rd Street to south of east New York Avenue to Utica Avenue and east of Brooklyn Avenue should be removed from the Transit Zone.
- For CD 18, the section south of Flatlands Avenue should be removed from the Transit Zone.
- Parking Requirement for Affordable Independent Residences for Seniors

The proposal attempts to better reflect the reality of parking lot usage for affordable independent residences for seniors. In doing so, it would facilitate the elimination of parking requirements to existing affordable independent residences for seniors within the transit zone. Though, permitting elimination does not appear to reflect the extent of observed utilization of such existing accessory group parking facilities. Displacing the on-site parked cars – whether they belong to residences, staff, or visiting medical technicians -- might result in a quality-of-life impact for the residents of surrounding blocks by displacing existing off-street parking with the resulting added competition for on-street parking on surrounding streets.

Outside the transit zone the proposed rate decrease from 35 percent in R3 and R4 Districts and 31.5 percent in R5 Districts to 10 percent appears to be too much of a decline given that these locations might induce automobile trips associated with building staffing or visiting medical technicians for such residences in combination with the number of senior households that might still own cars when relocating to such affordable independent residences for seniors and might have a degree of dependency on such automobiles for trips ranging from medical appointments, purchasing food and consumer goods and lifestyle in these less than assessable neighborhoods outside the transit zone.

The Borough Board seeks to modify by limiting the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent unless the resulting parking waiver would facilitate the elimination of such parking requirement, and for group parking facilities outside the transit zone, that in lieu of ten percent, to limit the reduction of parking requirement to 15 percent in R5 Districts and 20 percent in R3 and R4 Districts.

- Additional Consideration for the Board of Standards and Appeals to Find in Order to Reduce or Waiver Parking Requirements for: market rate developments in the transit zone providing income-restricted housing; Existing income-restricted housing and affordable independent residences for seniors (and City Planning Commission for Large Scale Plans)

The Borough Board is concerned that findings do not: adequately define a distance to what might be considered the surrounding area; mention finding parking as what might have an undue adverse effect;

give consideration to the availability of parking in the surrounding area and proximity to public transportation; and, contain similar factors as identified in ZR 73-434 Reduction of existing parking spaces for income restricted housing units for addition safeguard that might be imposed by the Board of Standards and Appeals.

The Borough Board seeks to define the surrounding area as up to 1,000 feet and that the Board of Standards and Appeals and the City Planning Commission must consider the availability of parking in the surrounding area and the proximity of public transportation as addition factors in determining the amount of parking spaces to reduce or waive.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 25-252 Required Accessory Off-Street Parking Spaces for Residences – Modification of Requirements Where Group Parking Facilities Are Required R1-R10 Districts for Affordable Independent Residences for Seniors
- ZR 25-261 Waiver of Requirements for Small Number of Spaces for R7A Districts and ZR 25-33 Waiver of Requirements for Spaces below Minimum Number for Permitted Non-Residential Uses
- ZR 73-433 Reduction of (market-rate unit) parking spaces in the Transit Zone to facilitate affordable housing
- ZR 73-434 Reduction of existing parking spaces for income restricted housing units and ZR 73-435 Reduction of existing parking spaces for affordable independent residences for seniors
- ZR 74-532 Special Permit Reduction or waiver of parking requirements for accessory group parking facilities by the City Planning Commission in conjunction with large scale development in the transit zone

Additional Matters That Would Further the Proposals' Goals of Promoting Affordability but Are Beyond the Scope of the Current Proposal and Should be Considered as Part of Future Actions or Zoning Reviews

- Reducing Height of Buildings With Residential Occupancy When Not Including Affordable Housing (Not in City Planning's proposal)

When developed without affordable housing, Voluntary Inclusionary Housing designated areas with height limits have typically 11 to 16 percent less permitted floor area ratios than the same zoning district designation for non-Inclusionary Housing designated areas with the same height limit. The Borough Board does not see further need to accommodate less provided floor area in the same height as non-designated areas. The Borough Board is concerned that continuing to maintain the maximum height and number of stories for R6-R10 Districts where such districts are according to the provisions of Inclusionary Housing designated areas without the benefit of the providing affordable housing sends the message to developers that affordable housing is not enough of a priority. The City should be leveraging the financial value of upper floors as an additional incentive to participate in the Inclusionary Housing

Program. Holding back one to four stories (depending on district) of now permitted height unless the affordable housing bonus is used – as views have value -- turns added height into a financial incentive to participate in the incentive program.

The Borough Board seeks to reduce the Maximum Height of Building as follows:

**Maximum Height of Building with qualifying ground floor means second floor at least 13 feet above the sidewalk*

Zoning District	(existing) non-qualify ground floor	Maximum Height of Building with qualifying ground floor	Maximum Number of Stories
R6A	(70)65	70	6
R7B	(75)65	Not Applicable	7
R7A	(80)75	80	7
R7D	(100)90	95	9
R7D in CD3	(100)80	85	8
R7X	(125)110	115	11
R8A	(120)105	110	10
R8X	(150)130	135	13
R9A	(145)120	125	12
R9X	(160)150	155	15
R10A	(185)170	175	17

**and comparable provisions for equivalent non-contextual districts.*

- Allowing Community Facility Uses to Have A Higher Rear Yard Coverage Height (Not in City Planning’s proposal)

In certain situations, Community Facilities are permitted to cover the entire rear yard up to a height of 23 feet with the roof counting as meeting residential open space requirements.

By utilizing the proposed ground floor height incentive that allows building heights to be increased by five feet, it might not be possible to place two floors of community facility use in the rear yard while not exceeding 23 feet. This places community facilities with a choice between balancing the opportunity of achieving additional ground floor height that is otherwise offset by reducing the amount of overall community facility floor area because the second floor would not be able to extend into the rear yard because of the roof needing to be above 23 feet—which is not permitted. Without adjusting the qualifying rear yard height, which is now up to 23 feet above curb level for meeting the required residential open space requirement upon the roof of the community facility portion of such building, might preclude use of the ground floor incentive or the provision of a two stories of community facility use extending into the rear yard.

In order to promote community facility ground floor height without compromising community facility floor area placement, a nominal increase in permitted rear yard obstruction height would address this circumstance.

The Borough Board seeks to modify the qualifying community facility rooftop residential open space height to 25 feet.

- Decrease the Number of Market Rate Units and for Community Facility Use Where Parking Needs to Be Provided in Certain Community Districts (Not in City Planning's proposal)

As neighborhoods are being upzoned, often in proximity to rapid transit, not enough consideration has been given to auto-lifestyle consideration for households able to afford cars living further from Downtown Brooklyn. Where prior zoning might require parking for developments with more than ten units, these new districts merely require development of more than 30 units to provide parking. The same standard for community facility use jumped from at least requiring that 25 parking spaces to required parking to not exceeding 40 spaces. This parking waiver appears to be excessive for neighborhoods in the outermost sections of Brooklyn where car ownership rates tend to reflect lifestyles where quality-of-life depends on the ability to find parking.

The Borough Board seeks to modify in Community Districts 3, 4, 9, 10, 11, 12, 13, 14, 15, 17 and 18 (more districts might be added) the residential waiver in certain R7A Districts from 15 spaces to the R6, R7-1 and R7B standard of five spaces and the community facility use waiver from 40 spaces to the R6, R7-1 and R7B standard of 25 spaces.

- Encourage Income Restricted Housing Through Parking Reductions for Development in the Special Downtown Brooklyn District (Not in City Planning's proposal)

The Special Downtown Brooklyn District's market-rate housing parking requirement was recently reduced to a requirement of 20 percent of the housing units. The Borough Board believes that the cost-savings from providing less structured garage parking should be leveraged to provide for income-restricted housing. Therefore, the opportunity that reduced required parking to 20 percent, when not providing income-restricted housing, should be revisited.

The Borough Board seeks to condition the parking reduction on the utilization of the Inclusionary Housing program provisions.

Therefore, modify the following section of the Zoning Resolution:

- Regarding ZR 101-51 (a) Minimum Parking Requirements for Off-Street Parking Regulations

Furthermore, as many areas zoned R3-2, R4 and R5 are not receiving the same protection from the Zoning Resolution as districts that preclude attached housing or attached housing with parking in the front yard, from precluding bulk and height pertaining to affordable independent residences for seniors and to long-term care facilities, the Borough Board seeks preliminary analysis of all R3-2, R4 and R5 Districts to determine where Districts such as R3A, R3X, R3-1, R4A, R4-1, R4B and R5A are appropriate and then for the Department of City Planning to undertake such rezonings.



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Gale A. Brewer, Borough President

December 11, 2015

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: N 160051 ZRY – Mandatory Inclusionary Housing Text Amendment

Dear Chair Weisbrod:

I write in regard to the Department of City Planning's (DCP) application for an amendment of the Zoning Resolution ("ZR") of the City of New York to modify articles and related provisions concerning Sections 12-10, 23-10, 23-90, 62-80, 73-62, 74-00 and 74-40 in order to create a Mandatory Inclusionary Housing Program. The text amendment was put forth as part of the Mayor's Housing Plan in order to address the current affordable housing crisis and to promote integrated communities and neighborhoods. The program would apply to specific future developments located in either a neighborhood rezoning approved through the Uniform Land Use Review Procedure (ULURP) or pursuant to a ULURP-approved special permit that increases residential density and in turn require that a share of new housing be permanently affordable.

Affordable housing that serves a wide range of needs is an important goal. I believe all significant residential development in Manhattan should require some affordable housing, and have sought to accomplish this in projects I have reviewed as a City Councilmember and now as Manhattan Borough President. In recent years, I watched as residential development has become more and more opulent, with larger units and grander amenities. More and more frequently, these developments are built for those who do not intend to reside in them. This type of development forces up real estate prices and housing costs for everyone in the community and may often result in indirect displacement and a loss in neighborhood continuity. And this is a trend that is happening throughout Manhattan. For these reasons we need a mandatory affordable housing program in the city.

The need for increased affordable housing in new developments where rezoning of a neighborhood will allow for creation of significant new residential density is self-evident. However, in an already dense borough, I have misgivings about allowing the principal way of achieving affordable housing to be tied to significant upzonings, especially without explicit ties to anti-harassment provisions or a tenant protection plan. This pits proponents of significant density against advocates of affordable housing and fans concerns that the incentives to build are spurring gentrification and therefore raising rents.

My biggest concern about the program as currently proposed is that the affordable housing requirement may not justify the additional density that may be realized by developers. I understand the arguments behind a uniform, consistent, mandatory program that requires affordable housing where significant new residential density is introduced. My preference is that affordable housing not be tied to new residential density but rather to all residential development. Many developments – indeed the largest ones -- are as-of-right, oftentimes resulting from the merger of zoning lots, which allow development rights to be combined and result in enormous towers. Some development is made possible through applications for special permits that may allow residential use in zoning districts where residential use is not currently allowed. As I began to see these special permit applications come more regularly through ULURP my office began commenting on the need to require affordable housing where new residential use is being introduced into a neighborhood.

I also have concerns about the implementation of this program as proposed in the text amendment. These concerns center on the question of when the provisions requiring affordable housing in the case of special permits are triggered, protections against harassment for rent stabilized tenants, and transparency and assurances that money in the fund from Manhattan projects gets spent in the Manhattan community district that generated those monies. Also, I have heard from many of the Manhattan community boards that the affordable housing income bands are inadequate and should allow for more housing at both the lowest and more moderate income levels.

However, I am very supportive of the provisions in the current proposal that would require private applicants for special permits (for residential conversion or construction) to provide affordable housing because this is a major step toward requiring individual residential projects to help meet this significant need. Since there can be difficulties with applying this type of solution to all residential construction, it is even more essential that before any program is finally approved, the City Planning Commission (CPC) and the City Council ensure that the percentages of affordable housing required by the program are as high as possible.

In addition, the administration has demonstrated a willingness to work towards significant changes that I and the Manhattan community boards are seeking. Moreover, the administration has committed to work with me on improving the quality and quantity of affordable housing units created by the R10 and Voluntary Inclusionary Housing Programs applicable in so much of Manhattan. For these reasons I support the MIH text amendment, but only if the conditions outlined in this recommendation are satisfied.

As part of my consideration, I took into account the Manhattan Borough Board resolution recommending disapproval with conditions issued on November 30, 2015, all of the Manhattan Community Board resolutions, the testimony received and heard at the Manhattan Borough President's Public Hearing on this matter on November 16, 2015, the letters submitted by Manhattan elected officials on March 25, 2015 and November 17, 2015, and all relevant materials provided by the Department of City Planning pursuant to Section 201 of the New York City Charter as related to the text amendment N 160051 ZRY. In addition, this recommendation is based upon the letter dated the same date as this recommendation from the Chair of the City Planning Commission and Commissioner of HPD outlining our discussions on MIH and their

commitments to my office attached hereto as Appendix II. For more information on the background behind my consideration, please see Appendix I to this letter.

BOROUGH PRESIDENT RECOMMENDATION

We need a mandatory affordable housing program, and I said so in a letter that I sent to HPD and DCP on August 1, 2014 following discussions on a development in Riverside Center that managed to take advantage of a number of the existing loopholes in the current voluntary program. Although a significant part of this program will be tied to neighborhood upzonings, the proposed MIH program also uses special permits to capture affordable housing from developers introducing residential units into non-residential districts. A mandatory housing program such as the one currently proposed with the improvements outlined below, together with an administration commitment to an improved Voluntary Inclusionary Housing Program, will aid the city in achieving its housing goals and should address any existing concerns with the voluntary programs:

1) Improvements to Voluntary and R10 Programs: Significantly, the administration has committed to work with me on amendments to the R10 and Voluntary Inclusionary Housing Programs applicable in so much of Manhattan which could result in more and better affordable housing through these programs. Indeed, HPD has already commenced a review of the offsite option in the voluntary program. I am confident these changes will result in a greater amount of affordable housing achieved through these programs as well as the elimination of problematic and stigmatizing outcomes such as developments with “poor doors.”

2) When MIH will be required: Over the last two years this Office has expressed concern that special permits have allowed the introduction of new residential units into certain neighborhoods by developers without a requirement for affordable housing. The current proposal states that affordable housing requirements are not applicable to residential developments of fewer than ten units or 12,500 square feet. Were this minimum threshold to be maintained, some of the loft buildings in the SoHo/NoHo area which have been converted in recent years to residential use might not be subject to the requirements contained in this proposal.¹ Therefore, DCP and HPD have agreed to review the square footage threshold for application of MIH to special permits in certain neighborhoods in Manhattan.

3) Fund for affordable units remaining in communities: In addition, while this Office has called for consideration of a fund for affordable housing to be seeded by developers of small projects, this alternative was called for only if an actual requirement for onsite affordable housing could not be accomplished. I continue to believe onsite affordable

¹ Borough President Recommendation, 37 Great Jones Street, ULURP application No. C 140114 ZSM (Borough President recommended approval but residential floor area was 12,038 square feet; BSA Application 318-13-BZ, 74 Grand Street, May 6, 2014 (residential floor area of 10,807 square feet); BSA Application 77-13-BZ, 45 Great Jones Street, October 29, 2013 (residential floor area 11,697 square feet).

housing is preferable but understand that in some instances this may not be practicable or even legally feasible. (e.g. the minimum unit size in SoHo and NoHo is 1,200 square feet when converting to residential floor area per the condition 74-712(a)(1)(iii) of the special permit allowing such conversion). However, this Office and many of Manhattan's Community Boards have serious concerns over the operation of such a fund. In the current text there are virtually no requirements over the use of such funds and its operation is left to be defined in a set of guidelines not yet written. Manhattan Community Boards -- especially those in communities where housing prices are highest - - rightfully will not support a system in which funds are generated by multiple special permit applications which have a cumulative effect of introducing significant amounts of market rate housing into their communities, only to see these funds spent in other communities. So HPD and DCP have agreed to requirements to keep these funds tied to the community district for a minimum of ten years, and only to allow them to be used outside of the district after consultation with the Community Board and Manhattan Borough President. At no point would the money leave the borough. These requirements will be coupled with annual reporting on monies in the fund and the uses to which they are being put, broken down by community district.

4) Displacement and anti-harassment provisions: Communities are looking to the City to explain how it will work to fight displacement in communities where MIH is applied after increasing the development potential of a community by rezoning the area to allow for more residential density. This increase creates soft sites and ratchets up the existing development pressure. Anti-tenant harassment protections exist in the Special Clinton District and similar provisions must be considered as part of a larger anti-displacement strategy. If programs outside the scope of zoning requirements can sufficiently empower tenants and protect them from potential harassment, the administration must demonstrate the efficacy of these tools to deter harassment before it begins. Otherwise, anti-tenant harassment protections similar to those in Clinton/Hell's Kitchen should be included in MIH or promised in future neighborhood upzonings. Additionally, I believe that future study should be done to see how density increases can be tied to local hiring provisions, good jobs and acceptable labor standards to act against displacement and strengthen existing communities. These measures would provide a pathway for some who live in the rezoned communities to work and proposer where they reside.

5) BSA waiver of program requirements: The provision of the proposed text that would allow the Board of Standards and Appeals (BSA) to modify the requirements of the MIH program upon certain findings, including that the requirements for the percentage of affordable housing or income levels create an unnecessary hardship for the developer keeping him or her from making a reasonable return is very concerning to me as it was to the Borough Board. Community Boards have an unpleasant history of seeing hard fought zoning provisions avoided on hardship claims that are sometimes debatable. DCP has committed to revise the text for BSA modification of the requirements to ensure limited availability of waivers, provide more structure for review of such requests and require consultation with HPD before a waiver can be granted.

6) Affordable unit location: The next issue of concern is the baseline quality of the affordable units -- specifically their locations within projects and their comparability to market rate units. The requirement that where affordable units and market rate units are found in the same building, access must be by way of a common entrance is laudable. It will eliminate the stigmatization of affordable housing residents being forced to enter the building through a "poor door" allowed under the Voluntary Inclusionary housing program and criticized by this Office and many Manhattan Community Boards. But requirements that affordable units in mixed market rate and affordable housing buildings need only be distributed over half of the floors could lead to "poor floors." The Voluntary program requires affordable units to be distributed over at least 65 percent of the floors and in some instances Manhattan Community Boards have achieved even greater integration of units. Sixty-five to 75 percent unit distribution is what the administration should strive to achieve with their Mandatory Inclusionary Housing Program.

7) Location in separate buildings: My priority is that New York City and the Borough of Manhattan be comprised of diverse communities. The MIH program will best foster the goal of inclusive housing if the affordable units are ultimately integrated in the same building with the market rate units and not in a separate building next door. Admittedly there are impediments to integrated buildings that are currently outside the control of the City and State. Project financing is an oft-cited example of one of those impediments and it may be that without the onsite-adjacent building provisions, a project may be more likely to secure a BSA hardship variance and escape the MIH program entirely. But if the goal is inclusive development and communities, then the on-site, mixed building should be given priority and the use of the off-site or adjacent building used only as a relief valve under set circumstances or if the gain is higher in the number of affordable units. Both the onsite-adjacent buildings option and any offsite option should not be allowed to occur without additional consideration by HPD and the community as to the reasons why an integrated project is not feasible. HPD should not be able to sign off on the project's MIH requirements before the end of the review period. The alternative to this review could be an option to increase in the number of affordable units in the adjacent building.

8) Off-site provisions: It is important to point out that 421-a incentives² are not available to projects that build affordable units offsite. Yet, developers may choose to forgo the tax exemption benefits of 421-a while still complying with the requirements of MIH. Despite the widely held notion that development is not feasible in Manhattan without the property tax exemption, developers have chosen to abstain from participating in 421-a while enjoying FAR bonuses from older inclusionary housing programs. It seems that separating out the affordable units from the market rate units is an incentive in itself, equal to or greater than incentives offered by 421-a. Therefore I believe we should seek either a higher percentage of units or a deeper affordability when a developer utilizes that option, or seriously consider what would be the appropriate criteria for allowing that option to be exercised, such as community review.

² 421-a refers to New York State Real Property Tax Law §421-a.

The offsite provision pits property submarkets against one another by allowing developers to earn their floor area bonus by building the affordable units in the most inexpensive property market that they can justify in the inclusionary housing rules (same Community District or within a half mile as the project receiving the bonus) while using the bonus area in the area with the highest value. This multiplier is clearly an incentive on its own. The MIH program does not attempt to separate out projects using the offsite provision from the rules from projects that qualify for 421-a benefits by building all of the units onsite. Offsite projects should not be hamstrung by the State program when it does not contemplate that type of development in its development standards. Additional MIH affordability options should be available for offsite projects in addition to the two that are available throughout the borough and the Workforce Option that is only available in Community Districts 9 through 12. Additional options should reflect AMI bands that target families of very limited means or middle class families that are often left out of affordable housing programs in Manhattan below 96th Street.

Again we have made significant progress on this issue. The administration has committed to looking at the percentage requirement for offsite affordable housing in the Voluntary Inclusionary Program. Assuming a favorable review, I am confident that this would also result in an increase in the offsite requirements in MIH. This would recognize the fact that if there is a significant economic need on the part of the developer to use this less favored option, then the developer must provide more to the affected community in return.

9) Quality of affordable units: An additional concern is the continued quality of conditions in the affordable apartment units within a mandatory inclusionary project. Only by requiring an identical or substantially similar level of apartment appliances and finishes for market rate and affordable units, can we ensure that the affordable units will remain in good condition over the long run and not deteriorate more rapidly than the market rate units. The City must ensure that the warranty of habitability is maintained at the highest level from the first tenancy, and throughout the life of the building. Quality finishes that are made to last will show that this new affordable housing program recognizes the importance of maintaining a high quality standard of living for all tenants, a value that has regrettably been overlooked in the past.

10) Community Board input: Additionally, I have repeatedly asked HPD (most recently in a letter sent on February 10, 2015) to adjust the agency rules for referring affordable housing plans to Community Boards to ensure true input under the voluntary programs. These plans are sent by developers, but typically not with sufficient time for a Community Board to review the application, and with little or no guidance from HPD about what specifically can be weighed in on. I believe that this process could be strengthened by adjusting HPD policies, but this could also be included as part of an affordable housing text amendment. Since this referral process is mandated by the zoning, the text could be altered to provide more time for Community Board review, to clarify what elements of the plan should be presented to communities, and to make consistent the process for referral. That same level of clarity and consistency is important for Mandatory Inclusionary housing application referrals, and the intent of that referral

should be made clearer in the zoning text so as to better inform eventual agency guidelines.

11) Income bands: Clearly the Department of City Planning used great care to create AMI options that mirror those available in the New York State 421-a program. There is an argument that housing developers will look to take advantage of the State program to exempt their project from property taxes and thus the City's zoning resolution should not preempt those opportunities by mandating a certain mix of AMI bands that would preclude the project's participation in 421-a. This explains why the "Workforce Option" is not available in Community Districts 1 through 8 as the 421-a program prohibits the use of a 120% AMI average below 96th Street in Manhattan. Unfortunately, both the State and City restrictions do not reflect the diversity of needs that change from neighborhood to neighborhood in terms of the depth of affordability the mandatory units must achieve.

But the MIH proposal does not go far enough in working around the limitations of 421a and I feel that there are significant opportunities to diversify the menu of affordability options presented in the current version. The three options that dictate the weighted-average AMI bands in MIH do not reflect the diversity of need in Manhattan. The common refrain that echoed in the Community Boards, the borough-wide hearing and Manhattan Borough Board was that the options do not address the needs that exist. In communities where those with the lowest incomes are the most at-risk for displacement, the lowest average AMI band is 60%. The 120% AMI Workforce Option is limited to uptown community districts, where the need for apartments at less than the lowest 60% AMI option is greatest. In community districts 1 through 8, where the Workforce Option is not available, members of the community question if there is any room left for middle class families that often make too much for most affordable housing programs, yet still are unable to afford market rents.

I appreciate the administration's need for a program that has universal applicability and a citywide impact. However, the limited scope of affordability options prevents the program from responding to the economic differences in various neighborhoods. Fortunately, the administration has committed to work to tailor strategies to meet needs of different neighborhoods. I strongly urge the administration and City Council to provide additional options for affordable housing at the lowest income ranges as well as those in moderate/middle income bands.

A number of issues remain unresolved, and while I am encouraged by the commitments made by the administration to revise and improve these plans, additional work must be done especially to ensure adequate AMI bands and the provision of the greatest percentage of affordable housing in all circumstances. This would allow the program to respond to neighborhood needs across the city. I would also encourage the City Planning Commission and City Council to take their full review timeframe and carefully consider the recommendations from the individual Community Boards, Borough Boards, and Borough Presidents to ensure this city gets the best mandatory program it deserves and needs.

Thank you for your consideration of my recommendation and efforts in ongoing discussion on this important topic.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive style with a large, looped initial "G".

Gale A. Brewer
Manhattan Borough President

APPENDIX I. Background

PROJECT DESCRIPTION

The Department of City Planning referred out on September 21, 2015 a citywide text amendment known as MIH (N 160050 ZRY) that would amend the ZR to create a Mandatory Inclusionary Housing program that would require, through future zoning actions, a share of new housing to be permanently affordable. Such requirement would either be triggered through a neighborhood rezoning study that increases residential density, or through special permits subject to the city's Uniform Land Use Review Procedure (ULURP).

Background

Housing New York Overview

On May 5th, 2014 New York City Mayor de Blasio unveiled his administration's strategy for achieving his campaign goals of building or preserving 200,000 housing units over the next 10 years. Entitled 'Housing New York: A Five-Borough, Ten Year Plan', the document is a roadmap for the Department of City Planning and the Department of Housing Preservation and Development.

The plan calls for New York to become a denser city where economic diversity is a cornerstone of housing development. Together with development, the plan calls for the protection of existing affordable units against harassment as the city looks to make changes to the Zoning Resolution to increase the production of permanently affordable units by bringing down the cost of development while tying the creation or funding of affordable housing to increases in residential development potential.

Past Calls for Mandatory Inclusionary Housing

Before the beginning of the current administration, there was already a great deal of interest in improving the Voluntary Inclusionary Housing program that was instituted in conjunction with a number of rezonings during the Bloomberg administration. Various organizations called for a form of inclusionary zoning that did not rely on developers choosing to take the 33% bonus in floor area that came from setting aside 20% of the units as permanently affordable. Most notably, Manhattan Community Board 11 called for a Mandatory Inclusionary Housing Program and for the implementation to coincide with a rezoning strategy that they elaborated upon in their January, 2013 report.

In addition, this Office has repeatedly called for requirements that developers introducing market rate housing into neighborhoods through special permit be required to provide affordable housing and requirements that more affordable housing be required under the current Voluntary Inclusionary Housing Programs in which developers can opt to provide affordable housing in return for a density bonus in mapped district and R10 districts. Over a year ago in a ULURP application for a special permit for a use change to residential use at 102 Greene Street, this Office stated that, "the Manhattan Borough President would like to work with the Department of City Planning and CB2 to explore options for affordable and artist housing in smaller projects, especially if new residential units are added or existing JLWQA units are proposed for elimination."³ A few months later where a new luxury residential development was proposed to

³ Manhattan Borough President Recommendation, 102 Greene Street, C 140353 ZSM.

be built by special permit in an area zoned for light manufacturing in the Ladies Mile Historic District, this Office recommended disapproval and stated that if residential use were to be allowed, the area should be rezoned in a manner that required affordable housing.⁴ The developer subsequently agreed to provide four units of affordable housing.

Proposed Text Changes

The text amendment adds a new section, 23-154, to the New York City Zoning Resolution (“ZR”), entitled “Inclusionary Housing.” That section contains special floor area provisions for zoning lots in Mandatory Inclusionary Housing areas which provide that “no #residential development#, #enlargement#, or #conversion# from non-#residential# to #residential use# shall be permitted unless #affordable housing#... is provided or a contribution is made to the #affordable housing fund#....” However, this general requirement is subject to reduction or modification by special permit of the BSA pursuant to §73-624 of the proposed text (discussed in the final paragraph of this section on proposed text changes).

The MIH Program would be applicable in “Mandatory Inclusionary Housing Areas” and in the case of applications for special permits allowing for “a significant increase in residential floor area,” could be applied by the City Planning Commission where application of the MIH Program would be consistent with its goals. However, according to one of the final provisions contained in §23-154, the MIH program would not apply to “[a] single #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# of not more than 10 #dwelling units# and not more than 12,500 square feet of #residential floor area# on a #zoning lot# that existed on the date of establishment of the applicable #Mandatory Inclusionary Housing area#.”

Paragraphs (d)(3)(i) through (d)(3)(iv) of §23-154 set forth the options for the provision of affordable housing. A developer building in a Mandatory Inclusionary Housing Area must do one of the following: (1) make at least 25 percent of the residential floor area affordable to income bands the weighted average of which do not exceed 60 percent of the Area Median Income (“AMI”); (2) make at least 30 percent of the residential floor area affordable to income bands the weighted average of which do not exceed 80 percent of AMI; or (3) employ a “workforce option” as an alternative to options one and two in which at least 30 percent of the residential floor area is affordable to income bands that do not exceed 120 percent of AMI. This “workforce option” would not be permitted in Manhattan south of 96th Street, nor would it be permitted if the development were receiving City subsidies.

Section 23-154(d)(3)(iv) of the proposed text allows residential developments that increase the number of units by no more than 25 and increase residential floor area by less than 25,000 square feet to pay into an “affordable housing fund” instead of building the affordable housing. The fund would be administered by the Department of Housing Preservation and Development (“HPD”) and all contributions would have to “be used for development, acquisition, rehabilitation, or preservation of affordable housing, or other affordable housing purposes as set forth in the guidelines” promulgated by HPD (§23-011). The amount required to be paid into the fund would be “related to the cost of constructing an equivalent amount of #affordable floor area#, as set forth in the” HPD guidelines (§23-154(d)(iv)). The definition of the “affordable housing fund” would require that contributions into the fund be “reserved, for a minimum period

⁴ Manhattan Borough President Recommendation, C 140404 ZSM and C 140405 ZSM, 39 West 23rd Street

of time as set forth in the #guidelines#, for use in the same Community District..., or within a half-mile of such #MIH development# in an adjacent Community District” and allows HPD to create additional provisions regarding the use of the funds in the guidelines (§23-911).

In “Special permit approval in Special Purpose Districts” contained in §23-934, a new paragraph allows CPC to modify the requirements of MIH if a proposed #development#, #enlargement# or #conversion# facilitates significant public infrastructure or public facilities addressing needs that were not created by the proposed development itself.

In the “Methods for Providing Affordable Housing” contained in §23-94, a new paragraph (f) would be added that would require that if there is a Mandatory Inclusionary Housing site on a zoning lot that contains only affordable units, that that structure must either: (1) share a street entrance with any other building on the zoning lot that contains market rate residential units, (2) be a fully separate building from grade to the sky with its primary entrance on a street containing primary entrances for other residential buildings unless HPD approves another entrance after determining that such other entrance would not be stigmatizing.

Section 23-96 which contains the requirements for generating sites under the Voluntary Inclusionary Program requiring affordable units to be distributed over 65 percent of the floors in buildings that contain both affordable and market rate units would be amended. The amendment would contain requirements that in a new construction MIH building that contained market rate and affordable residences, the affordable units would have to be distributed over 50 percent of the residential floors. However, this requirement would not apply where the affordable units were all rentals and the market rate units were all condominiums (§23-96(b)).

The bedroom mix of affordable units under the Mandatory Inclusionary Housing Program would be the same as that under the current Voluntary Inclusionary Housing Program with affordable/market rate buildings required to provide either a similar percentage of multiple bedroom apartments (one-bedroom or greater and 2 bedroom or greater) or contain at least 50 percent 2 bedroom or greater units and 75 percent one bedroom or greater. Buildings containing only affordable units would have to comply with the 50 percent two or more bedrooms and 75 percent one or more bedrooms requirement. The size requirements for studios, one bedrooms and two bedrooms would be generally consistent with those for the Voluntary Inclusionary Housing Program (§23-96(c)).

The proposed MIH Program contains regulatory provisions similar to those found in the current Voluntary Inclusionary Housing Program, including that the affordable units be subject to a regulatory agreement, that the regulatory agreement be recorded and run with the property and that an administrator for the affordable housing which is a not-for-profit, unaffiliated with the developer be approved by HPD (§23-96). In addition, the provisions concerning rent of rental affordable units, sales price and resale of home ownership affordable units and income eligibility applicable to the Voluntary Inclusionary Program are made applicable to the Mandatory Inclusionary Housing Program. However, in the case of rental affordable housing units the rental provisions contained in the Voluntary Inclusionary Housing Program are made applicable to the Mandatory program “[u]nless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#.” (§23-961(b)).

Affordable housing units in the program are restricted to “qualifying households,” which are defined as “a #low income household#, #moderate income household#, or #middle income household# with an income not exceeding the applicable #income band# as specified in the special #floor area# provisions for #zoning lots# in #MIH areas# in paragraph (d) of Section 23-154 (Inclusionary Housing).” (§23-911).

The text amendment would add provisions requiring the MIH Application to contain the initial administering agent, the building plans, the number, bedroom mix and monthly rents or initial price as applicable of the affordable units and any other information HPD requires. The application would have to be delivered to the community board at the time of its initial submission to HPD (§§23-961 and 23-962).

Finally, the proposed text amendment would add a new section, §73-624, entitled “Reduction or modification of mandatory inclusionary housing requirements.” This section would allow the Board of Standards and Appeals to modify the requirements of the MIH program upon finding that the requirements for the percentage of affordable housing or income levels (1) create an unnecessary hardship whereupon the developer would be unable to make a reasonable return; (2) the hardship was not created by the developer or a predecessor owner of the property; and the modification of the MIH Program requirements are the minimum necessary to afford relief.

ANTICIPATED IMPACTS

On September 18, 2015, the Department of City Planning issued a Negative Declaration for the Environmental Assessment Study (EAS) for the Mandatory Inclusionary Housing text amendment (CEQR No. 16DCP02BY). Upon completion of the department review of the EAS for the MIH program, the agency determined that the proposed action would have no significant effect on the quality of the environment as the text amendment would have no impact until mapped or implemented through subsequent discretionary actions of the City Planning Commission.

COMMUNITY BOARD COMMENTS

At its Full Board meeting on November 19, 2015, Community Board (CB) 1 voted to oppose the text amendment as currently proposed. The Board stated a need for affordable housing for middle-income families, the workforce option in all districts, and the PIL option remaining permanently in the CB. The Board also raised issues and concerns with the proposal process, clarity on the objective standards of the proposal, concept of poor buildings on the same lot, BSA variance, possible displacement and need for tenant anti-harassment protections.

At its Full Board meeting on November 20, 2015, CB2 voted in support with conditions for the text amendment. The Board supports increased density for affordable housing and recommends applying MIH to VIH designated areas, allow developers to use workforce option in the district if they include more affordable housing across wider AMI bands, and request more information and oversight over the payment in lieu fund.

At its Full Board meeting on November 24, 2015, CB3 voted to deny the proposal unless certain conditions were met. The Board expressed a need for low income affordable housing and requested new developments include 50% affordable units with 40% of units 2-bedroom or larger and more affordable housing should be constructed if built off-site.

At its Full Board meeting on November 4, 2015, CB4 voted to support the proposal with conditions. The Board requests the affordable housing unit distribution requirement be increased to 80% of all floors of a building including co-operative and condominium buildings, equality in apartment finishes and accessibility to amenities. In terms of the PIL option, the Board suggests the contribution standard be based on the current actual costs to construct in the CB, an annual review of the contribution formula and standard, and that HPD consult with the local CB and council member on the use of the funds. The Board suggests applying the workforce option in CB 4, increasing the workforce option in Manhattan to 30% or more of the residential floor area, and implementing the VIH 45 day CB public comment period for applications.

At its Full Board meeting on November 12, 2015, CB5 voted to reject the proposal with conditions. The Board requested the text is amended to include an “Option 4” to set aside 50% of affordable units at 75% AMI, off-site affordable housing option is removed and suggested that in the BSA variance process where an applicant claims economic hardship, a developer can seek a time-limited subsidy from HPD to make a development economically feasible.

At its Full Board meeting on November 18, 2015, CB6 rejected the proposal as written and requested an additional 90 days to review the proposal. The Board suggested affordable housing developed on the same site or within the same building should be completely integrated with the access to amenities and finishes. The Board also recommends the workforce option AMI increased to 130% and applied to all CB’s, increased transparency for the PIL option, 2% of affordable units set aside for veterans and greater oversight of BSA variances.

At its Full Board meeting on November 4, 2015, CB7 rejected the proposal as written. CB7 proposed a public review process for MIH developments and requested additional information regarding the mechanics of the PIL option. The Board requested applicants develop more affordable housing if constructing offsite, the workforce option be available in all CB’s and further, if a building is demolished that contains rent regulated units, the new building should reconstruct those in addition to the required affordable units.

In a letter dated November 25, 2015, CB8 stated they do not support the text amendment as written. The Board stated this text amendment will encourage spot zoning, the AMI levels are not reflective of all NYC community needs and requested affordable housing tenants have equal access to amenities and the same finishes.

At its Full Board meeting on November 19, 2015, CB9 voted to disapprove the MIH text amendment as written. The Board is supportive of affordable homeownership opportunities through the proposal, and requested community input when MIH is applied, and more time to review the proposal.

On November 6, 2015 the Land Use and Housing Committees (which is constituted as a committee of the whole) of CB10 agreed to submit a letter voicing its concerns – first that the public review process was unduly rushed – as well as concerns regarding offsite affordable housing possibly being constructed across the Harlem River in the Bronx and the PIL option for smaller buildings. The Board suggests suggested smaller buildings and rezoned areas provide 50% affordable units for low and very low-income residents. The Board also requested more oversight of the permanent affordable units in terms of maintenance and enforcement.

At its Full Board meeting on November 23, 2015, CB 11 voted to not support nor approve the text amendment but stated that with substantial improvements, the proposal could benefit the East Harlem community. The Board opposed the option to develop affordable units off site and to develop separate buildings on the same zoning lot. The Board letterstated the PIL option must be overseen by the CB for new construction and preservation of affordable housing and proposed new developments are 50% market rate, 30% moderate income, and 20% low and very low for CB 11.

At its Full Board meeting on November 24, 2015, CB 12 voted to deny the proposal unless certain concerns are addressed. CB 12 expressed concern that the construction of taller buildings will not result in better architectural design. The Board requested 50% community preference of units developed under the proposal and the apartments should be included in the rent stabilization system. The Board raised concern that this proposal could decrease affordability and change the neighborhood character.

BOROUGH BOARD COMMENTS

The Manhattan Borough Board met on a number of dates to consider the proposal known as MIH. The Manhattan Borough Board received its first briefing on the proposal on October 15, 2015. On November 19, 2015, as part of the chair report, Borough Board members discussed both the ZQA and MIH proposals. As not all Manhattan community boards had voted at that time, the decision was made to call a special meeting for a vote. On Monday, November 30, 2015, the Manhattan Borough Board passed, with 12 in favor, 0 opposed, and 4 abstaining, a resolution recommending disapproval of MIH unless the following conditions are satisfied:

1. The Administration recognizes and responds to the need for anti-harassment protection for residential tenants. Such protection is a necessary step to prevent the accelerated loss of stabilized units in areas where increased development potential incentivizes redevelopment of the existing housing stock;
2. The proposal is amended to provide greater clarity regarding on site, separate buildings and off-site provisions to ensure equal access to amenities and a higher standard of affordability when providing units off-site; and
3. The menu of AMI options should include a wider menu of options to cater to community preference when a project is otherwise ineligible for 421a benefits or when MIH is mapped to a development site through a special permit.
 - a. Expanded options should include the Workforce option and an extremely low AMI band option that captures lower average income levels. The overall

- percentage of affordable units for the entire project should be adjusted up or down according to the cross subsidy required.
- b. Projects that take advantage of the offsite provision should be required to build at deeper levels of affordability unless they acquire a special permit allowing them to build using the standard menu option.
 - c. Establish an option that would allow for increased affordable housing units in stronger real estate markets, adjusted up according to the cross subsidy provided.
4. Ensuring that the requirements for affordable housing are sufficient given benefits, incentives, and options provided to developers and multiple incentives result in additive benefits; and an elimination of the offsite option or, in the alternative, a requirement for significantly more affordable housing within the community district if the offsite option is employed;
 5. The text should establish minimum thresholds for consideration, as is done elsewhere in the text, for applicability triggers for the program;
 6. Payment-in-lieu (PIL) threshold should be lowered and the text clarified to reflect, especially given the larger new construction unit sizes in our communities, that the threshold is the lesser of the square footage or unit count;
 7. The zoning text should set a new standard for housing development monies by enshrining specific frameworks for governance, baselines, transparency, and strategy for use of the PIL funds, thus eliminating the possibility that future administrations may have different priorities and can unilaterally change the nature of such funds;
 8. The fund is allowed to be used for preservation and rehabilitation of units, and therefore there should be no sunset clause that allows those funds to be used elsewhere; Furthermore, the text should also elaborate that HPD will report on the strategy and usage of each fund to the relevant Community Board and elected officials. All funds generated through the PIL option must supplement, not replace, other city capital dollars for affordable housing;
 9. Text is amended to encapsulate a community referral process that establishes how much time the Community Board has to review the documents, and an acknowledgement that those concerns will be taken under advisement and that HPD will not act before their review timeframe is completed;
 10. The Board of Standards and Appeals (BSA) loophole must be tightened so that it will only be used in the presence of real hardship and not as the path of least resistance for developers who do not wish to build affordable housing. This could be achieved by adding specificity as to what might be considered “unique conditions” under which developers could seek BSA approval;
 11. Increase the affordable unit distribution threshold in the Mandatory program from 50% to 65% to come up to the minimum threshold currently in the Inclusionary Housing program;
 12. Ensure a reasonable mix of unit sizes; and

13. Create a central plan, including recordkeeping, for monitoring or oversight over affordable units including their re-lease.

The Borough Board resolution also stated that the Department of City Planning and the administration should respond to and address the individual concerns and conditions of the Manhattan Community Boards issued in response to the referral of the text amendment, as should the City Council in the case of any concerns and conditions that remain at the time of City Council action. In addition, it recommended all agencies should provide information and seek feedback from community boards as the implementation of the text amendment progresses.

The Manhattan Borough Board considered all of the Manhattan community board resolutions and letters in its deliberations and discussions, the testimony received and heard at the Manhattan Borough President's Public Hearing on this matter on November 16, 2015, the letter submitted by Manhattan elected officials on November 17, 2015, and all relevant materials provided by the Department of City Planning pursuant to Section 201 of the New York City Charter as related to the text amendment N 160051 ZRY.

BOROUGH PRESIDENT HEARING

On Monday, November 16, 2015 the Manhattan Borough President held a public hearing on the subject of the affordable housing text amendments – Zoning for Quality and Affordability (ZQA) and Mandatory Inclusionary Housing (MIH) Program – in order to inform the recommendation herein. Well over 250 persons attended the hearing and 55 speakers testified regarding the text amendments. The Manhattan Borough President Recommendation letter, dated December 10, 2015, submitted in regard to the ZQA application (N 160049 ZRY) discusses in more detail the comments concerning that proposal.

Of the 55 speakers who came to testify at the hearing, 26 speakers testified in opposition to the MIH proposal, and 9 speakers testified in favor. Those who spoke in opposition to the proposal included citywide organizations such as CAAAV Organizing Asian Communities, Community Voices Heard, League of Women Voters, Metropolitan Council on Housing (Met Council), the New York Landmarks Conservancy and Local 79 along with prominent neighborhood groups such as the Good Old Lower East Side (GOLES). For a full list of organizations that testified or submitted comments to the Manhattan Borough President, please see Table 1 on page 17.

Those who spoke in favor of this proposal included the American Institute of Architects New York Chapter (AIANY), Association for Neighborhood and Housing Development (ANHD), and the Municipal Art Society (MAS). Members of Manhattan Community Board 4 also came to speak; however, while they wholeheartedly support the goal of a mandatory program, their comments were more in line with those who spoke in opposition, citing the timidity of the referral text in achieving the true depth of affordability and equity they have negotiated on a project by project basis over the last decade in Hudson Yards, Chelsea, and Hell's Kitchen.

Those who spoke in favor and against all touched upon similar themes;. Substantively, all cited the need for affordable housing in New York City and how critical setting the appropriate AMI (area median income) options was for a successful program. Those who spoke in opposition called for the elimination of the workforce, or 120% AMI average option, and stated that a lower

AMI option would be more appropriate for the neighborhoods most in need. Those who spoke in favor cited the need for a broader range of options for flexibility to match the individual neighborhoods, and recommended changes to include one at a lower AMI such as 40 or 30 percent, and expanding the eligible areas for the workforce option to citywide.

Over and over again residents spoke to the need for a protection plan for those already living in the neighborhoods to be targeted for the Mandatory program. The current text includes no anti-harassment provisions, and speakers stated their fears and concerns that these programs would only help new residents and do nothing to help them or their families. This comment also often came up in relation to the AMI options, as many felt that the 60% AMI option would never get to the level of affordability needed in neighborhoods such as Inwood, where the average income is closer to 48% AMI, or East Harlem, where the average income is closer to 37% AMI.

Those who spoke in favor and in opposition also spoke to the need for transparency and reporting in the operations of the “payment in lieu” fund. Other consistent themes related to equity and stigmatization issues, such as the need to increase the distribution of units, ensure equal access to amenities, and whether an affordable building adjacent to a market rate one was any worse or better than the existing “poor door” in the current voluntary program. Testimony also touched upon the issue of union jobs, living wage, and construction safety impacts.

Additional concerns were raised by those opposed to the text regarding the public review process for the text amendments, including availability of information, environment review analysis, and timeframe for review, when the review timeframe for other equally complex citywide text amendments were extended when folks voiced the need for additional time. Furthermore, many who spoke on ZQA stated they could not contribute to the conversation on MIH at this time with the reason that they perceived the information in the text was lacking or incomplete.

Table 1: Organizations who submitted testimony or comments regarding Mandatory Inclusionary Housing to the Office of the Manhattan Borough President.

Organization Name
American Institute for Architects (AIA) New York
Association for Neighborhood Housing and Development (ANHD)
Bowery Alliance of Neighbors
Committee Against Anti-Asian Violence (CAAAV)
Coalition for Livable West
Community Voices Heard (CVH)/ Local 79
Friends of Lamartine Place Historic District
Friends of the South Street Seaport
FRIENDS of the Upper East Side Historic Districts
Good Old Lower East Side (GOLES)
Greenwich Village Society for Historic Preservation (GVSHP)
Harlem Keepers of the Flame
Landmarks West!
League of Women Voters
Municipal Art Society
Metropolitan Council on Housing
New York Landmarks Conservancy
New Yorkers for a Human Scaled City
NY Hispanics in Real Estate and Construction
Perry Street Crusaders
PPR Family Members of Evicted Elders
Riverside Neighborhood Association
Save Chelsea
Society for Architecture
Turtle Bay Association
Tribeca Trust
West Chelsea Block Association
West End Preservation Society

APPENDIX II. DCP/HPD Commitment Letter



City of New York

DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, NY 10038
nyc.gov/hpd

DEPARTMENT OF CITY PLANNING
120 BROADWAY 31ST FLOOR
NEW YORK, NY 10271
nyc.gov/dcp

December 10, 2015

Honorable Gale A. Brewer
Office of the President
Borough of Manhattan
1 Center Street, 19th Floor
New York, NY 10007

Dear Borough President Brewer:

Attached to this letter is a list of items we agree on reflecting recent discussions between the DCP, HPD and you with respect to the consideration of the Zoning for Quality and Affordability and Mandatory Inclusionary Housing text amendments. We are confident that we can continue to work together to achieve the goals stated in these items. The cooperation and input that we have received from you, Elected Officials and Community Board members thus far has been extremely valuable. We look forward to working further with you, and the entire Borough, as public review progresses.

After both of these proposals go through public review, the Department of City Planning and the Department of Housing Preservation and Development plan to investigate ways in which the current voluntary Inclusionary Housing Program can be updated to reflect your concerns. We look forward to advancing this priority together. We appreciate your continued engagement on refining the Inclusionary Housing Policy for the Borough of Manhattan, and sincerely look forward to our forthcoming progress.

Sincerely,

A handwritten signature in black ink that reads "Vicki Been".

Vicki Been
Commissioner

A handwritten signature in blue ink that reads "Carl Weisbrod".

Carl Weisbrod
Chairman

Commitments

- Begin reexamination of voluntary IH program including R10 and designated areas with look at stigmatization issues (two door) and percentage of affordable units, upon approval of these text amendments.
- AMI language
- Distant off site language
- Special Permit Approach
- HPD language on standards for preservation/rehab work
- Monitoring of Inclusionary
- HPD description of the submission process and timing of when package goes to CB
- Revised language for BSA Special Permit
- Clarity that MIH applies for enlargements 23-154(d)
- Payment in Lieu fund language
- HPD language on anti-displacement

AMI Language

In Manhattan MIH will be applied to new neighborhood rezonings and special permit applications. In response to concerns from the BP and other stakeholders that IH options with average AMIs are not responsive to local needs, DCP will work with HPD to tailor a housing strategy for these neighborhoods with the BP and other stakeholders to address local housing needs. Such neighborhood needs would include analysis of the existing housing stock, income levels and census data.

Distant Off Site

The Borough President and other stakeholders have raised concerns about whether there should be a higher percentage of affordable housing required if an option for affordable housing on a separate zoning lot is provided. DCP and HPD are currently undertaking a review of utilization of the offsite option in the current programs in anticipation of working with the Borough President on improving the voluntary inclusionary program, which will inform policy on offsite proportion in inclusionary.

Special Permit Approach

We agree to consider how MIH would apply to special permits in light of the continuing stream of applications seeking to increase residential capacity in certain Manhattan neighborhoods

Preservation Standards

For any preservation projects funded out of the In-Lieu fees collected through the Mandatory Inclusionary Housing program, the following standards shall apply: All projects must comply with HPD's Standard Specification as detailed at: <http://www1.nyc.gov/site/hpd/developers/specifications-rehabilitation/master-guide-specifications-for-rehabilitation-projects.page> as the specifications relate to the project's HPD-approved scope of work. These Standard Specifications are used as a minimum

baseline guide for architects, engineers, and contractors who are performing work on HPD-assisted rehabilitation projects.

Depending on the scope of the project, an architect must execute a statement to HPD stating that in the architect's professional opinion, if the project is constructed in accordance with the HPD-approved plans, the completed building(s) in the project will be in compliance with the construction and design requirements contained in Chapter 11 of the New York City Building Code and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.794) and implementing regulations at 24 CFR Part 8.

Projects must complete a Green Physical Needs Assessment (GPNA) that integrates energy and water audit protocols into a full roof-to-basement assessment of physical needs to ensure that the holistic needs of a property are addressed. Project sponsors must work with a Qualified Technical Assistance Provider as issued by HPD and HDC. The GPNA program has been established to help the City achieve its sustainability, energy and water efficiency goals as set forth in both *Housing New York* and *One City: Built to Last*. GPNA will integrate cost-effective measures into moderate rehabilitation projects financed by the City.

Substantial Rehab Projects

Projects which include all three of the following items within their scope of work are considered a Substantial Rehab Project:

- Replace heating system;
- Work in 75% of units including work within the kitchen and/or bathroom; and
- Work on the building envelope, such as replacement and/or addition of insulation, replacement of windows, replacement and/or addition of roof insulation, new roof, or substantial roof repair.

All substantial rehab projects, as determined by HPD, must achieve Green Communities Certification. (The Green Communities Criteria and Certification portal is available at www.greencommunitiesonline.org.)

Monitoring Inclusionary Housing

HPD currently monitors all inclusionary housing units generated through the Voluntary Inclusionary Housing program and will continue to do so. Existing systems and capacity are being expanded in response to growing demands generated from the Housing New York Plan, including new units resulting from the MIH program. In addition, the regulatory agreements are recorded on ACRIS – recorded on the property. In response to existing asset management concerns regarding re-leasing, the HPD Asset Management and Legal teams are developing new stronger and clearer policies that will also affect inclusionary housing units, including measures for monitoring the re-leasing of units.

HPD description of the submission process and timing of when package goes to CB

We intend for a copy of the MIH application to be delivered to the CB as notice of intent to provide MIH units in accordance with the ZR. HPD will require proof of CB notification before approving any MIH application. HPD will require the following for review and approval of an MIH application: So far these items are:

- Building plans
- Stacking Chart showing the location of the MIH units in a building as well as the bedroom mix of MIH units
- AMI level of each unit (HPD will set the rents)
- The Administering Agent that is responsible for monitoring the MIH units and that will work with HPD to ensure on compliance
- Proof of CB notification (until 10 business days have passed since CB notification)

The CB will get the first four items. MIH is a mandatory program. This means that developers that do not do business with HPD generally will have to come to us for approval as part of the development process.

BSA revision

We will amend the proposed zoning text to add greater structure to the BSA special permit for MIH, ensure that it offers relief only in exceptional circumstances, and require consultation with HPD before MIH requirements could be waived.

MIH Applicability to Enlargements

23-154(d), lays out requirements, we say it applies to developments, enlargements, or conversions from nonresidential to residential use.

(d) Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas#

For #zoning lots# in #Mandatory Inclusionary Housing areas#, the following provisions shall apply:

(1) Except where permitted by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements), or as provided in paragraph (d)(4) of this Section 23-154, no #residential development#, #enlargement#, or #conversion# from non-#residential# to #residential use# shall be permitted unless #affordable housing#, as defined in Section 23-911 (General definitions) is provided or a contribution is made to the #affordable housing fund#, as defined in Section 23-911, pursuant to the provisions set forth in paragraph (d)(3)(i) through (d)(3)(iv) of this Section, inclusive.

Payment in Lieu Period

HPD will track in-lieu fee deposits as they are received. The funds will be committed to fund new construction, substantial rehabilitation and preservation projects. The funds will be kept to fund projects, at the Community District level, for ten years. If

the funds cannot be committed to an affordable housing new construction or preservation project in the same CD within ten years, the funds can be made available at the Borough level for the same purpose, i.e., providing new construction affordable, substantial rehabilitation or for the preservation of affordable housing. HPD will make available a list of generated funds on an annual basis by Community District. HPD will inform the public, annually, about the funds generated, programmed and spent.

Funds generated would be earmarked for the CD where they were generated in for a period of ten years, with HPD reporting on the fund each year. If funds have not been programmed or spent by the tenth year, HPD will consult with the CB and BP on any affordable housing new construction, substantial rehabilitation or preservation options they may have within the community district. At or after the ten year point, HPD must consult with the CB and BP to discuss any consideration of options prior to allowing funds to be used elsewhere within the borough. If funds are released from the CD, the funds would then be used within the same borough. In no event will the funds be used outside of the borough. The report will include which funds were generated by which CDs, how much has been programmed or spent in which CDs, and the purpose of the spent funds (i.e. breakdown by new, preservation or rehabilitation) by CD.

Unit Distribution

While we understand the desire of many stakeholders for more affordable units to be located on upper floors of building, the proposed MIH program differs from the voluntary IH program in that the affordable units are expected to be cross-subsidized by market-rate units. Thus revenue from market-rate units is an important factor in the ability to achieve the higher set-asides of the new program. The proposed requirement for affordable units to be on 50% of floors is intended to recognize this factor in the feasibility of development, and allow a slightly greater proportion of units to be located on higher floors.

A real life example of this is 15 Hudson Yards. That address has 106 Affordable Rental units and 285 for sale units. They tried to do IH but couldn't because of the distribution. We have to forego 106 permanently affordable units.

See BAE analysis of view and height premiums attached to this document.

Neighborhood Preservation and Anti-Displacement Strategies

HPD with other city agencies are dedicating resources to aggressively fight displacement. Participation in neighborhood planning areas provides HPD with an opportunity to be more nuanced in developing new or increasing the deployment of existing resources to address the specific needs of a neighborhood based on building types, demographics, available data, and expressed community concerns. Each neighborhood is unique, and while there are anti-displacement strategies that can be applied across various NYC neighborhoods, experts generally agree that the application and certification required in existing anti-harassment zones are not addressing the core reasons for displacement. As such, HPD is convening advocates, legal, and housing and

community development practitioners to assist in strengthening existing and/or developing additional anti-displacement tools.

Currently, the administration has been assertive in its commitment to deploy anti-displacement resources, which will continue to evolve and be refined as we learn more, identify best practices, and respond to community concerns and the real estate marketplace.

- **Legal Assistance:** Significant funds, \$76 million by 2017, have been committed to pay for legal services for low-income renters being harassed or facing eviction;
- **Enforcement:** The NYS Housing and Community Renewal's Tenant Protection Unit, Attorney General, and NYC Department of Buildings are conducting joint inspections and following-up on enforcement actions to combat tenant harassment, which already have resulted in prosecutions;
- **City Law:** This fall, the Mayor signed three new measures into law (Intros. 757-A, 682-A, and 700-A) to protect tenants from harassment and outlaw aggressive 'buy-out' practices used to force tenants out of rent-regulated apartments.
- **Task Force:** The NYC administration created the Tenant Harassment Prevention Task Force to investigate and take action against landlords who harass tenants. The neighborhood planning and rezoning areas are the targeted places for these efforts.

While the City is funding a robust effort to provide legal services for tenant protections in the rezoning areas, the city funds legal services contracts throughout the city for tenants citywide, outside of the rezoning areas.

HPD provides funding to local Community Based Development Organizations for anti-eviction work and housing quality through its Neighborhood Preservation Contracts to help meet the goals of stopping tenant displacement, improving housing quality and generally encouraging property owners to enter into regulatory agreements with HPD. The Department for the Aging provides funding for legal services and social services for elderly. <http://www.nyc.gov/html/dfta/html/services/services.shtml>.

The above briefly describes various anti-displacement efforts, but does not include the various of preservation strategies that HPD is deploying, which work to both preserve existing rent regulated units, as well as create new affordable housing. For example, see the East New York Housing Plan, which will serve as the outline for formulating specific strategies to address the unique concerns in all of the neighborhood planning and rezoning areas. (<http://www1.nyc.gov/assets/hpd/downloads/pdf/East-New-York-housing-plan.pdf>).

Unit mix

The bedroom mix for an MIH site would be the same as is currently required for affordable housing that generates bonus floor area under the VIH program. Under those requirements, the bedroom mix must match the market-rate units or be at least 50 percent two-bedroom or more and 75 percent one-bedroom or more. However, the bedroom mix would not apply to affordable senior housing to allow senior housing to meet the needs of its target population. Bedroom mix is further governed by HPD term sheets when subsidy is used.

Queens Borough President Recommendation

APPLICATION: ULURP #160051 ZRY

COMMUNITY BOARD: CW

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the Department of City Planning, pursuant to Section 200 of the NYC Charter, for a citywide zoning text amendment to establish a requirement for affordable housing as part of new development over 10 units within a "Mandatory Inclusionary Housing Area".

PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, November 12, 2015, at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were two (2) speakers in favor with three (3) against.

CONSIDERATION

Subsequent to a review of the application and consideration of testimony received at the public meeting, the following issues and impacts have been identified:

- Affordable housing would be mandatory in areas rezoned either by the city or as part of a private application. The rezoned areas would be mapped as Inclusionary Housing areas.
- Such affordable housing would be permanent. Annual filings would have to be made with the Department of Housing Preservation and Development identifying numbers and levels of affordability
- The City Planning Commission and finally the City Council would determine the neighborhood need and the mix of income mix options during the ULURP review process. The minimums would be:
 - 25% of total floor area would be set aside for residents with incomes averaging 60% of AMI (\$46,620 family of 3)
 - 30% of total floor area would be set aside for residents with incomes averaging 80% of AMI (\$62,150 family of 3)
- In specific areas, by City Council approval moderate-income affordable units that do not receive direct subsidy could be applied. 30% of total floor area for residents with incomes averaging 120% of AMI (\$93,240 family of 3)
- The new provisions are meant to be the floor or minimum number of units to be required. Developers would be encouraged to provide more than these minimal amounts of affordable housing.
- Community Board 1 approved this application with conditions by a vote of 33-0-0 at a public meeting held on November 12, 2015. The conditions of approval were: infrastructure must be upgraded in any rezoned area to accommodate the additional population and housing, affordable units must be distributed throughout the building and not clustered, building amenities must be available to all market and affordable rate residents, the rents must be truly affordable to area residents, replace term of the lease with term of tenancy to protect seniors who still might be subject rent stabilization increases, payment in lieu of providing affordable housing must be used to produce affordable housing in the same community district within a closer distance than the proposed ½ mile, community boards should be notified when such funding is proposed or used, community boards should be allowed to review and comment on the guidelines for the payment in lieu of providing affordable housing;
- Community Board 2 disapproved this application by a vote of 28-1-4 at a public meeting held on November 5, 2015. The conditions were: affordable units should be built on the same site of the contributing market rate site in one building, details on the use and administration of the payment in lieu of providing affordable housing in Community Board 2, affordable units should be distribute on every floor of the building, the AMIs of the buildings should more closely reflect the actual AMIs of the host community board, hardship exceptions to providing affordable housing should not be available;
- Community Board 3 approved this application by a vote of 16-11 at a public meeting held on November 12, 2015.;
- Community Board 4 disapproved this application by a vote of 17-3-8 at a public meeting held on November 10, 2015;
- Community Board 5 did not vote on this application.

- o Community Board 6 disapproved this application by a vote of 16-8-3 at a public meeting held on November 12, 2015;
- o Community Board 7 disapproved this application by a vote of 35-2-1 at a public meeting held on November 9, 2015.;
- o Community Board 8 disapproved this application by a vote of 31-1-0 at a public meeting held on November 12, 2015.
- o Community Board 9 disapproved this application by a vote of 33-0-1 at a public meeting held on November 10, 2015
- o Community Board 10 waived their hearing on this application.
- o Community Board 11 disapproved this application by a vote of 24-1-2 at a public meeting held on October 5, 2015.
- o Community Board 12 disapproved this application by a vote of 29-0-0 at a public meeting held on October 21, 2015.;
- o Community Board 13 disapproved this application by a vote of 32-7-0 at a public meeting held on October 26, 2015.;
- o Community Board 14 disapproved this application by a vote of 32-0-0 at a public meeting held on November 10, 2015.;
- o The Queens Borough Board disapproved this application by a vote of 12-2-6 at a public meeting held on November 16, 2015. The 6 abstentions were for cause.

RECOMMENDATION

Based on the above consideration, I hereby recommend disapproval of this application in its present form for the following reasons:

- Currently, in every rezoning application there are discussions in consultation with the local councilmembers to fine tune the proposals to address the concerns of each neighborhood's unique populations and conditions. Among the items discussed are the numbers and levels of affordable housing that would be appropriate for that community. This flexibility most recently was demonstrated during the public review process in coming to an agreement on the proposal with increased numbers of affordable units that was approved for Astoria Cove;
- Overall concerns that the proposed average AMIs will not reflect the actual AMIs in many of the Queens neighborhoods;
- There are concerns that the proposed new mandatory inclusionary housing may replace existing affordable housing with housing deemed affordable that is not within reach to the current residents and lead to displacement of longtime residents;
- Dissatisfaction with mechanisms that would be in place to assure that any payments in lieu of affordable housing are used to benefit the generating/host community district;
- Concerns that the existing and future housing programs and subsidies would not be enough to generate affordable housing;
- Concerns that the proposal would not withstand Fair Housing Act challenges;
- Affordable housing will only succeed if it is built by the most skilled and professional workers to assure the quality, durability and safety of the construction. This proposal does not address this requirement and may result in affordable housing that is substandard or delayed by work that is not done most efficiently.



 PRESIDENT, BOROUGH OF QUEENS

11/30/15

 DATE

Application #: N160051ZRY CEQR #: 16DCP028Y	Project Name: MANDATORY INCLUSIONARY HOUSING Borough: STATEN ISLAND Community District(s): 1, 2 & 3
<i>Please use the above application number on all correspondence concerning this application</i>	

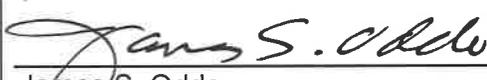
Docket Description:

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York to create a Mandatory Inclusionary Housing program that would require, through zoning actions, a share of new housing to be permanently affordable.

Recommendation:	
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve with Modifications / Conditions
<input type="checkbox"/> Disapprove	<input checked="" type="checkbox"/> Disapprove with Modifications / Conditions

Explanation of Recommendation, Conditions or Modification:

See explanation of Modifications and Conditions on Page 2
 See Borough Board Resolution Addendum on Page 3

Related Applications:	
Contact: <i>Address questions about this recommendation to:</i> OFFICE of the STATEN ISLAND BOROUGH PRESIDENT ATTN: LAND USE DIRECTOR 10 Richmond Terrace, Room G-12 Staten Island, NY 10301 Phone: 718-816-2112 Fax: 718-816-2060	
 _____ James S. Oddo President, Borough of Staten Island	 _____ Date

Explanation of Recommendations, Conditions or Modification (continued):

The Department of City Planning has proposed a citywide text amendment to facilitate Mayor de Blasio's five-borough, ten-year plan to build and preserve affordable housing throughout New York City known as "Mandatory Inclusionary Housing" (MIH). MIH is intended to promote economic diversity in neighborhoods where the City plans for growth by ensuring that new housing meets the needs of a wider range of New Yorkers. Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing, whether rezoned as part of a City-initiated neighborhood plan or a private rezoning application.

- On November 24, 2015, Community Board 3 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 8, 2015, Community Board 1 overwhelmingly adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 9, 2015, Community Board 2 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH)
- On December 10, 2015, the Staten Island Borough Board overwhelmingly adopted a Resolution (appended hereto) recommending the disapproval of Department of City Planning Application #N160051ZRY – Mandatory Inclusionary Housing (MIH) (appended hereto)

After extensive review of the proposed text, communication with Chair Weisbrod and his staff on numerous occasions, and after discussing specific neighborhood concerns with local communities, I communicated my opinion and specific concerns to the Chair in a letter dated November 30, 2015.

I have now considered explanations, responses and additional clarifications articulated by Chair Weisbrod as well as the conditions outlined in the various resolutions of the Staten Island Borough Board and affected Community Boards.

I therefore recommend the **DISAPPROVAL** of the proposed application with the following modifications and conditions:

1. Establish a clear and predictable framework for the application of special floor area provisions for zoning lots in Mandatory Inclusionary Housing Areas:

- Section 23-154(d)(3)(i)(ii)(iii)(iv) ZR – Inclusionary Housing

2. Clarify program criteria and administration for neighborhoods with an existing diverse spectrum of income levels.

3. Provide guidelines for the application of future "City Neighborhood Planning" efforts and processes to be undertaken to determine feasibility of MIH applications.

• A clear process should be identified to better understand the planning rationale associated with the methodology. This process cannot be driven by discretionary actions sought by the private-sector. The City must have a clearer and more thoughtful strategy established before pursuing this application.

4. Identify strategies and funding streams to implement long-term planning associated with new potential MIH zones. MIH Text Amendment will divide neighborhoods. Without a sufficient level of infrastructure, public services, schools and public transportation options, regardless of economic diversity, neighborhoods could be exposed to a depletion of their quality of life.

5. A community-based review should be added to the MIH process to obtain feedback ensuring that decisions are being made with an appropriate level of local neighborhood input to better inform the process of community needs and priorities

6. Restrict all Board of Standards and Appeals (BSA) filings to conditions that exhibit real, practical difficulties or true unnecessary hardship. The BSA should not become a clearinghouse for developers seeking to circumvent established policy through a distortion of the terms associated with variance findings.

I look forward to continued conversations with Chair Weisbrod and staff to further address modifications necessary to protect the quality of life in all Staten Island communities.

Staten Island Borough Board Resolution

At a meeting on December 10, 2015, the Staten Island Borough Board adopted the following Resolution:

Whereas, the Department of City Planning has proposed two Citywide text amendments to facilitate Mayor de Blasio's five-borough, ten-year plan to build and preserve affordable housing throughout New York City known as "Zoning for Quality and Affordability" (ZQA) and "Mandatory Inclusionary Housing" (MIH); and,

Whereas, the Department of City Planning, working with the Department of Housing Preservation and Development and others, has developed these strategies to address zoning barriers thought to constrain the creation of new housing and add unnecessary costs; and,

Whereas, these amendments seek to advance a vaguely-defined framework to provide citywide guidelines for affordability that do not sufficiently address how the plan might be implemented in existing healthy communities throughout the Borough; and,

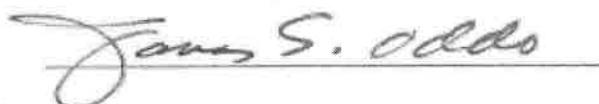
Whereas, these amendments seek to unilaterally address senior housing development opportunities without regard for existing neighborhood context, Borough dependency on the automobile, or the character of the built-environment; and,

Whereas, the long-term strategies associated with future "City Neighborhood Planning," including much-needed infrastructure improvements, has not been addressed; and,

Whereas, the Department of City Planning has notified Community Boards 1, 2 and 3 regarding the ZQA-MIH text amendment applications, and as all affected Community Boards have overwhelmingly recommended to disapprove the proposed changes for their respective districts;

Therefore, be it resolved, that the Staten Island Borough Board hereby unanimously approves this Resolution in opposition of the aforementioned zoning text amendment proposals.

By:



James S. Oddo
Staten Island Borough President
Chairperson, Staten Island Borough Board



OFFICE OF THE BRONX BOROUGH PRESIDENT
THE BRONX COUNTY BUILDING
851 GRAND CONCOURSE
BRONX, NEW YORK 10451

RUBEN DIAZ JR.
BOROUGH PRESIDENT

TEL. 718-590-3500
FAX. 718-590-3537
E-MAIL: rdiazjr@bronxbp.nyc.gov

November 30, 2015

Mr. Carl Weisbrod
Chairperson
New York City Planning Commission
22 Reade Street
New York, New York 10007

Dear Mr. Weisbrod:

In the matter of an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York to create a Mandatory Inclusionary Housing Program (N 160051 ZRY), and;

In the matter of an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for amendments to various sections of the Zoning Resolution of the City of New York also known as Zoning for Quality and Affordability (N 160049 ZRY), I submit the following recommendations:

These text amendments pose an abundance of concerns and questions by my office, the community boards, advocacy groups, elected officials and others from all points on the spectrum of the development and public policy community. These concerns were underlined at the November 19, 2015, Bronx Borough Board meeting when not one member voted in support of these text amendments. The vote was 0 in the affirmative; 19 in the negative; and 1 abstention.

Among the most widespread and universal concerns are:

The submission of multiple text amendments at the same time is an unreasonable burden on the capacity of most community boards to adequately review and evaluate their local neighborhood impact. These text amendments will govern land use development for our city for decades to come and should not be adopted in such a short period of time. Our goal as a city should not be just to achieve a goal of 200,000 units, but to meet the individual needs of each and every community in this city.

Despite the impact these combined proposals will have on density, there are no mitigation plans identified to support the social and physical infrastructure necessary for the development for which this zoning plan allows. Some examples: How will additional seniors be serviced? Are there enough school seats for the children accompanying their parents as they move into new affordable units? What will be the impact on transportation in these communities?

Bronx residents have expressed concerns about a lack of green space provisions in the proposals. The proposals seek to increase density without a corresponding increase in public or green space in a given community. Green space is key to the well-being of all New Yorkers. Green space should be planned for in some form. Improved aesthetics, we know from experience, can go a long way towards lifting up individuals and improving neighborhoods. Additionally, the amendments as they stand make minimal mention of public space, and this should be revisited.

Another criticism has been that no serious discussion of job creation—and the types of jobs that would be created—to build any of the senior or affordable housing developments has taken place. Nor is any reference made to employing New York-based minority- or women- owned firms in furnishing the supplies or workers for building construction. These community objections should also be considered. New Yorkers have articulated their concerns about benefiting from the jobs the zoning proposals could create through new construction. We should examine the potential of working towards these ends through a variety of methods, including community benefits agreements, not-for-profit partnerships and further legislation on affordable housing, to name a few.

I find the Draft Environmental Impact Statement's conclusion that there are no issues in need of mitigation surprising, as there has already been discussion about the real infrastructure needs of the impacted communities and the environmental effects of the resulting new development on the public health, safety and welfare of our city.

Beyond that, there has been little discussion of the programmatic needs of affected communities. For example, it is often the case that a poor credit score will prevent an individual or family from being eligible for a new apartment. The administration should consider using some of the \$1 billion in funding set aside for infrastructure within future rezoning areas to implement credit repair education and other similar programming.

The "neighborhood-by-neighborhood" approach to planning has been very successful in The Bronx. The borough has adopted no less than 14 rezonings since 2009. These text amendments go against the grain of these successful approaches to community-based planning, including the borough's two 197A plans in Bronx Community Boards #3 and #8. I am deeply concerned about this broad brush approach to planning. One size does not fit all. Local planning efforts reinforce the principles of inclusion and transparency, while also mitigating displacement and preserving neighborhoods. These principles have been successful in previous rezonings, and they must be respected moving forward. One such example is the planning process for Jerome Avenue. Concerns were raised about the inclusiveness of this planning process and efforts have been made to address it. We must continue on this path to assure local input is prioritized. Here in The Bronx, the Jerome Avenue corridor stands as an example of where the current proposals would have the negative result of taking away from communities the ability to make sure that developers build at low or moderate income levels.

Additionally, as currently proposed, the Zoning for Quality and Affordability Text Amendment, or ZQA, if adopted, will result in a serious threat to the downsizing efforts that several Bronx community boards have put into place. The plan paves the way for the up-zoning of these neighborhoods. Despite presentations that there is no bonus associated with the proposed MIH, the inclusion of 25-30 percent of affordable units in a development will actually be realized by increasing the floor area ratio for such developments, increasing density, height and number of units across the City of New York. This will diminish air, light and space for all New Yorkers.

The amount of FAR increase in MIH should be based on levels of affordability in addition to the architectural context of a potentially rezoned area. This is a powerful policy tool that can be used to incentivize development for specific mixes of area median incomes in specific areas, and should be explored on a project-by-project, neighborhood-by-neighborhood basis.

There are also concerns with the lack of affordability options and flexibility under the proposed MIH Text Amendment, which could have a crippling impact on advancing the City's laudable affordable housing goals. These concerns center on the few options for tenants' income levels available, and whether or not limiting a developer to one option, regardless of who selects the option—the local Council Member or the City Planning Commission—would hinder the program. The community boards are further concerned that the MIH proposal in its present form leaves very little room for any community input in future projects as the affordability options will not be decided by communities.

Groups such as CASA, ANHD, REBNY and others have all expressed concerns about the number of affordability options the way the current MIH options are arranged. The Bronx could be left out of opportunities for moderate or middle-income housing. These proposals do not take into account the Department of Housing Preservation & Development's (HPD) capacity or willingness to fund such projects. We have experienced the challenge of reluctance by HPD to fund mixed-income projects, most recently on East 138th Street in particular areas, despite local support.

The Bronx has also raised a concern about realizing mixed-income housing for work force income households. The Work Force Option in the MIH proposal makes it difficult for such units to be built in The Bronx and other parts of the city, given the lack of subsidies. This option should also have the opportunity to be applied in The Bronx and elsewhere, along with the necessary subsidy support it would require.

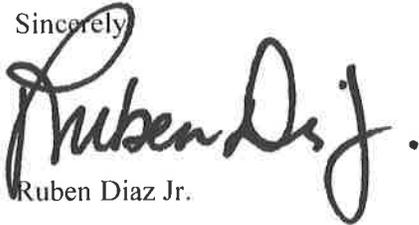
The language as it is currently written does not assure that the affordability options being offered to Council Members are actually financially feasible, or that adequate subsidies will be provided to implement them. Additionally, the options offered do not fully address the broad range of incomes, particularly the needs of very low-income residents. Options providing, for example, a mix of 40-60-80 percent, or something of the like within market rate developments, would create true mixed-income neighborhoods that this proposal hopes to achieve. It also gives the Council Member greater flexibility in tailoring proper affordability options for a particular rezoning.

The definition of transit zones and elimination of parking requirements have also been a proposal of particular concern. The half-mile distance proposed from subway stations is too far to be considered a convenient walking distance. Add to this ten block distance the topographic challenges in many of these neighborhoods, particularly those that feature step-streets, and you can further appreciate the difficulties of navigating access to rapid transit. The Zoning Resolution currently prevents affordable housing developments from renting surplus parking to the surrounding community. Enabling affordable housing developments to rent out existing spaces not only positively impacts the availability of parking in a given neighborhood, it supports the development itself by creating additional revenue for building reserves.

The Administration has said that MIH and ZQA are the only way to mitigate the problems of displacement that can come with gentrification in New York City. This is simply not the case. While affordable housing is key, these amendments as they stand are not the way to accomplish affordable housing for New Yorkers. There are multiple issues with the proposed amendments. We need to find a way to ensure that Bronx residents' needs and all New Yorkers' needs are met by new zoning, and this proposal does not achieve those ends.

As currently written, I cannot support these zoning text proposals - Mandatory Inclusionary Housing Program (N 160051 ZRY) and Zoning for Quality and Affordability (N 160049 ZRY) - and strongly recommend that the administration withdraw its submission to the City Planning Commission and the City Council.

Sincerely,

A handwritten signature in black ink that reads "Ruben Diaz Jr." with a stylized flourish at the end.

Ruben Diaz Jr.