



CITY PLANNING COMMISSION

February 3, 2016/Calendar No. 3

N 160049 ZRY

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 support the creation of new affordable housing and encourage better residential buildings. To incorporate these goals, various sections of the Zoning Resolution will be amended.

An application (N 160049 ZRY) for a zoning text amendment was filed by the Department of City Planning on September 18, 2015. As part of the City's coordinated efforts under *Housing New York* – the Mayor's ten-year, five-borough housing plan – the Department is proposing a set of targeted changes to zoning regulations to support the creation of new affordable housing and senior care facilities, help deploy public resources devoted to affordable housing more efficiently, and to encourage better residential buildings that are more in keeping with their surroundings and which help enliven the pedestrian environment.

BACKGROUND

Zoning establishes limits on the use, size, and shape of buildings, with numerous zoning districts mapped in the city's diverse neighborhoods to reflect their varying density and character. These limits help give shape to neighborhoods and predictability to their future. But sometimes they also have unintended consequences, discouraging the very types of outcomes they were intended to encourage. This proposal aims to rectify several ways in which current regulations, drafted a generation ago, have in practice discouraged the affordability and design quality of recent buildings.

Since the release of *Housing New York* in May 2014, the Department of City Planning, working with the Department of Housing Preservation and Development (HPD), communities, nonprofit housing groups, architects, affordable housing developers, and other practitioners, has identified a set of zoning changes that would address the needs of affordable housing and senior care facilities,

aid efficient use of housing subsidies, and encourage higher-quality residential buildings in the city's medium- and high-density neighborhoods.

The Zoning for Quality and Affordability text amendment (ZQA) serves 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. While the various elements of the proposal work together to achieve these goals, they are described separately below, starting with changes that serve to promote affordability, followed by changes designed to encourage better buildings that contribute to the quality of neighborhoods.

Changes for Affordability

In order to make zoning work better with financial and other programs to create more affordable housing for a wide range of New Yorkers, ZQA proposes modifications to the regulations affecting various forms of affordable housing identified in the Zoning Resolution. The primary categories of changes under the proposal would:

- Make it easier to provide the range of affordable senior housing and long-term care facilities needed to meet the varied needs of an aging population, and to help seniors remain in their communities;
- Enable Inclusionary Housing buildings, which provide mixed-income housing, to fit the full amount of housing they are allowed under zoning in a high-quality building form; and
- Free up resources to create more affordable housing by enabling cost-effective, transit-accessible affordable housing, through modifications to parking requirements.

Specific changes to the regulations for affordable senior housing and long-term care facilities are detailed in the sections below, followed by changes related to the height and setback regulations for Inclusionary Housing buildings, and changes to parking requirements for various forms of affordable housing.

Affordable Senior Housing

Older New Yorkers are a diverse and rapidly growing segment of the city's population. The 2010 census documents that the population 65 years and over consisted of about 1 million people, and by 2040, this population is projected to increase to 1.4 million, a 40 percent increase. In recent years, around the country, a wider range of housing and facility types have emerged for seniors that offer specialized living arrangements targeted to accommodate elderly lifestyles and higher care needs. The growth in older New Yorkers has already resulted in an increased demand for affordable senior housing and related long-term care facilities like nursing homes.

Affordable senior housing is designed specifically to meet the needs of seniors, with smaller individual units with more common areas and amenities for residents. Eligibility is limited by age and by income. The development of affordable senior housing normally requires public subsidies, and traditional federal capital funding for this type of housing has recently been eliminated. There have been approximately 3,500 affordable senior housing units constructed in the city since 2003. Under Housing New York, Mayor de Blasio has set a target of 5,000 new units in the next decade.

Today in zoning this use is defined as a “non-profit residence for the elderly,” a Use Group 2 residence. The use requires a funding agreement with a governmental agency, and at least 90 percent of the space must be occupied by an elderly family, the head of which is 62 years or older. In addition, a minimum of four percent of the space must be dedicated to shared facilities for residents, like cafeterias and community rooms. If the use meets these various requirements, it is permitted a higher floor area ratio than a typical residence in many low- and medium-density zoning districts and a slightly lower “dwelling units factor” in low-density districts that allows a slightly greater number of units to be included in the building than would be for ordinary residences.

This zoning framework has not been updated in over 40 years, and housing advocates and affordable senior housing providers have pointed out a number of ways in which it unnecessarily limits the creation of these facilities. This is particularly important at a time when new development models may be necessary to replace the traditional federally funded approach to creating affordable

senior housing. ZQA proposes a number of changes to make it easier to construct and maintain these facilities, in order to help seniors remain in their communities throughout the city. Specifically the proposal would update the following:

Definitions – The zoning definition “non-profit residence for the elderly” would be replaced by “affordable independent residence for seniors.” This change would allow a wider range of non-profit and for-profit entities to provide affordable senior housing. However, the existing age restrictions described above would remain in place. Incomes would be restricted to seniors making less than 80 percent of area median income. The zoning, which does not currently specify a minimum term for the use, would require a regulatory agreement from a governmental agency with a minimum term of 30 years, to be consistent with typical requirements of public agencies providing housing subsidies. The requirement for shared facilities would be retained, but the proposal would clarify that the recreation space required under the Quality Housing program can count toward this requirement.

Floor area ratio – Zoning today specifies a higher FAR (by approximately 20 percent) for “non-profit residences for the elderly” as compared to other residences in most low- and medium-density zoning districts. These provisions were established to promote the use and recognize its low-impact nature as compared to other residences. However, this pattern of higher floor area ratios does not extend to all zoning districts where affordable senior housing is permitted and where it is constructed. This includes high-density districts (R8 through R10) and a number of medium-density contextual zoning districts that did not exist when the original framework was put in place more than 40 years ago. In order to support the creation of affordable senior housing in neighborhoods throughout the city, ZQA would provide a higher FAR for “affordable independent residences for seniors” in those zoning districts, and maintain the existing higher FARs where they currently exist. The new floor area ratios would generally be 20 percent higher than what is permitted for other residences, in line with the existing framework, and generally consistent with the FAR permitted through the Inclusionary Housing program. The proposal includes no changes to the FAR permitted for market-rate housing.

Unit density controls – Zoning regulates the maximum number of units permitted in a building through a “dwelling unit factor,” by which total floor area is divided to determine the maximum number of units permitted. Today, “non-profit residences for the elderly” are granted a different, generally lower, factor than other residences in some low- and medium-density districts, thereby allowing a greater number of smaller units, but the factor is inconsistent. Allowing higher unit counts is consistent with the fact that low-income seniors typically live in smaller dwelling units, reflecting their smaller household size, incomes, and the desire for simplified housekeeping. However, the lower dwelling unit factors only exist in certain zoning districts, and even these are not always consistent with current best practices or the standards of various regulating agencies. Under ZQA, affordable senior housing would not be subject to a dwelling unit factor, allowing other regulations and programmatic needs to control unit density and appropriate unit sizes for this use. This would allow for a broader range of unit sizes, and for more affordable and more appropriately sized units for seniors, which are offset by the availability of community spaces.

Long-Term Care Facilities

Long-term care facilities are a group of uses that provide services to their residents at different levels of care. These include uses such as assisted living facilities, nursing homes and certain continuing care retirement communities. Nursing homes offer the highest level of care and 24-hour nursing services, while assisted living facilities are typically independent apartments with optional personal services, common areas and support spaces. Continuing care retirement communities combine independent living with assisted living and nursing care services under a single contract that allows residents to move within a facility to increasing levels of care as their needs dictate. All of these facilities can be made up of single or shared apartments or rooms with support spaces. All of these are licensed and regulated by the New York State Department of Health.

Most of the city’s existing facilities were developed in the 1970s when funding sources were at a peak. However, since the 1970s, government funding and support has steeply declined and the construction of new facilities has not kept up with the demands of the city’s aging population. The

State Department of Health estimates an unmet need of 8,300 long-term care facility beds in New York City today. The city has half as many assisted living units per capita as other counties in New York State.

Zoning today impedes the creation of these community facility uses by limiting the as-of-right FAR to less than what is permitted for affordable senior housing or even other community facilities and imposing layers of land use review that are not required for other uses, and referring to outdated state programs. These issues make it difficult to renovate or expand existing facilities or provide new ones. ZQA proposes a number of changes to make it easier to construct and maintain these facilities as appropriate in each zoning district in order to help seniors remain in their communities throughout the city. Specifically, the proposal would update:

Definitions – the proposal creates a new defined term, “long-term care facility,” to replace obsolete terms and account for the wide range of care facilities licensed by the State Department of Health. This would be a Use Group 3 community facility use and would replace the current “nursing homes and health-related facilities” use. The broader term will also account for assisted living facilities and continuing care retirement communities, which are not clearly categorized in zoning today. Long-term care facilities will be required to secure the necessary certificate of authority or licensure from the State Department of Health under the applicable state programs for either nursing homes, assisted living facilities, or continuing care retirement communities.

Requirements for nursing homes – Zoning today requires certifications and special permits to develop or renovate nursing homes. The certification requirement (current Section 22-42) applies both to new buildings and enlargements or substantial renovations of existing buildings, and requires that applicants demonstrate that the concentration of nursing home beds in the community district will not exceed the citywide average. If the construction of the nursing home would increase the concentration in the Community District above the citywide average, then the applicant must also apply for a City Planning Commission special permit (Section 74-90), and demonstrate that the new facility would not negatively impact traffic or neighborhood support services. These requirements were put in place in the 1970s to address concerns about excessive

levels of nursing home construction in limited areas of the city. Today, the State’s licensing process for nursing homes includes a Certificate of Need requirement, intended to limit investment in duplicative or unnecessary facilities and services, and now serves a similar purpose to the 1970s-era requirement in the Zoning Resolution. These zoning requirements, now duplicative, create an unnecessary obstacle for renovating or building new nursing home facilities by increasing costs, uncertainty, and the time needed for review. Therefore, in order to make it easier to provide these uses, ZQA would remove these requirements and instead allow all “long-term care facilities” in R3 through R10 districts, including nursing homes, as-of-right.

Floor area ratios – While community facility uses are generally permitted a higher as-of-right FAR than residential uses in non-contextual residence districts, nursing homes are today only permitted the residential FAR associated with non-Quality Housing buildings. A special permit (Section 74-902) is required to use the higher permitted community facility FAR. The permit was created in the 1970s to consider whether the higher FAR would be out of context or would negatively impact neighborhood support services. Since then, 49 facilities have applied for this special permit, and all have been approved by the City Planning Commission. However, the permit adds costs, uncertainty, and time which make it more difficult to develop and maintain these facilities. To enable these facilities to be provided at an FAR commensurate with that allowed for housing, ZQA would allow the higher floor area ratio permitted for “affordable independent residences for seniors” (as described above) to all “long-term care facilities” in R3-2 districts, R4 and R5 districts without letter or number suffixes, and R6 through R10 districts as-of-right. Long-term care facilities are similarly low-impact uses with a great deal of space devoted to support spaces such as clinical services and common areas. The higher FAR available for other community facilities in certain zoning districts would remain available only by special permit.

R1 and R2 districts – In these low-density, single-family zoning districts, long-term care facilities would only be permitted through discretionary actions intended to ensure that the facility is compatible with the area’s character. For large campus-like sites over 10 acres that can provide a buffer area to the nearest residences, a City Planning Commission authorization would be required

(Section 22-42). For smaller sites, a Commission special permit (Section 74-901) would be necessary.

Mixing of Residences and Care Facilities

Contemporary facilities for seniors, in New York and nationwide, often look to provide a mix of uses on the same site so as to allow a “spectrum of care” for residents. This allows seniors to stay within the same facility (and neighborhood) as they age, by providing independent living, assisted living and nursing home levels of care in the same building. Existing zoning is based on older models for senior facilities, where different uses were isolated in separate buildings. These current regulations are unclear and make the mixing of uses difficult.

To make it easier to mix affordable senior housing and long-term care facilities on the same zoning lot in line with today’s best practices, ZQA would allow both uses the same maximum FAR and require that they utilize the same building envelope in certain low-density districts, and the “Quality Housing” building envelope in medium- and high-density districts (as described further in the next section). To further bring zoning into line with contemporary best practices, ZQA includes other changes to make it easier to mix these uses together, as well as with other residential and related community facility uses. These include changes to:

The applicability of the Quality Housing program – The Quality Housing program includes requirements for recreation space and modest floor area incentives for amenities like laundry rooms and daylight in shared corridors. These requirements are mandatory in contextual R6 through R10 districts and for buildings in non-contextual districts that follow the optional Quality Housing regulations. However, while community facilities in these situations are required to follow the Quality Housing bulk regulations, it is unclear how these provisions are supposed to apply to community facility uses with residential attributes like long-term care facilities, or philanthropic or non-profit institutions with sleeping accommodations (NPISAs). ZQA would clarify that buildings containing these uses can calculate the various requirements and permitted floor area deductions available under Quality Housing based on the overall combined floor area. For example, if there is daylight in a corridor that provides access to long-term care uses and

residential uses, the whole corridor could be included and not just the part that is specifically a residential use.

Mixing restrictions – While nursing homes and NPISAs are currently permitted FAR that is comparable to what is permitted for residential uses in R6 and R7-1 districts, zoning further restricts the amount of community facility use permitted on a zoning lot that contains residential uses. While the permitted FAR for a stand-alone nursing home would be 2.43 (in R6) or 3.44 (in R7-1), in a building with residential floor area, the nursing home would be restricted to 1.0 FAR. This restriction was intended for other types of community facilities for which substantially higher FARs are allowed in these districts than is allowed for residences, but is needlessly restrictive for long-term care facilities and NPISAs, which are harmonious with and function similarly to residential uses, and as-of-right would be allowed only the same FAR available to affordable independent residences for seniors. To better accommodate use mixing, the restriction applicable in R6 and R7-1 districts would be made applicable only to other types of community facility uses.

Number of units – Zoning regulates the maximum number of units permitted in a building today through a dwelling unit factor; however, it is unclear today how this should be calculated in buildings that have a mix of residential and community facility uses. These regulations would be modified so that the number of regular residential units is calculated by first excluding the floor area of affordable senior housing, long-term care facilities and NPISAs. This would provide clarity on the mixing of uses and ensure that the maximum number of regular residential units is not distorted by the provision of these other uses.

Special districts – The provisions for a number of special districts state that “non-residential” uses cannot be located on the same floor or above residential uses. These regulations inadvertently restrict community facility uses from being mixed with residential uses, which is in line with today’s best practices, and which is permitted by underlying zoning regulations. As such, ZQA proposes to modify these various special district requirements to match their original intent to only restrict the location of commercial and residential uses.

Affordable Senior Housing and Long-term Care Facility Building Envelopes

As described above, zoning allows a higher maximum FAR for affordable senior housing and long-term care facilities as a way to promote the uses in neighborhoods throughout the city. However, some zoning regulations affecting the size and shape of buildings make it difficult to develop that full permitted floor area in a high-quality building and in some cases, to develop it at all. In order to make it easier to develop these uses, ZQA proposes a series of modifications to the building envelope controls that apply to these two uses. The proposed changes are different in different zoning districts, as described below.

R6 through R10 contextual districts – ZQA would accommodate the higher FAR permitted for both these uses (generally about 20 percent higher than for ordinary residences) by permitting limited additional height for buildings that provide affordable senior housing or long-term care facilities in these zoning districts, where building envelopes include a maximum building height. Additionally, ZQA would control the number of stories (see ‘Building Envelopes and Number of Stories’ below). For buildings that provide at least 20 percent of their floor area as either affordable senior housing or long-term care facilities, the proposal would:

- Permit a higher maximum height and number of stories to allow the full development of the permitted FAR in a high-quality building form. The additional height would only be permitted in districts that allow a higher maximum floor area ratio for these uses than for other residential uses (generally, zoning districts other than districts with a “B” suffix). The additional height is based on the volume necessary to accommodate the higher permitted FAR for the use and differs in each zoning district, but in more than 95 percent of the city’s contextual areas this results in an increase in height not exceeding one or two stories (10 to 20 feet).
- Allow increases in the maximum base heights in some zoning districts to maintain the current proportionality of the building envelope, which often serves to conceal the additional height above the base from street-level view.

- Allow for the development of shared accessory spaces for affordable senior housing or long-term care facilities on the ground floor in the rear yard area, so as to allow for more efficient buildings. This would only be permitted in districts other than “B” districts. This matches the flexibility already afforded to commercial uses, accessory off-street parking and, in some cases, community facility uses today.
- Remove an impediment to the creation of affordable senior housing or long-term care facilities on narrow sites by removing the special height restrictions placed on narrow lots (those that are less than 45 feet wide). Zoning today generally restricts the height on these sites to the width of the abutting street. The proposal would allow them to be developed to the maximum height permitted by the contextual envelope available in that zoning district.

R6 through R10 non-contextual districts – In non-contextual districts, two sets of building envelope controls exist: a “height factor” option, which allows tall buildings which are set back from the street and surrounded by open space; and a contextual Quality Housing option, which encourages buildings to be located closer to the street and subjects them to height limits. To receive the higher floor area permitted for affordable senior housing and long-term care facilities, the proposal would require that they utilize the applicable Quality Housing option, subject to the same modifications described above for R6 through R10 contextual districts. However, sites located close to infrastructure that poses a significant barrier condition, like highways or elevated train lines, would be permitted a more flexible, alternative Quality Housing building envelope, so that the units in the affordable senior housing or long-term care facility can be shifted away from this infrastructure. In addition, today, sites with existing buildings are only able to utilize the optional Quality Housing regulations if the existing buildings on the site comply with the contextual height and setback requirements. ZQA would allow sites with affordable senior housing or long-term care facilities to comply with the higher permitted heights described above.

R3-2, R4 and R5 non-contextual districts – In these low-density multi-family districts, affordable senior housing is permitted a higher FAR, but affordable senior housing is restricted to the district’s maximum height of 35 feet (R3-2 and R4) or 40 feet (R5) as-of-right, with lower maximum

perimeter wall heights (community facilities, such as nursing homes, are not subject to this height limit today). These height restrictions make the construction of apartment buildings served by elevators – an indispensable feature for senior housing – impractical. In environments of this density, both within the city and in nearby communities, these uses are typically developed as elevator buildings that are four to six stories in height (45 to 65 feet). Buildings providing affordable senior housing must therefore apply for a City Planning Commission authorization to be granted a building envelope that accommodates this four to six story form. While the Commission has never turned down such an application, these requirements add costs and time to the project. To make it easier to construct affordable senior housing in these districts, ZQA would permit them to be developed using a special as-of-right building envelope that would permit a maximum height of 45 feet close to the street and a maximum height of 65 feet for portions of lots more than 25 feet from the street. Long-term care facilities would also be subject to this new building envelope. Yard requirements would continue to apply. The current Commission authorization would remain for sites that require additional flexibility.

Inclusionary Housing Building Envelopes

In specifically designated medium- and high-density areas, the Inclusionary Housing program promotes mixed-income housing. Like affordable senior housing and long-term care facilities, buildings participating in the Inclusionary Housing program are allowed a higher FAR than is permitted for other types of housing. However, for Inclusionary Housing areas in contextual zoning districts, zoning doesn't provide enough room for all of this floor area to fit in a high-quality building. This results in less participation in the existing Inclusionary Housing program, and therefore less affordable housing. ZQA would address this problem by allowing buildings that provide on-site affordable housing through the Inclusionary Housing program to utilize the more flexible building envelope permitted for affordable senior housing and long-term care facilities (described above). More specifically, the proposal would:

- Permit a higher maximum height and number of stories to allow the full development of the permitted FAR in a high-quality building form. The additional height is based on the volume necessary to accommodate the higher permitted FAR through participation in the

program, and differs in each zoning district, but in most contextual Inclusionary Housing districts this results in an increase in height permitting an additional one or two stories (10 to 20 feet).

- Allow increases in the maximum base heights in some zoning districts to maintain the current proportionality of the building envelope, which often serves to help hide the additional height above the base.
- Allow for the development of shared spaces on the ground floor in the rear yard area, so as to allow for more-efficient buildings. This would only be permitted in districts other than “B” districts. This matches the flexibility already afforded to commercial or accessory off-street parking and, in some cases, community facility uses today.
- Remove an impediment to the creation of affordable housing on narrow sites by removing the special height restrictions placed on narrow lots (those that are less than 45 feet wide). Zoning today generally restricts the height on these sites to the width of the abutting street. The proposal would allow them to be developed to the maximum height permitted by the contextual envelope available in that zoning district.

Parking Requirements for Affordable Housing

Existing requirements for accessory off-street parking make it harder to meet the city’s need for affordable housing. Off-street parking, particularly in structured facilities, is quite expensive to construct – costing as much as \$30,000 to \$50,000 or more per parking space. Residents of affordable housing, for whom the spaces are provided, cannot pay the fees necessary to recoup the cost of constructing these spaces, at least \$200-\$300 per month, and in many instances these provided spaces sit empty, as the limited number of low-income residents who do own cars park them on the street. In less-dense areas, parking may be provided as surface parking that costs less to build, but nonetheless takes up considerable space that might otherwise be used for housing, open space, or other uses. In addition, data collected by the Department of City Planning and verified by affordable housing providers show that lower-income households own fewer cars, with low-income seniors owning extremely few. This is particularly true for locations in the city that are generally well-served by transit and offer a range of retail and community services within walking distance. By imposing a cost that cannot be covered by project revenues, these

requirements for parking therefore make the financing of affordable housing more difficult and they reduce the amount of affordable housing that can be built with available funding. ZQA therefore proposes modifications to the existing parking requirements for affordable housing in certain portions of the city, as described further below.

Zoning today partly addresses the lower car ownership rates of affordable housing residents with a lower parking requirement for affordable senior housing and other forms of affordable housing. About half as many parking spaces are required for affordable housing as for other forms of housing. Buildings where only a small number of spaces are required can waive out of parking requirements altogether. The parking requirements for affordable senior housing are today set even lower (about one-third the rate for other forms of housing). However, affordable senior housing does not currently have a waiver option. Even the reduced requirements that exist today result in costs that hamper the creation of affordable housing, as well as parking that goes unused. No parking is required today for any housing in the Manhattan Core (Manhattan Community Districts 1-8, except for Roosevelt Island) or Long Island City, and no parking is required for affordable housing in Downtown Brooklyn.

ZQA proposes to modify parking requirements for affordable housing, particularly in those areas that are served by a variety of public transportation options and are generally within one-half mile of a subway station. These areas, described as the “Transit Zone” in the proposal, have car ownership rates that are among the lowest in the city and encompass some of the city’s denser residential neighborhoods. Within this Transit Zone, parking for new affordable senior housing and affordable housing would become optional. This would also be true for new units that satisfy the affordable housing requirements of the Inclusionary Housing program. Existing affordable senior housing developments would be allowed to remove existing parking 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. In addition, through a separate BSA special permit, new buildings could apply to reduce or eliminate their parking requirements to facilitate a mixed-income development (Section 73-433), provided there would not be an adverse effect on the surrounding area. Comparable modifications would be

permitted by the City Planning Commission as part of a General or Residential Large Scale Development special permit.

Outside the Transit Zone, parking requirements for new affordable senior housing would be lowered to 10 percent, to reflect car ownership rates the Department’s analysis found at existing developments. However, developments requiring a small number of spaces would be able to waive out of the requirement, which is already allowed for other types of housing. For example, in R6 districts, a maximum of five spaces can be waived. Existing affordable senior housing buildings outside the Transit Zone could reduce their parking requirement to the 10 percent if spaces are not needed through a new Board of Standards and Appeals (BSA) special permit. Parking requirements for other affordable housing in multi-family zoning districts outside the Transit Zone would remain unchanged.

The proposal includes no changes to the as-of-right parking requirements for market-rate housing.

Changes for Quality

In order to encourage better buildings that contribute to the fabric of their neighborhoods, ZQA proposes a series of modifications to the regulations for housing in medium- and high-density zoning districts. These changes predominantly modify the Quality Housing regulations that are required in contextual zoning districts and are optional in non-contextual districts.

These regulations were established in 1987 to promote housing that fit better within the city’s medium- and high-density neighborhoods than the previous “tower-in-the-park” model. They generally require buildings to be located close to the street, and include requirements for street walls and specific maximum heights. These regulations have generally worked well to enable the creation of buildings that are mostly consistent with the general form of the surrounding neighborhood fabric. However, they have remained largely unchanged since they were first put in place and have not been updated to keep pace with other changing regulations, the rise of green technologies and other best practices for residential design and construction, and the increasing prevalence of irregular building sites. Because of this, development under these regulations is

demonstrating some shortcomings. These zoning controls now tend to limit design flexibility and too often result in buildings that are flat or dull, fail to enliven the pedestrian environment and lack the variation and texture typical of older apartment buildings.

The proposal would maintain the essential contextual regulations for residential buildings in medium- and high-density districts that work well today, but would make modifications to:

- Encourage better ground-floor retail spaces and residential units with adequate ceiling heights raised off of the street
- Change regulations that lead to flat, dull apartment buildings, to accommodate and encourage facade articulation, courtyards, and other elements that provide visual variety and make the pedestrian experience more interesting
- Better address irregular site conditions that are not well considered by zoning regulations today

Specific changes are detailed in the sections below, starting with ground floors and rising to upper levels of the building, followed by regulations affecting unit size and configuration, and those for irregular site conditions.

Ground Floors

The main interface between buildings and the public realm of the sidewalk takes place at the ground level. ZQA proposes a series of changes to the Quality Housing bulk regulations to promote better, more active ground floors in both residential and mixed-use buildings. Key to this is ensuring that enough space exists in the building envelope to provide a ground floor with sufficient height. For buildings with residential units on the ground floor, this would allow the units to be raised above street level, as is common in older apartment buildings. For buildings with retail or other uses on the ground floor, it would allow sufficient height to provide a usable, high-quality space entered from the sidewalk at grade. Under the current Quality Housing requirements in medium- and high-density districts, both of these possibilities are discouraged by the current building envelope, which forces trade-offs between designing buildings that would contribute to their neighborhood at ground level, and accommodating the full permitted FAR.

To address this, ZQA would allow the maximum height of Quality Housing buildings to be increased by five feet if the second level of the building begins at a height of at least 13 feet. This proposed allowance would be applicable in all contextual zoning districts except R7B and R8B, their non-contextual equivalent and commercial equivalent districts, which already allow sufficient height for these features. This additional height would allow for a raised ground floor residential unit or a better ground floor retail space, while retaining sufficient flexibility to accommodate construction requirements above the ground floor, such as the need for limited additional height for transfer beams at setbacks. While the elements of the proposal relating to building quality are generally applicable in R6 through R10 districts, this height allowance would also be extended to the R5D zoning district to encourage better ground floors in that district.

Another factor making it more difficult to provide raised residential units at ground level in today's buildings is the need to provide accessibility. To accommodate this, the proposal would allow a floor area exemption for interior ramps in the residential lobby of 100 square feet for each foot the ground floor is raised above curb level. (Changes to the street wall and court regulations described in the next section would be sufficient to accommodate a ramp on the exterior of the building.)

To better promote active ground floors, ZQA also tries to simplify and improve the ground-floor use requirements that exist in many special districts and certain commercial zoning districts, which vary in small but numerous ways. These requirements typically include minimum depth requirements to promote usable ground floor spaces, requirements for transparency and limits on the width of ground floor lobbies and parking wrap requirements. Today, these requirements all slightly differ from one another, making compliance with them challenging for practitioners. In order to promote better retail spaces, the proposal would replace this myriad of confusing regulations with a new set of model ground floor requirements based on the regulations applicable in the Special Enhanced Commercial District.

Street Walls

After the ground floor itself, the main way a building interacts with the public realm is through its street wall – generally that area of the building between the ground and the top of the building’s base. Older buildings typically had a great variety of building articulation in the street wall including bay windows, court yards, and other architectural features. Quality Housing regulations today include regulations affecting where the street wall can be located, how much design flexibility is permitted for building articulation, and what kind of articulation (like courts) is permitted.

While these regulations have achieved a degree of consistency in street walls, there are certain instances where the existing regulations are producing results that contradict their original intent. Sometimes the existing regulations are forcing the street wall to be lined up with non-contextual buildings, or are instead allowing buildings to be built at the property line where small setbacks may be more in keeping with the surrounding context. In other instances, the allowances for building articulation are unclear, while in others they restrict more traditional design features, all of which inadvertently make building facades appear flat or dull when compared to older buildings. ZQA proposes a series of modifications to these various street wall regulations to better ensure that buildings can contribute positively to their neighborhood context. More specifically, the proposal would modify:

Line-up provisions – The Quality Housing street wall regulations include separate street wall requirements for medium- and high-density contextual districts and for the “B” districts. For medium-density districts, ZQA proposes to modify the existing line-up provisions, which allow buildings to be located no closer to the street line than any building within 150 feet, to instead require buildings to locate their street wall in relation to only directly adjacent buildings (similar to the regulations in “B” districts). The current provision inadvertently allows buildings close to corners to line up with corner buildings when the rest of the buildings on the block are set away from the property line. The proposal would also adjust the maximum setback from the property line to 10 feet (from 15 feet), so that buildings in these districts are not inadvertently required to line up with non-contextual buildings set far back from the street (such as buildings constructed

under the alternate front setback provisions of height factor zoning). In these zoning districts and in “B” districts, greater clarity is provided as to how line-up provisions are determined for adjacent buildings with architectural features like bay windows. Finally, in the high-density districts, the proposal includes street wall requirements beyond 50 feet of a wide street, where no street wall requirements currently exist.

Articulation – In order to provide greater clarity as to how a street wall can be designed, ZQA includes new regulations for building articulation. Window recesses and structural expression would be permitted within architectural recesses or projections that extend up to 12 inches from the street wall. Deeper recesses or projections, for larger architectural features like bay windows and courts, would be allowed for a limited percentage of the street wall’s overall width.

Court regulations – in order to permit more flexibility for courts and courtyards, which are typical features of older apartment buildings in the city, ZQA would create more flexible court regulations for buildings in R6 through R10 districts that would support the availability of light and air. For outer courts, the proposal would modify the required width-to-depth ratio to 1:1 for courts less than 30 feet wide, and allow courts that are 30 feet or wider to have no depth restrictions. It would also create a new class of small (inner and outer) courts to accommodate courts with non-legally required windows, such as those found in kitchens or bathrooms.

Commercial districts – High-density commercial districts generally require new buildings on a wide street to be located directly on the street line. While this requirement has supported an active retail environment, it has also produced unnecessarily flat buildings. ZQA would provide some limited flexibility to allow for ground-level articulation along wide streets. In high-density commercial districts, the proposal also includes street wall requirements beyond 50 feet of a wide street, where today no street wall requirements exist. The proposal would also require that wholly residential buildings in commercial districts comply with the more stringent street wall regulations of commercial districts, rather than those of the comparable residence district, and would remove the special line-up provision for narrow buildings in commercial districts that inadvertently forces

these buildings to line up with adjacent buildings even when this is contradictory to the prevailing condition of the commercial environment.

Corner Buildings

Older apartment buildings in the city on corner lots tend to “wrap” the corner, providing a consistent street wall along both street frontages. Zoning today makes it difficult, if not impossible, to match this condition in new buildings. ZQA seeks to address this issue to allow for construction of better corner buildings.

Typical “wrapped” corner buildings were effectively made unbuildable by the 1987 Quality Housing regulations, which limited the lot coverage on corners to a maximum of 80 percent. (Traditional corner buildings generally have lot coverages of 85 to 90 percent.) As a result, recent buildings on corners tend to front on only one street and leave open spaces along their lot lines, effectively breaking the street wall in many neighborhoods. The 1987 Quality Housing proposal did not identify a rationale for prohibiting corner buildings exceeding a coverage of 80 percent; rather, it was assumed that no one would try to construct traditional corner buildings again.

Since 1987, DCP has updated these corner provisions in many Special Districts to allow for more traditional corner lot buildings, but has never done so for the citywide Quality Housing regulations. Therefore, to allow better corner buildings in R6 through R10 districts, ZQA proposes to increase the maximum permitted corner lot coverage for “Quality Housing” buildings from 80 percent to 100 percent within 100 feet of a corner. All currently applicable court and yard regulations would continue to apply. The coverage requirements for other interior lots would remain unchanged.

In addition, today, corner lots in medium- and high-density districts located next to lower-density districts (R1 through R6B) have to comply with an additional “transition rule,” which makes wrapping the corner difficult. Today, within 25 feet of the lower-density district, the maximum height of a building is limited to the maximum permitted height of the lower-density districts – typically 35 feet. The intention of the regulation was to provide a transition between the lower- and higher-density districts, but since the permitted height in this 25-foot-wide area is quite low,

and leads to inefficient structures, many buildings simply front on one street and leave an open area between the two buildings that again breaks the street wall in many neighborhoods. As a result, this provision also tends to emphasize the height difference between the lower and higher density districts, rather than providing an effective transition. To address this, ZQA proposes to allow the portions of buildings within that 25-foot zone to reach the maximum base height of the zoning district, or a height of 75 feet, whichever is lower. This would better allow buildings to “wrap” the corner and provide for a more balanced transition between buildings.

Setback Requirements

Above the maximum base heights in Quality Housing buildings, specified minimum setbacks are required in the front and rear of the building before it can continue to rise to its maximum permitted height. The intent of these setback requirements was to keep as much of the building’s upper bulk away from the street and surrounding areas, and to mimic the front setbacks found in older apartment buildings. However, as currently written, these separate requirements are inadvertently working in concert to force many residential buildings to be built directly at the property line to avoid the required rear yard setback. This is particularly an issue for residential buildings where a ground-level setback with planting would be more appropriate and in keeping with its context. The current requirements are also inadvertently making buildings less efficient and more costly to construct.

Today, the front and rear setbacks of Quality Housing are measured differently. The front setback regulations require upper stories above the maximum base height to set back 15 feet from the street wall of the building base on narrow streets and 10 feet on wide streets. Since this is measured from the street wall, even if the entire building is set back five feet or 10 feet from the street line to create a separation from the sidewalk, the minimum 10-foot or 15-foot setback is still required. This creates a strong disincentive to set the building back at ground level to provide planting and improved streetscapes, because upper stories can be seriously constrained by the limited depth imposed by the setbacks on both sides. Rear yard setbacks require upper stories above the contextual base to set back 10 feet from the rear yard line, which is 30 feet from the rear lot line on an interior lot. Since the location of the rear yard setback is fixed, shifting the building toward

the street can also eliminate the need for a setback and the additional costs it entails – at the expense of the streetscape and the quality of ground floor spaces.

In order to remedy these complementary problems, ZQA first proposes to remove the rear yard setback requirement for Quality Housing buildings. The typical 30-foot rear yard (often totaling 60 feet of open area, where two 30-foot yards abut each other) would continue to ensure adequate light and air to rear-facing portions of buildings. Secondly, in order to accommodate a separation between the sidewalk and the building (and reduce costly structural reinforcing below the setback) ZQA would allow the front setback to be reduced by one foot for every foot that the building is set back from the property line. A setback of five feet must be provided from the street wall, to maintain architectural articulation. For example, a building on a narrow street located on the street line would continue to require a 15 foot setback, whereas a building that was set back from the sidewalk by five feet would be able to reduce the upper level setback to 10 feet from the street wall (five foot setback at grade + 10 foot upper level setback = 15 foot total setback).

The combination of these provisions would allow buildings to provide greater separation and plantings between ground floor units and adjoining sidewalks, and would allow upper story units to be designed with greater variety, cost effectiveness and efficiency.

Building Envelopes and Number of Stories

Buildings in contextual zoning districts, and other Quality Housing buildings, are subject to base and maximum height provisions that define the overall shape of a building. These regulations are generally sufficient to allow high-quality residential buildings, but in some instances improvements to the regulations are warranted to further their original intent. More specifically, the proposal would make adjustments to:

Maximum Base heights – Buildings in contextual districts are subject to both minimum and maximum base heights intended to ensure the building relates well with the sidewalk and surrounding context. However, the maximum base heights in some districts end in a zero, allowing an average of 10 feet per story, which makes it difficult to accommodate an active ground floor

since these spaces typically require more than 10 feet of height. As a result, many buildings pinch their ground-floor or upper-floor ceiling heights, or drop commercial ground floors below grade to accommodate higher ceilings, which can disrupt the quality and continuity of the street environment. In order to better accommodate more active ground floors, the maximum base heights applicable in some zoning districts would be increased, consistent with the changes to maximum overall height described above.

Stories - The maximum height requirements are all measured in feet, but the current regulations do not address the number of stories that can be developed in a new building. Thus, the effective maximum number of stories is established by the minimum floor-to-ceiling height requirements of the Building Code. In order to better ensure that buildings cannot use the additional flexibility created through this proposal to create additional floors, for instance by minimizing ceiling heights, ZQA adds a maximum number of stories that can be constructed in a contextual zoning district. The proposed number of stories differs in each zoning district based on the maximum permitted height, but generally corresponds with the maximum height, accommodating additional height for the ground floor – thus the maximum number of stories permitted in an R7B district, which has a maximum height of 75 feet, would be seven stories.

Maximum height in R9 and R10 districts - In the highest-density contextual districts, it is difficult for buildings to fit their full permitted floor area in a well-designed building. The existing building envelope offers little room for articulation and many resultant buildings as a consequence have flat, dull facades and deep floor plates. To promote better buildings in these limited, high-density districts, ZQA would increase the applicable maximum building heights by an additional five or 10 feet on both wide and narrow-street versions of these districts, as necessary to accommodate comparable design flexibility as compared to other districts. The maximum number of permitted stories in these districts would be based on these adjusted heights.

Optional Quality Housing bulk regulations – In non-contextual districts, two sets of building envelope controls exist. First, a “height factor” option that allows tall buildings set back from the street and surrounded by open space, and second, a contextual Quality Housing option that

encourages buildings closer to the street and subjects them to maximum base and overall heights. These Quality Housing base heights and overall heights are mostly similar to the heights permitted in comparable contextual districts, but are sometimes slightly misaligned, reflecting their creation at different times. ZQA generally seeks to better align the “Quality Housing” optional regulations on wide streets with the comparable “A” zoning districts, and align the narrow street regulations with the comparable “B” zoning districts, as they typically have the same permitted FAR. For example, a building on a wide street in an R6 district utilizing the Quality Housing option has the same FAR as that of an R6A district, and so the proposal gives it the same zoning envelope option. The proposal would also match the maximum number of stories and the allowance for additional height to facilitate improved ground floors.

Study Areas – When the Quality Housing program was established in 1987, certain non-contextual areas of the city were restricted from using the new building controls. On blocks characterized by one-, two- and three-family homes, the “height factor” option is the only one available. This was seen as a way of protecting the character of these areas, pending rezoning to a lower-density district, since a large apartment building can only be built by assembling the sites of many homes. Many of these “study areas” have since been rezoned to contextual districts and had this restriction removed, but the designation is still applicable in some limited geographies where it has no practical effect. The proposal would fully remove the 1987 “study areas”.

Special Districts – In some Special Districts, the building envelope controls mimic the controls of a comparable contextual zoning district. For consistency, when the Special District does not include any special FAR or building envelope regulations, ZQA would adjust the maximum building envelopes to bring them in line with the changes proposed for the Quality Housing option.

Unit Size and Configuration

While the provisions of ZQA that focused on quality primarily relate to improving the height and setback regulations for medium- and high-density buildings, the proposal also includes some changes that affect the interior configuration of buildings. These changes are intended to rationalize currently inconsistent regulations.

Zoning today regulates the number of units that are permitted in a residential building through a “density factor” calculation. The maximum number of units is determined by dividing the permitted residential floor area by a specified factor. This factor starts out quite high in the lowest-density zoning districts and gradually drops to 680 square feet in R6 and R7 districts, allowing for incrementally higher concentrations of dwelling units as overall permitted density increases. Thus, a 6,800 square foot residential building in an R6 district is permitted a maximum of 10 units (6800/680) all of which can be of varying sizes. However, after the R6 and R7 districts, the factor increases again to 740 for most R8 and R9 districts and to 790 in R10 and remaining R9 districts. Additionally, the Quality Housing regulations require residential units be no smaller than 400 square feet in area.

Some housing advocates have pointed out that the 400 square foot requirement limits the ability to provide some smaller units in a building, balancing them out with larger units to better serve a more varied population. ZQA therefore would remove this 400 square foot minimum unit size requirement to provide greater flexibility in the sizes of units. The Building Code and other regulations effectively limit the minimum size of any unit, and the “density factor” requirement would continue to limit the total number of units that can be provided in a building.

In addition, ZQA would change the increasing density factors in R8 through R10 districts to make them consistent with what is already required in R6 and R7 districts – 680 square feet. Though most buildings today are providing larger units in these high density areas and are well below the maximum number of units they are permitted to build today, there is no rationale for requiring larger average unit sizes today in the city’s highest density residence districts. This change would allow buildings in these districts greater flexibility to provide a somewhat smaller average unit size if they choose to do so.

Zoning today includes a number of different regulations affecting windows in residential units. The “Quality Housing” program and certain special districts, such as the Special Union Square District, require residential windows to be made of double-paned glass. These were meant to

improve the quality of spaces for tenants at the time these regulations were enacted, but were subsequently adopted as a minimum standard needed to comply with energy requirements in the City's Building Code. Additionally, these double-paned glass requirements also may make it difficult to provide windows of higher standards, like triple-paned glass. Therefore, ZQA proposes to remove these various double-pane window requirements.

Additionally, in Special Mixed Use (MX) districts, zoning today requires special sound-attenuated windows for any residential units. The requirements were designed to address MX districts located next to noise generators like highways but, as written, the windows are required in all locations in MX districts including those where no such noise conditions exist. These requirements have been found to add unnecessary cost in locations where the windows are not needed. To better account for the varied conditions of the city's MX districts, the proposal would allow the City's Office of Environmental Remediation to modify the sound-attenuated window requirement based on site conditions through a process similar to what already exists for sites with (E) designations.

Irregular Site Conditions

There is a wide variety of site conditions that exist in the city today – such as shallow lots, angled streets, varying topography, or sites with multiple buildings. While the Manhattan grid results in many regular sites, irregular conditions prevail in many locations in the outer boroughs. Most zoning regulations that shape residential buildings were designed with regular site conditions in mind – lots were assumed to be rectangular, with little topography or other irregularity. Because of this, construction on these irregular lots is not well considered in zoning, often making construction unnecessarily difficult, and leading to buildings that are forced directly onto the property line with little room for design articulation. ZQA proposes a series of modifications to zoning regulations for R6 through R10 districts to better address these irregular site conditions and allow for better buildings on them.

Shallow lots – Zoning regulations for rear yards and lot coverage were designed with the assumption that most lots in the city are 100 feet deep. Over time, some limited changes were made to address much-shallower lots (ranging between 50 and 70 feet deep), but the dimensions

in between 70 and 100 feet must continue to utilize regulations based on an assumption of a 100-foot lot depth. This causes many problems for lots that are only slightly shallow (90-95 feet deep), and generally forces new buildings to be located directly on the street line. ZQA proposes a comprehensive framework that adjusts rear yard and lot coverage requirements in concert with lot depth. Shallow lots would be permitted to provide a shallower rear yard with the change in the requirement based on the depth of the lot. The permitted coverage on interior lots would be permitted to increase in relationship to this. The proposed changes would result in more regular buildings that are more consistent with existing, older buildings.

Acutely angled sites – Quality Housing regulations that require street walls along entire street lines in high-density commercial districts offer little flexibility for sites that are located on acutely angled streets that cut into the more typical rectangular grid. This sometimes forces inefficient building configurations and poor street-level conditions in the building. ZQA would provide greater flexibility in street wall location for buildings that are located on acutely angled sites.

Sloping sites – Similar to shallow lots, zoning today provides some flexibility for steeply- sloping sites, but makes no accommodations for sites with more limited topography changes. Today, sites that have slopes of greater than 10 percent can utilize a sloping base plane to determine maximum base and building heights. ZQA proposes to modify this standard to five percent, to better address moderately-sloping topographic conditions.

Distance between buildings – The regulations that regulate the minimum distance between multiple apartment buildings on a single zoning lot are more restrictive than regulations that apply when the buildings are on different zoning lots. Under today’s regulations, multiple apartment buildings on a single lot that are not connected must be separated by a minimum of 60 feet (the width of a typical narrow street) when “required windows” (one each for living rooms and bedrooms) face each other. Lesser separations are required when only one facing wall has a “required window”, or when neither does. In some instances, these large separations make it difficult to construct new, efficient buildings on a lot with existing structures. ZQA would reduce

this 60 foot separation requirement to 40 feet for all wall-to-window conditions to be in line with the required separation in the New York State Multiple Dwelling Law.

BSA special permit –ZQA proposes a new BSA special permit for Quality Housing buildings on irregular sites, to allow limited modifications to the regulations that shape residential buildings to address more unusual constrained site conditions that cannot be addressed as of right. This is intended to address conditions where a variance’s requirements for uniqueness and financial hardship would not be applicable. Where it finds that practical difficulties exist and that relief would not have an adverse effect on surroundings, the BSA would be able to modify a limited number of requirements, including lot coverage and street wall location requirements, to address difficult site conditions. In addition, in order to accommodate the needs of developments including predominantly affordable housing, buildings with more than 50 percent of their residential floor area devoted to affordable housing would be given additional flexibility to modify maximum height requirements to address difficult site conditions.

Other Changes

In addition to the proposed changes described above, ZQA includes modifications to the language of the Zoning Resolution to make its provisions clearer to the reader and remove obsolete terms. Specifically, the proposal removes a series of obsolete uses including “domiciliary care facilities” and “sanitariums,” and removes unneeded references to “rooming units”, which are no longer permitted to be constructed by other City law. The proposal also includes a major reorganization of the residential bulk regulations found in Article II, Chapter 3 in order to separate the regulations for R1 through R5 districts from the regulations for R6 through R10 districts, and better organizes the various FAR and height and setback controls for these medium- and high-density zoning districts. More limited organizational changes are made to the community facility bulk regulations of Article II, Chapter 4, and the commercial zoning district regulations found in Article III, Chapters 2 through 5.

ENVIRONMENTAL REVIEW

This application (N 160049 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 15DCP104Y. The lead agency is the City Planning Commission.

It was determined that the proposed action may have a significant effect on the environment. A Positive Declaration was issued on February 20, 2015, and distributed, published and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on February 20, 2015. A public scoping meeting was held on March 25, 2015. A Final Scope of Work, reflecting comments on the Draft Scope of Work, was issued on September 18, 2015.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on September 21, 2015. On December 16, 2015, a public hearing was held on the DEIS pursuant to SEQRA and other relevant statutes. A Final Environmental Impact Statement (FEIS), reflecting the comments received since the issuance of the DEIS, was completed and a Notice of Completion for the FEIS was issued on January 22, 2016. The Notice of Completion for the FEIS identified significant adverse impacts with respect to shadows, historic and cultural resources (archaeological), hazardous materials, and, noise, and considered measures to minimize or eliminate these impacts, where feasible and practicable, are described below.

Shadows: The Proposed Action would potentially result in significant adverse shadow impacts. In accordance with the methodology outlined in the *CEQR Technical Manual*, a detailed shadow analysis was conducted to assess the extent and duration of the incremental shadow resulting from the Proposed Action. The detailed shadow analysis concluded that the Proposed Action would potentially result in incremental shadows being cast on sunlight sensitive features of historic resources and public open spaces based on prototypical analysis. Although the duration and coverage of incremental shadows would be limited, the Proposed Action could potentially result in significant adverse shadow impacts under limited conditions. Even though none of the prototypes analyzed in the FEIS showed significant adverse shadows impacts, some provisions of the Proposed

Action could potentially result in shadow impacts under certain circumstances where sunlight sensitive features of public open spaces and historic resources are directly located adjacent to potential development.

Historic and Cultural Resources: The Proposed Action would potentially result in significant adverse impacts to archaeological resources. The archaeological resources assessment concluded that the Proposed Action could result in additional and/or deeper in-ground disturbance that could occur on sites where archaeological remains exist; however this is expected to be limited to a few provision of the Proposed Action.

In particular, the provision to remove unnecessary corner lot coverage restrictions would allow future developments on undeveloped corner lots and create larger building footprints with increased potential for additional in-ground disturbance in the future. The provision to allow future buildings to be located closer to the street line would also create potential for additional or deeper in-ground disturbance. In the future with the Proposed Action, developments on shallow lots would be permitted to reduce the depth of the required rear yard. Since shallow lots and shallow through lots are found consistently across all neighborhoods in all five boroughs, it is not possible to rule out the possibility of additional in-ground disturbance.

The proposal to reduce minimum distance between buildings could enable infill development on sites with lot and floor area allowances, and potentially cause additional in-ground disturbance. The elimination or reduction of existing and future parking requirements for affordable housing is also likely to facilitate additional development, resulting in potential new in-ground disturbance. In the future with the Proposed Action, Long Term Care Facilities would be given additional FAR, and potentially result in greater building heights, larger building footprints, and greater potential for in-ground disturbance.

While the potential impacts of the provisions described above are expected to be limited, it is not possible to conclude where and to what extent additional in-ground disturbance might occur. As such, the possibility of significant impacts on archaeological resources cannot be eliminated.

Hazardous Materials: The Proposed Action would potentially result in significant adverse hazardous materials impacts. In accordance with the methodology outlined in the *CEQR Technical Manual*, a hazardous materials assessment was conducted. The assessment concluded that the Proposed Action could result in additional in-ground disturbance that could occur on sites where hazardous materials exist.

However, the extent of the potential impact is expected to be limited. The Proposed Action itself is not expected to induce development on sites where development would not have otherwise been possible (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing), thereby limiting the potential for additional in-ground disturbance.

The provision to allow future buildings to be located closer to the street line would create potential for additional or deeper in-ground disturbance. In the future with the Proposed Action, developments on shallow lots would be permitted to reduce the depth of the required rear yard. Since shallow lots and shallow through lots are found consistently across all neighborhoods in all five boroughs, it is impossible to rule out the possibility of additional in-ground disturbance.

The proposal to reduce minimum distances between buildings could enable infill development on sites with lot and floor area allowances, and potentially cause additional in-ground disturbance. The elimination or reduction of existing and future parking requirements for affordable housing is also likely to facilitate additional development resulting in potential new in-ground disturbance. In the future with the Proposed Action, Long Term Care Facilities and Affordable Independent Residences for Seniors would be given additional FAR, and potentially result in greater in-ground disturbance. While the potential impacts of these provisions are expected to be limited, it is not possible to predict where and to what extent additional in-ground disturbance might occur and if any of the development sites with potential in-ground disturbance would contain any hazardous materials. Therefore, the Proposed Action has the potential to result in hazardous materials impacts.

Noise: The Proposed Action would not result in significant adverse noise impacts due to operations of any potential development. The Proposed Action has the potential to introduce new sensitive receptors closer to existing train operations on elevated train tracks, resulting in the potential for significant adverse noise impacts. Screening analyses concluded that the potential noise impacts would likely be limited, as only two of the 27 prototypes have the potential to result in significant adverse noise impacts.

Given the citywide applicability of the Proposed Action and the fact that there are no known development sites at this time, it was not possible to identify any practicable mitigation measures that would reduce or eliminate the potential significant adverse impacts. Therefore, the FEIS concluded that the Proposed Action would result in unavoidable significant adverse impacts.

In addition, the FEIS analyzed as an alternative (the “Modified Text Amendment Alternative”) modifications to the proposed zoning text amendment. The Modified Text Amendment Alternative would:

1. Increase the permitted heights in R9 and R10 contextual districts beyond 100 feet of a wide street for affordable housing developments in IH areas and affordable senior housing

developments by 30'. A "wide street" is defined in the Zoning Resolution as 75 feet or greater in mapped width.

2. Allow residential accessory spaces for Inclusionary Housing developments on the ground floor in the rear yard area only on wide streets and in commercial districts. Affordable Independent Residences for Seniors and Long Term Care Facilities would be permitted to have their residential accessory spaces on the ground floor in the rear yard area in all districts, as proposed in the Proposed Action.
3. Require new long-term care facilities in R1 and R2 districts to seek a City Planning Commission special permit (Section 74-901) regardless of lot size.

The Modified Text Amendment Alternative would result in the same significant adverse impacts as the Proposed Action, except it would likely reduce the potential for significant adverse impacts on shadows, including the likelihood of incremental shadows being cast on sunlight-sensitive features of historic resources and/or existing open spaces.

On February 3, 2016, a Technical Memorandum ("Technical Memorandum 001") was issued reflecting minor corrections made to the FEIS and Appendix F, Modified Proposed Zoning Text Amendment. The Technical Memorandum concluded that these modifications are minor in nature and would not result in any significant adverse impacts that were not already identified in the FEIS.

PUBLIC REVIEW

The application (N 160049 ZRY) was duly referred on September 21, 2015, to all 59 Community Boards in all five boroughs, to all Borough Boards, and to all Borough Presidents for information and review, in accordance with the procedure for referring non-ULURP matters.

Community Board Review

49 Community Boards adopted resolutions regarding the proposed zoning text amendment, many of which included extensive comment on the proposal and recommendations for modification. 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 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 20 in favor, 0 oppositions and 7 abstentions on a resolution to recommend disapproval, with comments.

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

On November 18, 2015, Community Board 9 voted unanimously on 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 (0-26-0) to recommend disapproval, with comments.

Brooklyn

On December 1, 2015, Community Board 1 voted 26 in favor, 1 opposition and 0 abstentions to recommend approval, with conditions.

On November 10, 2015, Community Board 2 voted 32 in favor, 6 oppositions and 1 abstention on a resolution to recommend disapproval, with comments.

On November 2, 2015, Community Board 3 voted 32 in favor, 2 oppositions and 0 abstentions to recommend disapproval.

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

On November 18, 2015, Community Board 5 voted 8 in favor, 15 oppositions and 1 abstention to recommend disapproval.

On November 10, 2015, Community Board 6 voted 21 in favor, 8 oppositions and 2 abstentions to recommend approval, with conditions.

On November 18, 2015, Community Board 7 voted 2 in favor, 27 oppositions and 5 abstentions to recommend disapproval, with comments.

On November 12, 2015, Community Board 8 voted 24 in favor, 4 oppositions and 1 abstention on a resolution to recommend disapproval, with conditions.

On November 24, 2015, Community Board 9 voted 3 in favor, 29 oppositions and 0 abstentions on a resolution to recommend disapproval.

On November 16, 2015, Community Board 10 voted 35 in favor, 2 oppositions and 1 recusal on a resolution to recommend disapproval, with comments.

On November 12, 2015, Community Board 11 voted to recommend approval, with conditions.

On November 24, 2015, Community Board 12 voted 24 in favor, 4 oppositions and 2 abstentions to recommend approval, with conditions.

On November 18, 2015, Community Board 13 voted 25 in favor, 0 oppositions and 2 abstentions on a resolution to recommend disapproval.

On November 9, 2015, Community Board 14 voted 2 in favor, 30 oppositions and 2 abstentions to recommend disapproval, with conditions.

On October 27, 2015, Community Board 15 voted 0 in favor, 41 oppositions and 0 abstentions to recommend disapproval.

On November 9, 2015, Community Board 16 voted 0 in favor, 24 oppositions and 4 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 (38-0-0) on a resolution to recommend disapproval, with conditions.

On November 19, 2015, Community Board 2 voted unanimously (38-0-0) on a resolution to recommend disapproval, with conditions.

On November 24, 2015, Community Board 3 voted unanimously (35-0-0) on a resolution) to recommend disapproval, with comments.

On November 4, 2015, Community Board 4 voted unanimously (39-0-0) on a resolution to recommend disapproval, with conditions.

On November 12, 2015, Community Board 5 voted 31 in favor, 0 oppositions and 1 abstention on a resolution to recommend disapproval with conditions.

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

On November 4, 2015, Community Board 7 voted unanimously (33-0-0) on a resolution to recommend disapproval, with conditions.

On November 10, 2015, Community Board 8 sent a letter in opposition to the proposal.

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

On November 6, 2015, 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, 2 oppositions and 1 abstention on a resolution to recommend disapproval, with conditions.

On November 24, 2015, Community Board 12 voted unanimously (29-0-0) on a resolution to recommend disapproval, with conditions.

Queens

On November 10, 2015, Community Board 1 voted 29 in favor, 4 oppositions and 0 abstentions to recommend approval, with conditions.

On November 5, 2015, Community Board 2 voted 28 in favor, 2 oppositions and 3 abstentions on a resolution to recommend disapproval, with conditions.

On November 10, 2015, Community Board 4 voted 22 in favor of disapproving the proposal, 3 in favor of approving the proposal, with 3 abstentions.

On November 4, 2015, Community Board 5 voted to recommend disapproval, with comments.

On November 12, 2015, Community Board 6 voted 22 in favor, 2 oppositions and 3 abstentions on a resolution to recommend disapproval.

On November 9, 2015, Community Board 7 voted 2 in favor, 35 oppositions and 1 abstention to recommend disapproval.

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

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

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

On October 21, 2015, Community Board 12 voted unanimously to recommend disapproval.

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

On November 10, 2015, Community Board 14 voted unanimously (32-0) to recommend disapproval, with comments.

Staten Island

On December 8, 2015, Community Board 1 voted 27 in favor, 2 oppositions and 0 abstentions on a resolution to recommend disapproval, with comments.

On December 9, 2015, Community Board 2 voted unanimously (25-0-0) on a resolution to recommend disapproval, with comments.

On November 24, 2015, Community Board 3 voted unanimously (42-0-0) on a resolution to recommend disapproval, with comments.

Most Community Boards expressed support for the general goals of promoting affordable housing and better buildings, but many expressed concerns about specific provisions and unease about allowing changes outside the context of a locally specific project or proposal. They generally agreed that new buildings they have been seeing in medium- and high-density neighborhoods have often not been of the quality they would like to see, but they wanted to maintain predictability in the changes that can occur in their neighborhoods. Nearly a third of the Boards also made clear in their recommendations that in principle they supported efforts to promote affordable housing. Boards provided more specific comments on various elements of the proposal, as described below.

Requirements for Affordable Senior Housing and Long-term Care Facilities

The new zoning definitions included in the proposal for affordable senior housing and long-term care facilities generated a great deal of concern. In particular, the introduction into the zoning text of a minimum 30-year term required for a building to qualify as affordable senior housing prompted numerous questions about the long-term affordability of such housing. Nearly 40 percent of the Community Boards said the use should be required to be permanently affordable, particularly when a building took advantage of the lower parking requirements and more flexible building envelope permitted for the use. About 10 percent of the Boards were also concerned about the lack of a minimum unit size proposed for this use.

A limited number of Community Boards took issue with the changes for long-term care facilities. Roughly 20 percent of the Boards stated that these uses should not be permitted as-of-right and should instead require a special permit. These concerns were generally concentrated in low-density areas of the city. A number of Boards in Brooklyn stated that the use should not be permitted as-

of-right in low-density contextual districts. In addition, Boards raised concerns about the proposed new authorization for new long-term care facilities on large sites in R1 and R2 districts.

Building Envelopes for Affordable Housing

Community Boards were concerned about the more flexible building envelopes proposed for affordable senior housing, long-term care facilities, and buildings that participate in the Inclusionary Housing program. About a third of Boards raised concerns about these various envelope changes.

In low-density areas (R3-2, R4, R5), many Boards believed the as-of-right building envelope for affordable senior housing and long-term care facilities would be out of scale with their neighborhood. This was particularly concentrated in the R3-2 and R4 districts where the proposed 65 foot maximum height was considered excessive. Many Boards were also concerned that this new building envelope would encourage the replacement of single-family homes by these facilities.

In medium- and high-density districts, Community Boards raised concerns about specific features of the more flexible building envelopes proposed for these three uses. For the most part, this was specific to affordable senior housing and long-term care facilities (with their broader applicability), but also was found in some Community Boards that had recently undertaken a neighborhood rezoning that included the mapping of Inclusionary Housing Designated Areas. In those Community Boards, mainly centered in Manhattan and Brooklyn, concerns were sometimes raised that the more flexible envelope was in some manner undoing the previous neighborhood planning work. Others noted general concerns about how the changes would impact historic districts and existing affordable housing.

The specific features of the building envelope proposal generated concerns from Community Boards, including the allowance for accessory uses on the ground floor in the rear yard (raised by nearly 30 percent of Boards) and changes to the “sliver law” (raised by just under 20 percent of Boards). These Boards were particularly concerned about how these changes would affect narrow street frontages. To a lesser degree, Boards took issue with the 20 percent requirement necessary for affordable senior housing to utilize the more flexible envelope.

While the increased height was a general concern of many Boards, few identified other specific geographic areas of concerns. Those that did included high-density parts of Manhattan, where some Boards raised concerns about the lack of a height difference on narrow and wide street frontages in R9 and R10 contextual districts. Lastly, some Community Boards with special districts where proposed height changes would be applicable raised concerns about these changes, including the Clinton, Hudson Square and Hudson Yards special districts.

Parking for Affordable Housing

The issue raised by the greatest number of the Community Boards was the proposed parking changes for affordable housing. Many Boards were concerned that any reductions to parking requirements would exacerbate what they perceived as already-difficult parking situations in their districts. These concerns were most prevalent in Queens and in some of the lower- to moderate-

density areas of Brooklyn and the Bronx. These focused on concerns about public transit and the view that their residents needed cars to get around the city, though few commented specifically on the habits of residents of affordable housing. Some Boards offered specific recommendations for removing certain areas from the Transit Zone, while others suggested that their Community District not be included altogether.

The provision receiving the most comments was the proposed changes for affordable senior housing. Half of the Boards raised concerns about the parking changes for this housing type, both within and outside the Transit Zone where more-limited changes are proposed. Several Boards noted that seniors in their districts, including many on their Boards, were car owners; however, the seniors referenced in these remarks were not identified as low-income residents of subsidized housing. Less frequently, concerns were raised about the provisions allowing as-of-right removal of parking for existing affordable senior housing within the Transit Zone. Some recommendations suggested that the proposed 10 percent parking requirement be increased in certain low-density districts outside the Transit Zone.

Parking changes for other (non-senior) affordable housing within the Transit Zone were also a subject of concern to many Community Boards. Forty percent of the Boards recommended disapproval of this aspect of the proposal, though many of these Boards represented Community Districts in areas of the city where the proposed Transit Zone has little to no applicability.

Other Building Envelope Changes

While many Community Boards noted that they were pleased that the proposal was trying to address regulations that were making it difficult to build higher-quality residential buildings in medium- and high-density districts, concerns were raised about some specific changes.

Boards were generally appreciative that the Department had revised the initial proposal before beginning the public review process to require the additional five feet of building height be concentrated on the ground floor. This addressed concerns raised by Community Boards and others during the initial public outreach in spring 2015 that the additional permitted height could be utilized at the top of the building in residential units, rather than the ground floor. Nonetheless, some Boards were concerned that the additional height for ground floor spaces would lead to “big box” commercial spaces and not neighborhood-scaled retail.

Beyond the proposal for ground floors, some Community Boards in higher-density areas felt the additional height permitted in R9 and R10 contextual districts should be further studied or not included. Some Boards also recommended these changes not be permitted in historic districts, where they thought the change could be incompatible with existing neighborhood character or trigger a spate of new applications that would overwhelm the Landmarks Preservation Commission’s ability to review them.

Many Community Boards supported the other changes to promote better-quality residential buildings, but took issue with some specific features. Changes to address irregular lots were appreciated, but concerns were raised by a number of the Boards that the modifications to the

“distance between building” provisions would allow buildings to be too close together. In addition, several Boards thought that changes to promote better corner lot buildings (coverage and transition heights), while laudable, were too extensive. Both of these concerns were particularly concentrated in Brooklyn. Lastly, some Boards noted concerns about the removal of the minimum 400 square foot unit size since it could lead to the creation of some micro-units.

General Concerns

In addition to the concerns raised about the proposal, Community Boards raised a number of concerns that went beyond the proposal itself. Nearly a third of the Community Boards raised concerns about the infrastructure in their districts and its ability to support new development, whether linked to the proposals or not. These included the full range of infrastructure systems in the city - transportation, schools, and sewers. Many wanted planning efforts to address these issues in addition to plans for affordable housing. Despite the fact that the proposal would not allow additional market-rate floor area, a number of Boards characterized the proposal as an “upzoning” that would encourage widespread new development or teardowns of existing housing. Boards also noted concerns about the existing affordable housing stock in the city and what the city was doing to preserve it.

A third of Boards stated that they felt rushed in their review of what they considered to be a complicated proposal, though many noted appreciation of the Department’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 with conditions, by a vote of 20 in the affirmative, 2 in the negative and 2 abstentions. The Brooklyn Borough Board resolution described a number of comments and conditions, including those that:

- Require the certificate of occupancy for affordable senior housing to state the city is to be provided the opportunity to provide operating subsidies to extend the regulatory period before the use could be changed
- Limit the maximum as-of-right height for affordable senior housing and long-term care facilities to 35 feet in R3-2 districts, 45 feet in R4 districts, and 55 feet in R5 districts
- Limit the as-of-right bulk for affordable senior housing and long-term care facilities in R3, R4 and R5 districts on detached, semi-detached blocks and attached housing blocks with no front yard parking
- Retain discretionary review of long-term care facilities in detached zoning districts and

predominantly detached blocks in R3, R4 and R5 districts

- Permit greater flexibility for existing affordable senior housing sites to add new buildings through discretionary actions
- Retain the current transition rules for corner buildings adjacent to low-density districts
- Lower the permitted height by 10 feet for buildings providing affordable housing in various R7 districts
- Establish the measurement for ground floor height increases from legal grade or some equivalent standard
- Limit the floor area exemptions for interior ramps from 100 square feet per foot to 70 square feet per foot
- Restrict the shallow lot provisions only to lots that are less than 80 feet deep
- Restrict the ground floor rear yard provision for R6A and R7A districts on narrow streets
- Require current distance between buildings requirements when the length of building overlap is greater than 40 feet
- Retain the current corner coverage requirement except for lots less than 30 feet wide
- Consider various geographic modifications to the Transit Zone
- Limit the as-of-right parking reduction for affordable senior housing within the Transit Zone to 50 percent, unless the applicable parking waiver would trigger the elimination of the parking requirement
- Limit the discretionary parking reduction to 15 percent in R5 districts and 20 percent in R3 and R4 districts
- Define the scope of BSA's parking special permits to consider the "surrounding area" to be within 1,000 feet.

Manhattan

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

- The proposal is revised to maintain the distinction between wide and narrow streets in order to reduce impacts to the historic "hills and valleys" that characterize the development of Manhattan.
- The applicability of the "sliver law" as it exists today remain in place
- Applicability of rear yard encroachment rules at the ground floor will be retained for residential and residential accessory uses
- The proposed height increases are reduced for contextual districts where the impact is greatest on narrow streets and/or in recently rezoned areas either,
 - Existing A and B contextual zones will remain as currently written and ZQA text will be applied only after individual review and Commission determination that the change will not harm preservation resources or neighborhood character in the specific zone, or

- A and B contextual zoning text as currently written may be applied in the future to zones if there is a Commission determination that a preservation purpose will be served
- The Zoning Resolution will be neutral as to elevating a particular construction technique over another
- The administration will recognize and address that changes to the bulk envelope will spur additional development in historic districts, and that resources be put in place to ensure that all of the work of the Landmarks Preservation Commission, including designation, is not adversely impacted by an increase in permits
- The text is revised to clarify the permanence of affordable senior housing and, if permanency cannot be guaranteed, then the text should be provided that will ensure permanent affordability for the building regardless of age restrictions
- A commitment is made to immediately begin studying and correcting current flaws within the existing opt-in R10 and Voluntary Inclusionary Housing programs.

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. The Queens Borough Board resolution included the following comments:

- Parking should be provided in any new affordable or senior affordable housing because Queens residents own cars and rely on the cars for all aspects of their lives. Without reliable mass transit, cars are necessary to get to their jobs, doctor's appointments, shopping or bringing their children to school;
- Over 40 neighborhoods in Queens were rezoned over the last decade or so. Each of these rezonings was done with extensive neighborhood participation that was solicited by the Department to assure that each proposal addressed the most pressing issues and were sensitive to the density and heights of those neighborhoods. Some of the proposals would undo carefully sculpted rezonings that were the result of a collaborative effort to protect our neighborhoods from overdevelopment;
- Many of the neighborhoods were rezoned with new contextual tools that helped to encourage the best of how the buildings in each area related to each other in terms of the distance from the sidewalks, depth of yards and other attributes that give a neighborhood a built character. Some of the proposed text may alter some of the features that contribute to an areas appeal;
- There should not be a new special permit that would allow the Board of Standards and Appeals to modify or reduce bulk requirements for a development with at least 50 percent of floor area for affordable housing or long-term care on an irregular lot. There is already a BSA variance procedure to address this type of hardship for development.

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. The Staten Island Borough

Board resolution did not include comments or conditions.

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 comments including that:

- The submission of multiple text amendments into public review at the same time is an unreasonable burden on the capacity of most community boards to review
- The text amendment goes against the grain of the successful “neighborhood by neighborhood” approach to community-based planning
- The infrastructural needs of communities need to be addressed
- The Transit Zone focus on the half-mile radius from subway stations is too extensive and does not take into account topographic conditions.

Brooklyn

The Brooklyn Borough President issued a letter dated December 14, 2015, reiterating the comments of the Borough Board.

Manhattan

The Manhattan Borough President issued a letter dated December 11, 2015, recommending disapproval of the application with conditions, including those of the Borough Board with additional conditions regarding:

- The generic nature of the environmental analysis, and the identified potential for unavoidable impacts with respect to shadows, historic resources, hazardous materials, and noise
- The effect of the proposed modifications on construction technologies
- The provisions to allow affordable senior housing, long-term care facilities, and not-for-profit institutions with sleeping accommodations (NPISAs) the ability to co-exist in a single facility may be appropriate in lower density areas, and may be the current trend in senior care, but is not viewed favorably in Manhattan. The text should be careful not to elevate one model of senior housing or long-term care over any other.

Queens

The Queens Borough President issued a letter dated November 30, 2015, recommending disapproval of the application, and reiterating the comments of the Borough Board with two additional comments, that:

- There should be an option where incentives are provided to get more affordable housing built within the existing neighborhood context, particularly in the lower- and medium-density districts, without altering the built character of those areas

- There is a concern that affordable independent senior housing not built as Mandatory Inclusionary Housing development with termed financing would not be permanently affordable. This oversight would be contrary to the overall goal of generating permanent affordable housing particularly for seniors as a group who are severely affected.

Staten Island

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

- Remove all proposed parking reductions, waivers and modifications for Lower Density Growth Management Areas (LDGMA) in the Borough of Staten Island with the exception of future Mandatory Inclusionary Housing Areas
- Clarify provisions for buildings used partially for community facility uses, buildings containing certain community facility uses in LDGMA, special provisions for long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations and quality housing buildings
- Remove increase in lot coverage from 80 percent to 100 percent for corner lots containing residential buildings in C4-2 Districts within the Special St. George District – Upland Subdistrict
- Remove applicability of modifications of parking and bulk regulations for LDGM areas in the Borough of Staten Island pursuant to the BSA approvals
- Develop more contextual senior housing options to be included in the text for LDGMA in the Borough of Staten Island
- Remove all R1 and R2 districts in the Borough of Staten Island from provisions applicable to buildings containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations.

City Planning Commission Public Hearing

On December 2, 2015 (Calendar No. 2), the City Planning Commission scheduled December 16, 2015, for a public hearing on this application (N 160049 ZRY). The hearing was duly held on December 16, 2015 (Calendar No. 23). There were 55 speakers in favor of the application and 36 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; affordable and senior housing developers and supporting organizations including New York State Association for Affordable Housing, LiveOn NY, Catholic Charities Archdiocese of New York, Catholic Charities of Brooklyn and Queens, Enterprise Community Partners, Bedford-Stuyvesant Restoration Corporation, Ridgewood-Bushwick Senior Citizens Council, Southside United HDFC, Fifth Avenue Committee, Cypress Hills LDC, Community Preservation Corporation, Phipps Housing, L+M Development Partners, the Association for Neighborhood and Housing Development, Local Initiatives Support Corporation, Selfhelp Community Services, Settlement Housing Fund, West Side Federation for Senior and Supportive Housing, Dunn Development, and many others; housing

and urban policy experts from the National Housing Conference, Citizens Housing Planning Council, and The New School; business and civic organizations such as the Partnership for New York City, the Design Trust for Public Space, the Downtown Brooklyn Partnership, AIA NY; architecture and planning firms such as Marvel Architects, Dattner Architects, WXY Studios, George M. Janes & Associates, 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 Manhattan Borough President; the State Assemblyperson 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, Victorian Society of New York, Coalition for a Livable West Side, Auburndale Improvement Association, Broadway Community Alliance, Riverdale Community Coalition, Riverdale Nature Preservancy, Friends of Bushwick Inlet Park, and Northshore Waterfront Greenway; housing advocates including the Coalition for Community Advancement, the Metropolitan Council on Housing, Urban Homesteading Assistance Board, and National Mobilization Against Sweatshops; the Municipal Arts Society; the NY Metro Chapter of the American Planning Association; and other individuals.

Speakers both in favor and opposed to the application generally attested to the need for more affordable housing in New York City. Many speakers referenced a housing crisis that makes it increasingly difficult for many New Yorkers to remain in the city and in their neighborhoods.

The Deputy Mayor for Housing and Economic Development and Commissioner of the Department of Housing Preservation and Development described how the proposal would help facilitate various aspects of the Mayor's Housing Plan. They noted that affordable housing developers, community organizations and urban policy experts have documented how outdated requirements in the Zoning Resolution hinder efforts to develop affordable housing and high-quality buildings, and described how various elements of the proposal would address these issues. They also noted how these updates would allow the city's public subsidies to go further and create more affordable housing. In addition, they described the City's various efforts to create and maintain affordable housing, including tenant protections.

Speakers in favor frequently referenced the city's affordable housing crisis and the great need to provide affordable housing for a range of New Yorkers. They often described the long wait lists and oversubscribed lotteries for new affordable housing in the city. These speakers noted the difficulties that current zoning regulations impose on residential buildings, in general, and affordable housing, in particular. They often described the proposal's various elements as thoughtful and sensible responses to these issues that would facilitate more affordable housing and better-quality residential buildings.

Approximately 20 speakers, representing developers of affordable housing and affordable senior housing, community development organizations, and technical service providers commented in

support of the proposal. These speakers noted the difficulties they face finding appropriate sites and obtaining necessary funding, and identified specific challenges caused by the current zoning regulations including onerous parking requirements, numerous building envelope constraints, and procedural requirements that extend project timelines. They noted how these zoning issues make it difficult to build new affordable housing in the city. These issues were described extensively and in detail, with speakers citing numerous examples of buildings that were made more expensive or less practical by current requirements, and tradeoffs that affordable housing providers were compelled to make.

Many of these speakers focused on the proposal's elements that would promote affordable senior housing and, by extension, help seniors remain in their communities. These included support for the new broader definitions, FAR framework and changes to unit density controls, but the greatest emphasis was placed on the proposed changes to parking regulations. Many speakers gave specific examples of empty parking spaces in their existing facilities. They noted how these parking lots could be better used as sites for new affordable housing or open space for residents, but that current parking regulations did not permit this. The Director of Public Policy for LiveOn NY stated that while there were long waiting lists for affordable senior housing, there were no wait lists for parking at these facilities. This speaker, along with the Executive Director of the West Side Federation for Senior and Supportive Housing, spoke about the urgency of connecting seniors to affordable housing, because those late in life simply do not have time to spend on waiting lists. In addition, a number of affordable senior housing residents spoke about how living in their residence had greatly improved their lives, and that more housing of this type was needed for other seniors. A senior citizen on the waiting list for an affordable unit also spoke about the importance to her of an affordable senior housing unit.

Numerous speakers gave testimony in support of the proposed changes to parking requirements for other forms of affordable housing as well. Many speakers noted the high costs of providing parking and the inability to recover the construction and operating costs through monthly fees. They also noted examples where parking pursuant to the current requirements was provided, but that the spaces were unused, with one developer stating that his company alone has spent several million dollars on unused parking spaces. The President of Dunn Development described a recent affordable housing building his firm built where each required parking space cost \$80,000 to build, and noted that these costs were covered by government subsidy, which in turn contributed to limiting the depth of affordability this project could achieve. Many speakers noted similar issues, and suggested it would be better to use public subsidies to provide affordable housing instead of underused parking, given the scale of the city's affordable housing crisis.

In addition, a number of these groups spoke in support of the proposed building envelope changes, stating that the modifications would make it easier to build affordable senior housing or participate in the Inclusionary Housing program. Many speakers described the difficulty they have experienced with fitting the permitted floor area for these uses into the current building envelope. The President and CEO of the Community Preservation Corporation noted that the modifications for buildings that participate in the Inclusionary Housing program would help improve the amount of affordable housing that would be generated in existing Inclusionary Housing Designated Areas with contextual zoning controls. The Director of the Catholic Community Relations Council

described how the allowance for accessory spaces on the ground floor in the rear yard area would enable them to provide more efficient buildings that accommodate the specific programmatic requirements of senior housing, such as cafeteria and community space.

Several representatives from the Citizens Housing Planning Council described their study of the issues faced by affordable housing that are caused by the current building envelope controls. They described how housing practitioners were compelled to design and develop residential buildings with fewer apartments than zoning permits because of the regulations in contextual districts, and noted that this was resulting in less housing and buildings of lesser quality. Their testimony described how various aspects of the proposal would address these issues and help address the city's affordable housing crisis.

Numerous affordable housing developers and neighborhood groups noted the importance of high-quality ground floors in neighborhoods and that the current regulations make them difficult to provide. The head of Miller Strategies described the difficulty caused by existing height limits when attempting to fit a community clinic on the ground floor in a new building he was developing. Many other speakers described the challenges in providing high-quality ground floor retail spaces under the existing regulations. The Policy Director of Local Initiatives Support Corporation described how the proposal would allow their members in city neighborhoods to construct buildings with "mom and pop" retail spaces.

The Executive Director of the Design Trust for Public Space noted that in their work they found a mismatch between zoning's permitted maximum building heights and what is needed to design both quality affordable housing units and quality ground-floor spaces. She noted the proposed allowances for taller ground floors would have a minimal impact on the overall scale of a building but could encourage significant investment in viable ground floor space that would be beneficial to neighborhoods throughout the city. The Principal and a senior architect from Marvel Architects presented materials on buildings they are designing in Brooklyn that demonstrated how current height limits were forcing them to place residential units on the ground floor on a commercial street because there was not enough permitted height to provide viable retail spaces. With the proposal, they demonstrated how these buildings could instead provide ground floor retail and community spaces that would better meet the surrounding neighborhood's needs and improve the streetscape of the building.

A number of other architects provided testimony about the difficulties they face in designing high-quality buildings under the current regulations and that the proposal's various changes to improve building quality would allow them to design buildings that were more in keeping with their surroundings. The President of AIA New York stated his organization's support for the proposal and noted these issues and opportunities. He also stated that height limits are not the only feature that defines the city's contextual areas. The Principal of Michael Kwartler and Associates described the history of the current contextual regulations and noted that the current envelope regulations are to some degree "shrink-wrapped." He believed the proposal offered much-needed changes that were long overdue. He noted how the proposal would make it easier to design buildings that were more in keeping with the city's great tradition of residential architecture.

A representative of the Real Estate Board of New York expressed their support for the proposal, stating that its changes would provide for more architecturally interesting buildings and improve the pedestrian experience. The speaker suggested that the additional height permitted for Inclusionary Housing should be permitted for buildings regardless of whether affordable housing is provided on- or off-site.

A series of land use attorneys and other practitioners, including former city officials, spoke in support of the proposal, saying it would solve some real and difficult problems that hamper affordable housing as well as other residential buildings. A land use attorney from Goldman Harris suggested that the applicability of the proposed Commission special permit allowing for parking modifications in large-scale developments be extended to other Commission special permits.

Speakers in opposition frequently raised concerns about how the proposal would affect their neighborhood and neighborhoods throughout the city. While many said that they supported affordable housing and quality buildings in principle, they were concerned about what the proposal would mean for area infrastructure, existing affordable housing, historic resources and general neighborhood character. They also noted their concerns with the process of undertaking a citywide text amendment to address these issues, instead of the neighborhood-by-neighborhood planning approach which had often occurred in many parts of the city over the past decade. This was often labelled a “one size fits all” approach. In general, the speakers reiterated many of the comments heard during the public review of the proposal.

The Borough Presidents from the Bronx, Manhattan and Queens spoke in opposition to the proposal, reiterating the comments from their individual recommendations. While they each raised different issues with respect to the proposal, they all noted concern that the proposal’s citywide applicability would affect previous planning efforts in their boroughs’ neighborhoods.

The Council Members from District 2 and District 5 both thanked the Department for changes it had made to its initial proposal regarding R7B and R8B zoning districts, but noted their remaining concerns with some of its other features. These included the changes to the “sliver law” and the distinction between wide and narrow streets in high-density contextual districts. They also raised concern with the minimum 30-year term required for affordable senior housing and expressed a desire for affordable senior housing to be permanently affordable.

The Assemblymember for District 66 voiced support for the proposal’s goals, but expressed a belief that the citywide approach would “invalidate” previous planning efforts in neighborhoods. She stated that the proposed height changes would affect historic districts since the Landmarks Preservation Commission cannot evaluate projects based on height. She also believed there was no need to allow additional building height since developers are already constructing their permitted FAR to build market-rate housing “by any means possible.” She also voiced concerns about the changes to the minimum unit size requirements because they would allow for the construction of smaller spaces that would still rent at high rates.

Members of Manhattan Community Board 7 reiterated concerns listed in their Board’s recommendation on the proposal. These included concerns about the changes for narrow streets in

high-density contextual districts, and to the “sliver law.” More broadly, they expressed concern about the proposal’s effects on the existing stock of affordable housing, and its citywide nature.

A number of speakers representing the Greenwich Village Society for Historic Preservation presented testimony in opposition to the proposal. This testimony was particularly focused on the proposed height changes. They believed the proposal would improve neither affordability nor the quality of buildings, but rather only allow them to be taller. Their testimony included an analysis of recent buildings from the Lower East Side/East Village area. They suggested that these buildings demonstrate that additional height was unnecessary because the existing contextual building envelope could fully accommodate the permitted FAR available through the Inclusionary Housing program.

Speakers from a number of other preservation advocacy groups also spoke in opposition to the proposal. The Director of Public Policy for the New York Landmarks Conservancy noted their concerns that the proposal would put pressure on the Landmarks Preservation Commission to approve out-of-scale additions and new construction in historic districts. She also stated that they did not see a need to modify the Quality Housing building regulations and that the proposed changes would not increase quality, but only allow for taller buildings. Lastly, these speakers suggested that new construction spurred on by the proposal would lead to the loss of affordable units in existing buildings.

Speakers from both the Municipal Arts Society and the New York Metro Chapter of the American Planning Association also spoke in opposition to the proposal. While they both expressed support for some of its changes, they also expressed concerns about the citywide approach to addressing them. MAS also raised concerns about the proposal’s effect in historic districts, the changes to the wide/narrow street distinction in high-density contextual districts, and the desire for affordable senior housing to remain permanently affordable.

A number of speakers from neighborhood organizations also voiced opposition to the proposal. Numerous speakers from the Riverdale area of the Bronx described concerns predominantly focused on the changes for long-term care facilities in low-density districts. They suggested that it is not appropriate for long-term care facilities to be permitted in R1 and R2 districts without a special permit requirement, no matter the size of the site. In addition, they raised concerns about how the other aspects of the proposal would affect their neighborhood. These concerns included the changes to parking, building height and rear yard regulations. In addition, a representative from the Auburndale Improvement Association stated their opposition to the proposal because of its effect on previous contextual rezonings. He also raised concerns about the changes to parking regulations for seniors, since most seniors in his neighborhood own cars and continue to drive. Other speakers, including representatives of Friends of Bushwick Inlet Park, testified about broader concerns associated with earlier and 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 15-018. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program and that the action will not hinder the achievement of any WRP policy.

CONSIDERATION

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

The goals of the Department's proposal are to support the creation of new affordable housing and senior care facilities, help deploy public resources devoted to affordable housing more efficiently, and to encourage better residential buildings that are more in keeping with their surroundings and which help enliven the pedestrian environment. The Commission agrees these are laudable goals and notes that even many of those who have raised concerns about various aspects of the proposal were supportive of its overall intent. The proposal does this by offering numerous changes to regulations in the Zoning Resolution – many of which are more than 30 years old and are a reflection of a different time – so as to better address the city's current housing needs and existing built context.

The Commission notes that the proposal contains many elements, technical complexities, and varied applicability throughout the city. The Department created individual community district profiles to describe its applicability to each neighborhood, and Department staff participated in more than 100 community meetings over the last year to discuss the proposal's objectives, details and effects. It is also the first time in more than a decade that the Department has proposed a citywide text amendment that addresses such complex and varied elements on this scale. Given

that the various issues the proposal seeks to address (such as the shortcomings of the Quality Housing building envelope, the provision of affordable senior housing and long-term care facilities, and the role of parking mandates for affordable housing in the city's zoning framework) are all of citywide concern and don't affect just one neighborhood or borough, the Commission agrees that this approach, albeit one that involves technical complexity, is appropriate in this instance.

The text amendment (hereinafter called the "proposal") is also one component of a comprehensive administration effort to address the city's affordable housing crisis. Other elements include major additional capital funding for affordable housing and infrastructure, changes in tax policy, neighborhood planning efforts, housing preservation, tenant assistance efforts, and new programs such as the Mandatory Inclusionary Housing program (N 160051 ZRY) that the Commission is concurrently reviewing. The Commission notes that while the proposal supports this larger overall effort by addressing issues that can facilitate the development of affordable housing and affordable senior housing, help deploy public resources devoted to affordable housing more efficiently, improve the quality of new housing (including affordable housing), enhance neighborhoods and address anachronistic provisions in the Zoning Resolution, the public review process drew comments on other aspects of the housing plan as well.

Perhaps because of its unusual citywide scope, the proposal has generated a great deal of public comment as expressed in the many recommendations received during the public referral, in press reports about the proposal, testimony during the public hearing, and written comments received both before and after the public hearing. While the Commission agrees that the proposal includes complicated topics (as described below), the Commission has seen a vast amount of misinformation about what the proposal actually contains and what its effects would be. For example, the Commission heard various testimony wrongly describing the proposal as a massive upzoning, a give-away to developers; and that it would end contextual zoning, destroy neighborhood protections, take away cars from senior citizens and open space from communities.

These hyperbolic statements and others like them during the public review process have unfortunately confused much of the public conversation about the proposal, and too often obscured substantive discussion of the issues the Department's proposal attempts to address.

In its review of the proposal, the Commission finds that the proposal includes two types of elements. Much of the proposal consists of modifications to address long-standing technical issues that have made it more difficult to provide affordable housing or high-quality buildings. These include elements such as new zoning definitions and adjustments to the building envelope controls. These are sensible changes that have generated little public debate. On these issues, the limited public comment has generally been favorable.

The proposal also includes some elements that generated vocal concern during the public review process. While these included a range of issues, concerns were particularly focused on the proposed changes to parking requirements and building height. However, it was these same elements that also garnered the most support from housing advocates, affordable housing providers, tenants and architects. As evidenced by testimony at the public hearing, there are clearly issues with the current regulations that should be addressed.

The Commission recognizes that in some circumstances trade-offs are necessary. During an era when the city is facing an acute housing crisis, some current regulations are limiting the ability of potential developments from providing all the affordable and affordable senior housing anticipated. To enable this anticipated affordable housing to be built, a modest relaxation of height limits in limited circumstances may be appropriate. To make it cost effective to build affordable and affordable senior housing, it may be appropriate to allow unnecessary and frequently unutilized structured parking to be optional, even where concerns exist about competition for existing on-street parking. The question before the Commission is to judiciously evaluate such trade-offs. The Commission will therefore focus much of its consideration on these key issues, weighing the need for the proposed changes in relation to the issues raised during the public review process.

The Commission considers the proposal in the context of a critical shortage of housing in New York City affordable at a wide range of income levels, as discussed in the Mayor's *Housing New York* plan. The Commission notes, in the public response to the proposal, a broad desire that the city's crisis of housing affordability be addressed, but a limited appetite for confronting the kinds of trade-offs the Commission finds evident. Indeed, the Commission notes that numerous commenters during public review expressed support for affordable housing in the abstract, but opposition to the specific changes that would make affordable housing easier and more practical to construct. The city's population is at an all-time high and is projected to grow rapidly toward nine million by 2040. Our senior population is expected to grow even faster: by about 40 percent over the next quarter century. The administration has set ambitious goals for the creation of new affordable as well as market-rate housing to keep pace with population growth while increasing housing choices and loosening up the city's tight housing market. The proposed changes, in combination with other housing initiatives, represent an important step toward achievement of these goals.

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

On balance, the Commission finds the Department's proposal to be appropriate, as modified herein and described more fully in the following sections. The proposal includes limited and targeted changes that the Commission believes will make it easier to build affordable housing and various

types of senior facilities, allow the City to deploy taxpayer dollars more efficiently, and construct better residential buildings, while effectively balancing the required trade-offs.

Changes for Affordability

The proposal includes a number of changes intended to make zoning work better to create more affordable housing for a wider range of New Yorkers. These changes are meant to make it easier to provide affordable senior housing and care facilities, as well as affordable housing through the Inclusionary Housing Program, and to free up resources to create more affordable housing through modifications to parking requirements. The Commission agrees that these goals are laudable and necessary. The Commission acknowledges that well-considered changes that remove zoning impediments to addressing the city's affordable housing needs can provide critical support to make other housing initiatives more effective.

Affordable Senior Housing

The Commission acknowledges the great need for affordable senior housing. With longevity increasing and the senior population projected to rise by 40 percent over the next quarter century, this need will grow. The Commission heard testimony from providers of this type of senior housing, mainly non-profit entities, who described the difficulties they face in creating more affordable housing for seniors, including the loss of traditional federal funding and scarcity of adequately sized, but affordable development sites. In addition to these issues, current zoning regulations also present a further obstacle. Regulations for this use haven't been updated in over 40 years and unnecessarily limit the creation of modern facilities in line with current best practices. The proposal includes a number of changes to the zoning requirements for this use intended to make it easier to construct and maintain these facilities and, most importantly, help seniors remain in their communities. These include changes to the zoning definition, permitted FAR, and unit density controls. The Commission believes these changes are appropriate.

The proposal would create a new zoning definition for "affordable independent residences for seniors," to replace the current "non-profit residence for the elderly." This broader term would allow a wider range of entities to provide this use. The current age restrictions and requirements

for common space in the building (for cafeterias, community rooms, etc.) would be maintained, and a new affordability requirement would be introduced. In addition, the proposal would require a regulatory agreement with a public agency for a minimum term of 30 years, which is intended to be consistent with the minimum financing terms for affordable senior housing administered through agencies like Housing Preservation and Development (HPD). The Commission also notes that the current zoning does not specify a minimum term of affordability at all. This Commission believes this proposed definition is appropriate and better reflects how affordable housing for seniors is provided today.

In addition, the proposal would address some of the FAR inconsistencies that currently exist for affordable senior housing. While the use today (as a “non-profit residence for the elderly”) is typically permitted a higher FAR compared to other residences in most low- and medium-density zoning districts, this benefit is not extended to high-density zoning districts (R8 districts and above). In other medium density zoning districts (R6B, R7D, R7X), an FAR is allotted, but is less than the FAR permitted under the Inclusionary Housing program. The Commission believes it is appropriate to consistently grant this use a higher FAR, so as to promote the use, and to recognize its low-impact nature as compared to other residences. The new floor area ratio in these zoning districts would generally be 20 percent higher than what is permitted for other residential uses and is consistent with the FAR permitted through the Inclusionary Housing program.

The Commission has heard a great deal of concern that the additional floor area permitted for affordable senior housing could be converted to market-rate residential use after the minimum 30-year term of the regulatory agreement is finished. The Commission understands concerns about the long-term affordability of housing, particularly for seniors, but notes that, as proposed, this additional floor area could never be converted to market-rate housing. A core concept of the Zoning Resolution is that different uses are often permitted different maximum FARs, depending on the zoning district. For example, in an R7A district with a C1 overlay, residential uses are permitted up to 4.0 FAR, while commercial uses are restricted to 1.0 FAR. A building constructed to the full residential FAR could not be converted entirely to commercial uses, because this would create a non-compliance with the zoning regulations. The maximum FAR of 1.0 FAR for

commercial uses would still apply. This same prohibition exists for residential uses today in districts with higher FAR permitted for affordable senior housing. In other words, the proposed regulations would be no more permissive for non-affordable senior housing in the future than they are at the time the building is constructed.

Some suggested that the provision should allow affordable senior housing to be converted to other types of affordable housing if the initial 30-year regulatory period is not renewed or extended. The Commission notes that other forms of affordable housing are considered residences and are not permitted the higher FAR granted to affordable senior housing. As with market-rate housing, other forms of affordable housing cannot utilize this additional floor area. Such a change would be beyond the scope of the proposal.

The proposal would not subject “affordable independent residences for seniors” to a dwelling unit factor, which determines the average minimum unit size in a given building. Today’s regulations for “non-profit residences for the elderly” assign dwelling unit factors which often, but not consistently, allow a lower average minimum unit size that is meant to reflect the unique needs of their residents. However, these sizes have become inconsistent with current best practices and even conflict with standard requirements set forth by different regulating agencies, such as HPD. The dwelling unit factor also imposes an artificial limit on the ability to construct the full floor area allowed for affordable senior housing, because such buildings are typically comprised exclusively of smaller (e.g., studio and one-bedroom) units. To address this, the proposal would allow other regulations like the Building Code, the Housing Maintenance Code, the Multiple Dwelling Law, HPD regulations and the programmatic needs of these facilities to determine the appropriate average minimum unit size. The Commission agrees that this change would allow for a greater amount of more appropriately sized units for seniors, which are offset by the availability of required common spaces. Some Community Boards were concerned that this change might create a low-quality housing option for senior residents, but the Commission is satisfied that these facilities are heavily regulated and monitored today, and that new facilities would be subject to these requirements.

Long-Term Care Facilities

The Commission notes that not only is the population of seniors increasing in the city, but they are living longer and requiring a greater variety of services and care. The proposal addresses a range of facilities geared toward seniors: long-term care facilities. These include a range of uses that provide services to their residents including assisted-living facilities, nursing homes and certain continuing care retirement communities. The Commission notes the great unmet demand for these facilities today and understands that current zoning regulations, in place since the 1970s, are in part to blame. These include definitions that reference outdated state programs, FAR limits below what is permitted for affordable senior housing, other community facilities, and even the residential FAR in some instances, as well as additional layers of land use review that make it difficult to modify existing facilities or provide new ones. The proposal includes a number of changes intended to help promote these uses. The Commission believes these are appropriate, as modified herein.

The new proposed definition for “long-term care facilities” would appropriately encompass a wider range of these uses and account for assisted living facilities and continuing care retirement communities, which are not clearly categorized in zoning today. For example, continuing care retirement communities are an increasingly popular form of senior housing/care nationwide, none have been constructed in the city, and current zoning does not provide a framework for the use. In addition, the Commission agrees that the outdated concentration requirements for nursing homes put in place in the 1970s should be removed. The Commission notes that the State Department of Health has developed a certificate of need process that limits nursing home construction in all communities and makes the city’s process duplicative, creating an unnecessary obstacle to renovating or building this use. Instead, the proposal would permit all long-term care facilities as-of-right in R3 through R10 districts, and require a discretionary action for these uses in R1 and R2 districts.

The Commission heard a great deal of testimony, particularly from the Riverdale area of the Bronx, about what would be the appropriate discretionary action in these low-density, single-family

zoning districts. The initial proposal drew a distinction between large campus sites over 10 acres where a buffer area would be provided, and other smaller sites. For large sites, a City Planning Commission authorization would be required, whereas smaller sites would require a Commission special permit. These zoning districts include a variety of conditions, from single family homes to large campuses and estates. While this approach was intended to be consistent with existing standards and provisions in the Zoning Resolution that recognize a distinction for sites over 10 acres, the Commission recognizes the desire expressed by such communities for a full ULURP review of all such proposals. Therefore, the Commission is simplifying the proposal so that all long-term care facilities in R1 and R2 districts would only be permitted by a City Planning Commission special permit.

In addition, the Commission heard testimony during the public review process, particularly from a number of Brooklyn Community Boards and the Borough Board, suggesting that long-term care facilities should not be permitted as-of-right in R3 through R5 contextual districts. The Commission notes that nursing homes are already permitted as-of-right today in 41 Community Districts, many of which include lower-density contextual districts, because the number of nursing home beds currently existing in these community districts does not exceed the threshold above which a special permit would be required. This is particularly true in Brooklyn, where very few low-density contextual areas are currently subject to the special permit requirement. More broadly, as described above, these facilities are heavily regulated by the State today and concern about rampant overproduction and overconcentration is not justified by recent experience. These contextual districts have been mapped on blocks that are predominantly made up of single- and two-family homes, where small lots typically are not conducive to the needs of care facilities, which require larger sites. However, the Commission notes that there are some larger sites that fall within these districts, and that long-term care facilities could continue to be an appropriate land use for these areas, just like all other community facilities that are currently permitted there. Therefore, the Commission does not believe a special permit requirement for such facilities is warranted.

Finally, the proposal would adjust the permitted FAR available for long-term care facilities to bring it in line with what would be permitted for affordable senior housing (as described above). The Commission notes that current regulations restrict the as-of-right FAR for nursing homes to a number similar (but sometimes less than) the residential FAR for the same zoning district, and that a special permit is required to utilize the higher FAR allowed for other community facilities in non-contextual districts. In the more than 40 years this permit has been in existence, the Commission has never turned down an application, but the provision adds costs, time and uncertainty that make it more difficult to develop or maintain these facilities. Moreover, the restriction on FAR for this use is inconsistent with the need for these facilities, the large amount of space needed for support spaces (like clinical services and common areas) in such facilities, and the limited impact such uses have upon their neighborhoods. The Commission believes it is appropriate to address this by allowing long-term care facilities the higher FAR permitted for “affordable independent residences for seniors” in various R3 through R10 districts as-of-right. The current FAR would continue to apply in low-density districts limited to single- and two-family homes where affordable independent residences for seniors are not allowed. The higher FAR available to other community facilities uses would only be permitted by special permit.

Mixing of Residences and Care Facilities

The Commission notes that contemporary facilities for seniors often look to provide a mix of uses on the same site so as to allow residents a “spectrum of care”. This allows seniors to remain in their neighborhoods as they age and require additional care. However, existing zoning regulations for these uses were not designed with this idea in mind and often make such mixed-use facilities difficult to build. In addition to the changes to FAR regulations described above and to building envelope requirements described further below, the proposal includes a series of changes to make it easier to mix these uses together, as well as with other residential and related community facility uses. These changes generated little concern during the public review process and the Commission believes they are appropriate. These changes include clarifications to the applicability of the Quality Housing program and other floor area calculations, removing restrictions on mixing these uses in some medium-density zoning districts, as well as restrictions that unintentionally limit these uses from being on the same floor in some Special Districts. These various technical changes

would make it easier to provide facilities in line with today’s best practices for senior facilities. While the Commission heard some testimony that suggested it may not be appropriate in all conditions to mix these uses in a single facility, the Commission notes that these changes only provide the flexibility to do so whereas the current regulations make it quite difficult. These changes do not require such mixing, nor do they favor models that do so.

Buildings Envelope Changes for Affordable Housing (R6 through R10)

In order to accommodate the higher permitted floor area in a high-quality building form, the proposal includes special building envelope controls for affordable senior housing and long-term care facilities in many medium- and high-density zoning districts (R6 through R10 districts). To utilize the higher permitted FARs described above, the proposal requires both uses to be constructed within the contextual building envelope, except in non-contextual districts near transportation infrastructure, such as elevated rail lines or highways. The contextual building envelope for these uses would be modified in a few ways. First, these uses would be permitted a higher maximum building height and number of stories. Generally the increase would be one to two additional stories, but in some of the highest-density districts in central areas of Manhattan, the increase would be three to four additional stories. Maximum base heights would also be increased to maintain the overall proportionality between the building base and overall building. In addition, one story of accessory uses (such as recreational, laundry, trash, or administrative spaces) would be permitted in the rear yard area to allow for more efficient buildings, except where the building was located in “B” suffix zoning districts (so as to preserve the open areas in the interior block spaces that are integral to these districts). Finally, narrow buildings (less than 45 feet wide) containing these uses in R7-2 and higher zoning districts could build to the height permitted by the zoning district and not be subject to the “sliver law” provided that the contextual envelope was utilized.

Similar constraints exist for buildings being constructed under the Inclusionary Housing program. A higher floor area is permitted for the provision of affordable housing, but the contextual building envelope in R6 through R10 districts does not currently provide the flexibility to fully achieve the potential intended by this provision. The proposal would address this by allowing buildings that

provide on-site affordable housing through the program to utilize the more flexible contextual building envelope permitted for affordable senior housing and long-term care facilities, including the higher maximum height and stories, the allowance for accessory ground floor uses for one story in rear yard spaces, and the special provisions for narrow buildings.

The Commission believes that these proposed building envelope modifications are appropriate, as modified herein. Buildings with these uses should be permitted greater flexibility to accommodate their higher permitted FAR and associated programmatic elements in a high-quality building form. The limited changes in the proposal would make it more likely that these forms of affordable housing and care facilities could be constructed, which would help ease the city's ongoing housing crisis. The Commission fully acknowledges the sensitivities in many neighborhoods regarding height and rear yard utilization. Buildings with these uses would be somewhat taller and they would also be able to construct new uses in the rear yard area. On balance though, the Commission believes that balancing the equities between the need for quality affordable housing make these trade-offs necessary and generally appropriate, with certain modifications set forth below.

The Commission appreciates that these elements of the text amendment have generated some of the deepest concerns about the entire proposal. In its review of the proposed amendment, the Commission has spent a great deal of time considering these claims, listening to the testimony at the Public Hearing and reading the written submissions. The Commission has found some significant misunderstanding of the nature and ultimate effect of the proposal, to some extent based on inaccurate representations of it. As such, the Commission believes it necessary to address the misunderstandings before reviewing the individual elements of the proposed envelope changes. These views can generally be grouped into two categories: First, claims that the proposal will not have benefits or address the issues it seeks to address, namely that the additional height would not improve quality or affordability; and second, claims that it will have effects that are unintended or undesirable.

Claims that the proposal would not improve quality or affordability

The Commission heard numerous claims that the proposed modifications would not produce benefits for either the quality of buildings or help the building envelope accommodate a greater amount of affordable housing. Testimony by the Greenwich Village Society for Historic Preservation and others suggested that the current regulations are sufficient to produce quality buildings and that current height limits are not a significant deterrent to the creation of affordable housing. Testimony included specific building examples from the East Village/ Lower East Side area that utilized the Inclusionary Housing program. The testimony suggested that each building did not fill out the entire building envelope but still provided all permitted FAR and quality ground floor space. However, in its review of these buildings, the Commission found that all the buildings did reach the maximum heights permitted and, more importantly, two of the three did not build all their permitted FAR. This meant the Inclusionary Housing program wasn't being used to its full extent on these sites – and fewer permanently affordable housing units were created because of the building envelope. In addition, these buildings and others from the area that the Commission reviewed all exhibited low ground floor ceiling heights as compared to adjacent older buildings and displayed other compromises in building quality, including low floor-to-floor heights and lack of building articulation.

Other examples in the testimony included buildings that did not utilize the Inclusionary Housing program at all, even though they were within an Inclusionary Housing Designated Area. These buildings were generally built below the permitted height limits and this was suggested as another reason the additional height included in the proposal was unnecessary. However, the Commission notes that buildings in Inclusionary Housing Designated Areas which do not provide Inclusionary Housing are permitted a lower FAR than the same zoning district outside an Inclusionary Housing Designated Area. In an R7A district outside an Inclusionary Housing Designated Area, for example, the FAR is 4.0, whereas inside an Inclusionary Housing a building that does not provide affordable housing is limited to 3.45 FAR. The Commission notes that it is not surprising that these buildings are built below the permitted height limits since the building envelope needs to accommodate less FAR because it is not providing affordable housing. This is not the intent of the

Inclusionary Housing program, which is to encourage the production of permanently-affordable housing.

In essence, these examples were of two types: buildings that did not even attempt to use the Inclusionary Housing program, and thus provided no permanently-affordable housing, and buildings that attempted to use the program but had great difficulty fitting the full permitted affordable floor area into the envelope and thus had to sacrifice design quality. The Commission believes these examples demonstrate the underlying issues, and the clear need for the proposal. By providing a modest amount of additional height – targeted to address specific issues – the proposal can address the predicament affecting buildings today trying to provide both quality and affordability.

The Commission saw similar results more broadly when the Department undertook its analysis of the building envelope in all the contextual zoning districts: buildings with standard FAR in all zoning districts could generally fit the permitted floor area on a typical site but often could not do it in a “best practices” building with interior spaces and layouts that meet today’s standards, with good exterior design and street presence. Builders often had to sacrifice one or more traditional features such as design articulation, higher ground floors, or typical units, to make the building envelope work. The impact was particularly acute at street level where substandard ground-floor retail spaces or residential units at ground level were being constructed. The maximum permitted building height was the predominant impediment to achieving a ground floor design that could not only encourage neighborhood retail development or protect the privacy of street level residential tenants, but could also enliven the street environment and contribute to a better neighborhood. As described below, the proposal addresses this by allowing a slightly higher maximum height when buildings have a higher ground floor.

When the Department analyzed how the current building envelope related to higher permitted FAR for Inclusionary Housing or affordable senior housing it found a more challenging problem. It was not only impossible to build a “best practices” residential building, but even buildings making numerous compromises (including low ground floors, lack of articulation and maximized lot

coverage) had difficulty fitting the greater floor area permitted for these uses. These issues were similarly demonstrated by the buildings cited in the testimony opposing the proposed text amendment. They were also noted by numerous design practitioners and affordable housing providers at the public hearing, who supported the proposal. Increasing the maximum building height is the mechanism needed to address this problem, and so the proposal would permit higher maximum heights for buildings that provide Inclusionary Housing, affordable senior housing or long-term care facilities. This increase in allowable height is specific to each zoning district and intended to provide only enough flexibility to construct a “best practice” building and accommodate the requirements of Inclusionary Housing, affordable senior housing or long-term care facilities at the full permitted floor area. Therefore, the Commission believes that the proposal would effectively address issues of quality and affordability as well as better facilitate the affordable housing goals of past rezonings.

Claims that the proposal would have unintended or undesirable effects

The Commission also received oral and written testimony that the proposal would have effects that are unintended or undesirable. These included effects on existing buildings, infrastructure, historic districts and building practices in the city. The Commission will address each of these below.

One claim was that the proposal’s additional permitted height would encourage the teardowns of existing buildings. However, the Commission does not believe the proposal would increase market pressure for redevelopment, primarily because the proposal does not include any additional market rate development rights. Lots will have the same permitted FAR they have today with or without the proposal.

The economic calculus to replace an existing building on a site does not change because of this proposal. While the Commission acknowledges that there may be some marginal effect on the economics of building caused by the additional permitted height, it would not be sufficient to induce development. While the proposal would increase the floor area permitted for affordable senior housing in certain districts, this type of housing typically requires significant subsidy and is not financially lucrative enough to encourage an existing building to be torn down. The

Commission notes that the Department's analysis demonstrated that fitting the permitted market-rate floor area into the existing building envelope usually can be accomplished, albeit through a sacrifice in quality building design. The more significant problem is accommodating the permitted Inclusionary Housing and affordable senior housing floor area ratios.

With respect to infrastructure, the Commission heard concerns as to whether the City's infrastructure was sufficient to support increased densities. As described above, the Commission notes that the total amount of market-rate floor area is unchanged by the proposal. In contextual areas, including those that permit higher FARs through the Inclusionary Housing Program, the projected development effects on infrastructure have already been through previous neighborhood-specific rezonings, and each anticipated a full utilization of permitted development rights, including the affordable housing expected by the Inclusionary Housing program, on development sites. Changing the height of a building to better accommodate permitted floor area, or a better ground floor would not change current permitted densities or its impact on area infrastructure. As evidenced by some of the testimony in support of the proposal at the public hearing, these changes would instead provide better opportunities for needed area services like retail and community facility use. In regard to the density increases permitted for affordable senior housing and long-term care facilities, the Commission notes the testimony from residents and providers of these uses which described the contribution they make to livable neighborhoods and their role as necessary community infrastructure. In addition, these facilities do not contribute to demand for school seats, peak-hour commuting capacity or other major infrastructure demands to the extent (if at all) that non-senior residences do.

With respect to historic districts and landmark buildings, the Commission heard concerns that the proposal would generate significant amounts of new work for the Landmarks Preservation Commission (LPC) and that the agency may not have the necessary resources to handle this workload. It also heard that the proposal's changes to permitted heights in various contextual zoning districts would make it more difficult for LPC to regulate development in historic districts. The Commission does not agree and notes it is in receipt of a letter from the Chair of LPC, dated January 25, 2016, addressing these issues. The Chair noted in her letter that the environmental

review of the proposal found it would not result in additional development where it would not have otherwise occurred and therefore stated that the agency anticipated it had adequate resources to review any future projects brought before it.

In addition, her letter noted that all applications for a new building or addition – both now and in the future – requires LPC to consider the appropriateness of the proposed height in relation to itself (for an addition), adjacent buildings and the historic district context, and that the decision is not based on the zoning envelope. It also noted that the LPC has approved many applications where the proposed building or enlargement does not maximize the allowable envelope, if the surrounding context does not permit it, and that the Department’s proposal would not change the standards by which the LPC reviews such proposals.

Lastly, the Commission heard concerns that the proposal would promote new forms of construction like modular and block and plank over other more traditional forms. The Commission notes this is not the proposal’s intent. Instead, the proposal seeks to accommodate all of these building techniques without preference toward any of them. It would accomplish this by allowing sufficient room to fit all of the permitted floor area in a building using any one of these techniques. In addition, the Commission notes that buildings are already being constructed using these newer methods in the city and that their building envelope issues are similar to those using traditional construction techniques – they exhibit particular difficulty providing a high-quality ground floor as well as the additional floor area permitted for Inclusionary Housing, affordable senior housing or long-term care facilities.

Recent Rezonings

The Commission also heard testimony that the proposed height changes would erode earlier planning efforts in neighborhoods. The Commission is sympathetic to these concerns, especially in light of the close working relationship the Department and the Commission have with communities throughout the city on neighborhood planning endeavors, frequently resulting in zoning frameworks that are responsive to specific local conditions.

In medium- and high-density areas, most recent rezoning efforts typically had two core goals – establishing contextual districts with height limits and creating Inclusionary Housing designated areas that would produce permanently affordable housing as new development occurred over time through the rezoning area. The desire for contextual height limits was being driven by much taller buildings permitted by the older “height factor” zoning regulations. On the Upper West Side, it was in reaction to the 30+ story Ariel towers. In the East Village/Lower East Side, it was the 20+ story buildings on narrow streets like Rivington Street. In Fort Greene/Clinton Hill, it was a number of proposed or constructed tower developments that were considered out-of-scale with the neighborhood.

Within these contextual rezonings, however, there was also a clear desire to see affordable housing created through the Inclusionary Housing program. In specific parts of these neighborhoods, higher densities were permitted through the program – with an understanding that affordable housing would get built under the program. The Commission notes that in the Lower East Side/East Village area, the community requested the Department modify its original proposal and create wider applicability of the program.

What was not anticipated or intended was that these two goals - both important to neighborhoods - would result in some tension between them. The height limits established as part of the contextual districts did not always permit the full use of the Inclusionary Housing program and, in some respects, actually discouraged its use at all. And now, years after these rezonings were approved, this tension is apparent in locations throughout the city where the Inclusionary Housing program was incorporated in conjunction with contextual height limits, but has not been effectively utilized due to those height limits. The proposal’s targeted changes are not intended to prioritize one goal over the other, but are meant to ensure that both goals can be accomplished.

While several historic preservation organizations testified that development under current regulations did not discourage participation in the Inclusionary Housing program, the Department’s examination of recently permitted and constructed buildings did find extensive evidence that current contextual regulations are impeding affordable housing. The Commission

notes that under the existing Inclusionary Housing program, the areas that have seen the greatest production of permanently affordable housing are the ones that do not have contextual height limits, but instead allow buildings to be taller in order to fit the additional permitted floor area. In addition, in its review of buildings built in Inclusionary Housing Designed Areas under the existing contextual regulations, the Department found that many projects were built to their height limits, without being able to accommodate their full-permitted FAR. This has resulted in fewer permanently affordable housing units than was expected at the time of these rezonings. While some builders participated only partially in the Inclusionary Housing program, others opted out entirely. In the East Village/Lower East Side alone, the Department found numerous examples of buildings that were projected to utilize the Inclusionary Housing program when the rezoning was undertaken (as identified in its FEIS), but didn't do so. In neighborhoods such as this one, less floor area and, critically, less affordable housing is being built than was originally expected.

Finally, the Commission heard testimony that suggests the more flexible envelope for affordable housing should only be available as an option for future rezonings. While the Commission greatly appreciates the value of neighborhood-specific planning, it does not agree that all changes to zoning should occur on a localized basis only. Planning takes place on a variety of scales: the individual block, the neighborhood, and the city as a whole. As described above, the problems exist in previously rezoned areas today throughout the city. Attempting to address these issues on a neighborhood-by-neighborhood basis would be impractical and time-consuming, leaving the existing challenges to creating affordable housing in place for years to come. Moreover, the Commission believes the goals of previous planning efforts included not only height limits, but also included creating affordable housing and well-designed buildings that contribute to the quality of their neighborhoods. Zoning changes with broad applicability can be made in a thoughtful manner, and the proposal would continue to promote the multiple goals of these previous planning efforts.

Specific elements of the proposal

The Commission believes that the proposed building envelopes in medium- and high-density districts for affordable senior housing, long-term care facilities and buildings utilizing the

Inclusionary Housing program, are appropriate. However, there are individual elements of the proposal that require additional consideration. These include the height changes in R9 and R10 districts, the allowance for a one-story rear yard obstruction, changes for narrow buildings, as well as to the applicability thresholds for the new envelope. These are addressed separately below.

The Commission notes that R9A, R9X and R10A districts have some of the tightest zoning envelopes among contextual districts. In most contextual districts, the FAR and height regulations are the same irrespective of whether a building is located on a wide street or a narrow street. In the highest-density contextual districts, however, this is different: although greater height is allowed on wide than on narrow streets, the same FAR is permitted for both. As a result, the building envelope is tighter on narrow streets than on wide ones. This is particularly an issue for the higher floor area permitted for affordable senior housing, long-term care facilities and through the Inclusionary Housing program. The proposal tries to address these issues by allowing both wide and narrow street versions of these zoning districts the same maximum heights when the building includes these uses.

While this change would make it possible to fit the permitted floor area in a high-quality building, concerns have been raised about eliminating the wide/narrow street distinction that exists today. These districts are almost exclusively mapped in Manhattan and predominantly on its wide streets. The few narrow street portions fall into two categories. First, there are limited instances where the mappings on wide streets extend beyond 100 feet of the avenue and are meant to reflect the character of larger existing buildings. This condition exists on the Upper West Side and portions of the Upper East Side and can provide a height transition to the deeper portions of the block (which are typically lower density). Second, more significant narrow street R10A mappings exist in high-density areas around Midtown where typically even higher densities or towers are permitted on their adjacent wide streets. Special zoning regulations for narrow streets in M1-6D and Hudson Square areas already allow the height limits for wide streets through the use of the Inclusionary Housing program and also permit higher maximum height on their wide streets.

While there may be limited applicability of the typical wide/narrow street distinction, the Commission recognizes there is a trade-off here. The Commission believes it is important to maintain a wide/narrow street distinction in these zoning districts, and therefore is modifying the maximum proposed height for building that provide Inclusionary Housing, affordable senior housing or long-term care facilities on narrow streets in R9A districts from 175 to 165 feet, in R9X districts from 205 to 195 feet, and in R10A districts from 235 to 215 feet. The Commission recognizes that adjusting the height limits here will result in a somewhat less flexible building envelope with less opportunity for design articulation, but believes that the modification would maintain the wide/narrow street distinction, while enabling the full amount of permitted affordable housing to be provided in these districts.

The Commission also notes that the allowance for one story of accessory space in the rear yard area matches the flexibility already afforded for parking, commercial uses and community facilities on wide streets. Certain types of community facilities (schools, houses of worship, hospitals, colleges and universities) also have this allowance on narrow streets. The proposal prohibits dwelling units from being located in these spaces, and also prohibits these spaces altogether in “B” suffix zoning districts, recognizing the unique character of these districts which frequently have preserved open space in the interior of the block. The Commission heard testimony that this provision would be beneficial, particularly to affordable senior housing and care facilities, which have a great deal of shared space requirements. Allowing these spaces at ground level, rather than in the cellar or upper floors, would provide a more convenient and efficient building layout, and a higher quality space for residents.

However, the Commission also heard concerns that this provision would take away green space and damage the “doughnut” form of traditional residential blocks, with adjoining private interior open spaces providing light and air to all. The Commission notes that this flexibility would be afforded to a very limited subset of buildings, and that many other uses can already build on the ground floor in the rear yard area. However, the Commission acknowledges that there is a trade-off between benefitting senior and other types of affordable housing, and increasing the number of additional elements that could be constructed in the rear yard area in some instances. Therefore,

the Commission is modifying the proposal to limit the conditions under which such an encroachment would be allowed. This modification would allow only senior housing or long-term care facilities, not buildings providing Inclusionary Housing, to build the one-story space in the rear yard area on narrow streets in residence districts. This change would better match the flexibility already afforded in commercial districts and to community facilities on wide streets, but maintain this flexibility on narrow residential streets for affordable senior housing and long-term care facilities – which have the greatest requirements for shared and other ancillary spaces. Lastly, the Commission notes that the original proposal restricted the use of this rear yard space to “accessory residential uses” to prohibit dwelling units, but heard testimony that it was unclear how this would be interpreted for long-term care facilities, which under the proposal are a community facility use but assigned the affordable senior housing zoning envelope. To clarify, the Commission is modifying the text to make clear that long-term care facilities can utilize this allowance for purposes other than for sleeping quarters.

The Commission notes that in R7-2 and higher districts, narrow buildings are restricted to lower heights regardless of their zoning district through what is colloquially called the “sliver law”. The maximum heights for these buildings are generally restricted to the width of the abutting street. This regulation predates contextual zoning and was a response to a series of tall, narrow buildings constructed in Manhattan in the early 1980s. Once contextual districts were mapped, the “sliver law” represented a second, more restrictive height limitation for buildings less than 45 feet wide.

The proposal recognizes the potential for these limits to impede the creation of affordable senior housing, long-term care facilities, or inclusionary housing since the amount of floor area that can be constructed is limited not by the maximum permitted FAR or the contextual building envelope, but rather by this additional zoning provision. The proposal would therefore remove this limit only in instances when these uses were provided, in which case the buildings could be developed to the maximum height permitted by the contextual building envelope already available in that zoning district. Taking an example of a 40 foot-wide building in a R8A district on a wide street, with the “sliver law” restriction, it could be built only to the width of the abutting street – generally 100 feet. This would not allow the full floor area allowed for any of these uses. Under the proposal,

the building would be permitted to go to the proposed maximum height of 145 feet – just like a slightly wider, 50 foot-wide building could.

The Commission heard testimony that this change would end the “sliver law”. As described above, this is not accurate. While it does create exceptions for affordable housing, in all other instances the regulations for narrow buildings would be maintained. The Commission heard testimony that affordable senior housing could benefit by this limited modification to the “sliver law,” since sponsors have difficulty finding sites for their facilities. This change could also offer this use an advantage over other forms of housing and make some additional sites available. The Commission acknowledges the importance and value of the “sliver law,” but also notes that this modification would afford more opportunities to create affordable housing, and therefore approves this amendment.

The proposal also includes provisions that describe when the modified building envelope becomes available for these uses. For affordable senior housing and long-term care facilities, the proposal requires that at least 20 percent of the floor area of the zoning lot contain these uses. The Commission heard some testimony that this percentage was too low and should be increased. However, the Commission believes that this minimum requirement is appropriate. These uses are generally permitted a maximum FAR that is 20 percent higher than other residential uses, and so the more flexible envelope would only become available when needed. However, for the Inclusionary Housing program the proposal, as drafted, allowed buildings that provided affordable housing pursuant to the program to utilize the modified building envelope. This was intended to ensure the affordable housing had to be included on site, and could not be developed at an off-site location. The Commission believes this is appropriate and may offer some incentive to the provision of on-site affordable housing. However, practitioners have asked how the term “provided” would be applied to the two current versions of the Inclusionary Housing program (R10 and Inclusionary Housing-designated Areas). To clarify the intent of this provision, the Commission is modifying the proposal to address each program individually and ensure substantial, not just incidental, use of the program. For Inclusionary Housing Designated Areas, this would require that at least 20 percent of the residential floor area on the zoning lot be

affordable housing and that the floor area of the zoning lot be comprised of predominantly residential uses (more than 50 percent). For R10 areas, it would require the zoning lot to include affordable units and to use at least half of the bonus available (i.e., achieve a floor area of at least 11.0 FAR) to access the modified envelope.

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. The proposal addresses only the building envelope that applies to buildings participating in the program, and not the program's other parameters. Such changes would be beyond the scope of this proposal. However, the Commission notes that the Department has committed to such a review of the existing program following the completion of public review of the Mandatory Inclusionary Housing text amendment.

As described above, the proposal would accommodate the higher FAR permitted for affordable senior housing and long-term care facilities by allowing a modified building envelope to enable the full use of the FAR in a high-quality building form. As drafted, the proposal unintentionally omitted the narrow street frontages in R6 and R7 non-contextual zoning districts from the table of permitted heights for. To correct this omission, consistent with the environmental review for the proposal, and to ensure that these uses are provided with a building envelope that reflects the permitted FAR, the Commission modifies the zoning text to properly indicate the maximum height for buildings with these uses on narrow streets in these districts. In R6 districts, the maximum height would be 85 feet and in R7 districts it would be 105 feet.

Building Envelope Changes for Affordable Housing (R3-2, R4, R5)

As a whole, the text amendment generated significant concern in low-density areas, some of which is based on inaccurate representations of the proposal and is unfounded. In these areas, the Commission notes that the only building envelope change is a new as-of-right building envelope for affordable senior housing and long-term care facilities in low-density multi-family districts.

In R3-2, R4 and R5 districts, affordable senior housing is currently permitted a higher FAR, but is restricted to these districts' maximum heights (35 or 40 feet) as-of-right, with lower maximum perimeter wall heights (community facilities, such as nursing homes, are not subject to this height limit today). These height restrictions are based on a pitched-roof housing model, and make the construction of apartment buildings served by elevators – an indispensable feature for senior housing – impractical. In environments of this density, both within the city and in nearby communities, these uses are typically developed as elevator buildings that are four to six stories in height (45 to 65 feet). The multistory configuration minimizes the need for mobility-impaired residents to traverse long corridors to reach the elevator or other facilities and services within the building.

Buildings providing affordable senior housing therefore must often apply for a Commission authorization to modify the building envelope in order to accommodate this four to six story form. While no application for this authorization has ever been turned down, the Commission agrees that this additional process adds costs and time to the project and makes it more difficult to provide this needed use.

To make it easier to construct affordable senior housing in these districts, the proposal would permit such housing to be developed using a special as-of-right building envelope that allows four to six story buildings. This envelope is based on the range of projects that have been approved by the Commission through the authorization. Long-term care facilities would also be subject to this new building envelope, which is similar in terms of the building form it allows to the existing community facility height and setback regulations. Yard requirements would continue to apply. The current Commission authorization would remain for sites that require additional flexibility. The Commission believes that this framework is appropriate for these zoning districts.

Many Community Boards in lower-density areas took issue with the proposed envelope because it would allow buildings that are taller than what typically exists in surrounding buildings, particularly at the lower densities. There was also a view expressed that this envelope would open up neighborhoods to the widespread development of these uses, with the potential to disrupt them.

However, the Commission heard significant testimony at the hearing about the difficulty in funding these facilities because they cannot compete with market-rate housing. Affordable senior housing is generally only built on public- or non-profit-owned sites today, or private sites that can be obtained at an extremely low cost. This does not include one- and two-family homes, as the costs of assembling a site large enough to accommodate these uses would be prohibitive. Given this, the Commission does not believe it necessary to restrict the use of the envelope to only specific block types or lot sizes.

In its review of affordable senior housing facilities that applied for the authorization, the Commission found that most buildings only reached the higher maximum height of 65 feet in the R5 districts, where the permitted floor area is highest. However, there were examples in the lower-density districts that needed this additional height. This typically reflected a trade-off between providing more open space (through a taller building) or a lower-scaled building with higher coverage and less open space. As such, the Commission believes it is appropriate to allow these uses the same permitted envelope in all three zoning districts.

Parking Requirements for Affordable Housing

The proposal includes a number of changes to the accessory parking requirements for affordable housing and affordable senior housing which are intended to make it easier to construct and expand these facilities. The Commission believes that these changes are appropriate, as modified herein. The parking portions of the text amendment generated the most concern from community boards, borough boards and borough presidents. On the other hand, affordable housing advocates and providers at the public hearing noted the difficulty that the current regulations cause for affordable housing and affordable senior housing. To fully address the various issues raised during the public review process, the Commission will discuss each below.

As described earlier, required parking is expensive to provide, and imposes costs that affordable developments cannot recover through project revenues. Therefore, these requirements make the financing of affordable housing more difficult and reduce the amount of affordable housing that can be built with available funding. In the end, it is often the public – the taxpayer- who bears the

cost of providing parking for subsidized affordable and affordable senior housing. The proposal would alleviate these requirements in areas where data on vehicle ownership and commutation indicate they are the least necessary to serve the needs of residents of affordable housing.

During public review, the Commission heard numerous objections to the proposed changes to parking requirements. It does not take these concerns lightly, however, the Commission observes these were focused broadly on parking availability in neighborhoods and generally based on the perspectives of populations other than the low-income and low-income senior residents that are the focus of the proposal. At its public hearing, the Commission also heard extensive and highly specific testimony about the problems created by current requirements, with numerous examples of costly parking that has gone unused by residents of affordable and affordable senior housing. This testimony provided an extremely compelling confirmation of the rationale for the proposed changes.

The Commission heard concerns related to the geographic appropriateness of the Transit Zone, including concerns about topography, location at end of train lines where commuters use on-street parking, and accessibility of stations - especially for seniors. While these are all important transportation planning issues, the Transit Zone geography is not based specifically on the accessibility of transit, nor does it assume public transportation use. The Transit Zone encompasses the city's densest neighborhoods, where, despite topographical or transit accessibility challenges, car-ownership characteristics among the low-income and low-income senior populations are consistent with those elsewhere within the Transit Zone. The Commission therefore believes that modifications to the Transit Zone geography based on factors that are not related to prospective vehicle ownership and parking demand are not warranted.

The Commission believes it is appropriate to make such accessory off-street parking optional, noting that car ownership rates among low-income households within the Transit Zone are 18 percent, while ownership rates among low-income senior households are even lower, only five percent. The Department's surveys, discussions with operators of these facilities, and testimony at the public hearing from numerous local non-profit housing groups, affordable housing developers,

and senior groups supporting the assertion that many off-street parking spaces in affordable housing and affordable senior housing are underutilized, due to a combination of low car ownership rates and the high cost of parking off-street.

Additionally, within the Transit Zone, it is proposed that existing parking lots accessory to affordable senior housing, typically built under the no-longer funded HUD Section 202 program, would be able to be redeveloped as-of-right. The Commission heard testimony from numerous operators of age- and income-restricted housing, who described the uses they would like to see at their facilities instead of existing, unused parking. These uses include open spaces with benches and trees, better amenity spaces for residents, and more affordable senior housing units. The Commission believes that allowing for the redevelopment of existing parking lots for affordable senior housing is appropriate, understanding that requirements of the 202 process, including HUD and HPD review and a modification of deed restriction, make it more than likely that any new housing that is built on site will be age- and income-restricted.

The Commission heard concerns that making parking optional for low-income senior housing developments would impose a burden on the elderly and limit their independence, which included concerns that making parking optional would negatively affect their visitors and staff, who would have no dedicated parking spaces. The Commission notes that no other housing is required to provide parking for visitors, and that federal funding restrictions in the programs historically used to build this housing limit the use of spaces for other purposes, such as public parking. The Commission also notes that there is no change proposed to the parking requirements for the types of residential facilities with the highest care needs, such as assisted living and nursing homes. The Commission also heard testimony by housing providers that visitors to their developments are not a major factor in off-street parking utilization and that, fundamentally, more senior housing units in transit-rich neighborhoods and with goods and services available nearby would enable more seniors to maintain an independent lifestyle.

The Commission heard testimony that on-street parking conditions would be exacerbated by the proposal. The Commission acknowledges that street parking is in short supply in much of the city,

but notes that providing more off-street parking for affordable units does not alleviate on-street constraints, since the few low-income residents that have cars are often unable or unwilling to pay monthly fees to park off-street. At the same time, parking spots associated with affordable and senior developments usually cannot be made available to neighborhood residents or commuters because of regulatory restrictions, building security considerations or other factors.

While acknowledging that some small number of low-income car owners might park off-street if such parking is provided in future developments, the Commission believes this trade-off to be ultimately beneficial in that the proposed parking changes will result in more affordable housing units being built with the same amount of public subsidy. The Commission further notes that long waiting lists for affordable housing are a universal and disturbing reality of today's housing crisis, while, to its knowledge, there are no waiting lists for off-street parking in affordable housing.

The proposal would allow existing affordable housing to apply for a new Board of Standards and Appeals (BSA) special permit (Section 73-434) to remove existing parking that is not needed. In addition, through a separate BSA special permit, new buildings could apply to reduce or eliminate their parking requirements to facilitate a mixed-income development (Section 73-433), provided there would not be an adverse effect on the surrounding area. The Commission believes that a discretionary action to reduce previously required parking for affordable housing within the Transit Zone, and to reduce parking requirements for market rate units where the reduction would facilitate the development of a mixed-income building, furthers the goal of increasing the city's supply of affordable housing.

Practitioners have asked how the term "existing" in the Section 73-434 special permit would be applied to buildings that are under construction. The intent of this provision was that the proposed reductions in requirements would distinguish between buildings that are not yet occupied and those that are occupied with residents who may already be using parking spaces. As such, the Commission modifies the text to clarify that "existing" will mean having a Certificate of Occupancy by the date of the proposal's adoption.

In addition to the BSA special permits for parking modifications described above, the proposal includes a CPC special permit to modify parking requirements in conjunction with a large-scale development. This is intended to allow the CPC to review and consider all elements of a large-scale site plan, including parking, instead of requiring an applicant to separately seek a BSA special permit to reduce parking, and to provide a more efficient process. As written, the permit applies to large-scale residential and general developments. At the public hearing, there were requests to extend this to other CPC special permits. After reviewing the special permits available in the Zoning Resolution, the Commission modifies the text to extend this applicability to the special permit for bulk modifications on waterfront blocks (Section 62-836) available in the waterfront area, which functions in a similar way to the large-scale special permits.

The findings for the permit included in the original proposal required that the reduction of parking “would result in a better site plan with better quality open areas.” As written, the provision may be understood to imply that the parking reduction could only be utilized to construct open space. This limited interpretation was not intended, because better quality open space is only one possible result of reduced parking; additional housing or neighborhood services in a new development or enlargement could also result from a parking reduction. Therefore, the Commission modifies the text to clarify this finding so that the reduction “would result in a better site plan”. The broader site plan findings for these special permits would continue to apply.

Outside the Transit Zone, the proposal would reconcile parking requirements for income-restricted housing in Section 25-25 of the Zoning Resolution. Where today’s regulations refer to several affordable housing models, some of which are obsolete, the proposal would reduce the array of requirements for affordable housing down to one existing set of requirements. This represents no substantive change to parking requirements for affordable housing outside the Transit Zone, but the Commission believes it will provide clarity and predictability for anyone seeking to develop affordable housing in the applicable areas.

Additionally, outside the Transit Zone, in districts that allow multi-family housing, the proposal would reduce parking requirements for affordable senior housing to 10 percent. This aligns with

car ownership rates among the affected population, and would minimize the amount of lot area taken up by unused parking that could otherwise go towards more affordable senior housing units or better amenity space.

Outside the Transit Zone, existing parking that is accessory to affordable senior housing could be reduced to the 10 percent requirement by BSA special permit. Similar to what is proposed for affordable (not age-restricted) housing inside the Transit Zone, this discretionary action would provide a measure of protection for any seniors currently parking off-street at their facility, but would provide a much-needed mechanism for reuse of underutilized parking areas, where appropriate.

Changes for Quality

In addition to the changes to promote various forms of affordable housing described above, the proposal includes a number of changes to the regulations for housing in medium- and high-density zoning districts. These changes predominantly modify the Quality Housing regulations that are required in contextual zoning districts and are optional in non-contextual districts. These limited changes are meant to encourage better ground floors, accommodate more building articulation and address irregular site conditions. The Commission notes the Housing New York goal that new buildings should contribute to the fabric of their neighborhoods, and acknowledges that current zoning regulations – in place since 1987 – are sometimes making that difficult. The Commission believes that these changes, in total, are improvements on the current regulations and will promote buildings that are more in keeping with their surroundings and help enliven the pedestrian environment. The Commission’s consideration of individual elements of the proposal is below.

Ground Floors

The proposal includes a series of changes to the Quality Housing building envelope to promote better, more active ground floors in contextual R6 through R10 districts and where the Quality Housing option is utilized in non-contextual R6 through R10 districts. The Commission believes these changes are appropriate, as modified herein. Ground floors are the primary point of interface between buildings and the public realm and have the largest effect on the pedestrian’s experience

of a building. Unfortunately, as noted in the Department's analyses and by many architects at the public hearing, current Quality Housing zoning height limits make it difficult to provide a high-quality ground floor in a residential or mixed-use building. In Residence Districts, the limited space in which to fit all the permitted FAR often results in apartment units placed right at sidewalk level, where, in order to keep pedestrians from looking right into their apartments, the occupants routinely have drawn shades and window guards in place. This results in a poor addition to the surrounding streetscape, especially when compared to the historic building fabric where brownstones and pre-War buildings routinely established a separation. In commercial districts, where retail uses are permitted and desired, these restrictive height limits often produce low-ceilinged spaces that are difficult to rent, or that require buildings to make difficult trade-offs with the residential units above (such as squeezed floor-to ceiling-heights and/or unarticulated facades). These trade-offs often come at the expense of the ground floor and, by extension, the public realm in front of the building.

To address these issues, the proposal would allow the maximum building height to be increased by five feet if the second level of the building begins at a height of at least 13 feet above the sidewalk level. This additional height would allow for a raised ground floor residential unit or a better ground floor retail space, while retaining sufficient flexibility to accommodate construction requirements above the ground floor (such as transfer beams supporting the setback required above the maximum base height). This change would be made in R5D and all R6 through R10 contextual zoning districts, except R7B and R8B districts, as well as R6 through R10 non-contextual districts using the Quality Housing option, except for R6 and R7 districts beyond 100 feet of a wide street, and all R6 and R7 districts in the Manhattan Core. In each case the exempted districts already allow sufficient building height to accommodate these features. The Commission believes this provision that ties limited additional building height to the ground floor, where it is most needed, is a sensible provision. It would help address an issue that impacts neighborhoods throughout the city's medium- and high-density districts today. The Commission notes that the Department tied this additional height to its use on the ground floor in response to concerns heard as part of the initial outreach on the proposal. The Commission also believes that using the adjacent sidewalk

level is the appropriate reference for this provision since it seeks to address the pedestrian experience.

The Commission heard some concerns that this additional ground-floor height would lead to “big-box” or “chain” retail instead of neighborhood-scaled retail spaces. The Commission does not believe this to be an issue, as the scale of ground floor retail encouraged by this provision (13 to 15 feet in height) is in keeping with those already found in older mixed-use buildings providing neighborhood retail, whereas “big-box” retail often requires spaces in excess of 18 to 20 feet in height. The Commission therefore believes this proposal would allow contextual buildings to provide ground floor uses that are more in keeping with their surroundings.

For residential buildings, the Commission heard some concern that the desire to elevate residential units above the sidewalk level could be in conflict with accessibility codes. The Commission notes that all requirements to meet ADA and local laws requiring accessibility remain in place, but acknowledges that the provision of ramps to access an elevated level take up a sizable amount of floor area that may otherwise be rentable. To address this, the proposal would allow interior ramps in the residential lobby a 100 square foot floor area exemption for each foot the ground floor is raised above curb level, up to a maximum of 500 square feet. This provision, and its dimensional requirements, is similar to those already existing in the Zoning Resolution for Flood Hazard Areas that encourage residential units to be raised above ground level and is based on the typical dimensions of such accessibility ramps. The Commission believes that it is appropriate to include this provision more broadly to address residential ground floors in medium- and high-density districts across the city.

The proposal replaces many of the ground floor regulations in the Zoning Resolution with a new set of standardized ground floor requirements for minimum depth of required uses, minimum amounts of ground floor transparency, maximum lobby widths, and minimum parking wrap requirements. The Commission believes this simplification, based primarily on the ground floor requirements applicable in the Special Enhanced Commercial District, would promote better retail spaces where ground floor requirements currently apply. However, the Commission notes that the

text, as referred, allowed the minimum ground floor use depth requirement to be modified for circulation and structural needs, but did not specify to what extent. To provide clarity as to the extent of such possible modifications, the Commission modifies the requirement so that the minimum required depth can only be reduced “to the minimum extent necessary.”

Street Walls

The Commission believes the proposed modifications to street wall regulations are appropriate, as modified herein. A building’s street wall is one of the primary ways that buildings interact with the public realm and it is critical that these regulations ensure that new buildings complement their general surroundings. This includes assurances that, for consistency, new street walls will be located at a similar distance away from the sidewalk as their neighbors but also necessitates that regulations provide enough design flexibility so that buildings can include design features like bay windows and courts, which add visual interest to a streetscape. To accomplish this, the proposal updates line-up provisions, street wall requirements in high-density districts and other commercial districts, as well as the regulations for street wall articulation and building courts.

The Commission notes that few concerns were raised about these changes during the public review process, and that architects at the public hearing gave positive accounts of the design opportunities that these changes would offer for buildings that are more in keeping with their surroundings. The Commission agrees that they would allow for buildings that are less “flat and boxy” as compared to the current street wall regulations.

More particularly, the Commission believes the changes to line-up provisions better account for building elements like bay windows and would better ensure new buildings are appropriately located in relation to their immediate surroundings (namely the buildings on the two adjoining zoning lots on either side of the new building). These regulations are required today in “B” suffix R6 through R8 zoning districts (and along narrow streets in R6 and R7 non-contextual districts), and the proposal extends this requirement to other medium-density contextual districts so that buildings there will be more in keeping with their immediate surroundings. To ensure that buildings located next to articulated facades line up with the correct portion of the building, the

original text required that new buildings line up with the furthest portion of the building on the adjoining zoning lot. During the public review process, however, practitioners pointed out that the regulations, as drafted, would cause practical difficulties when there is an adjacent courtyard building with a court set far back from the street. To address this, the Commission modifies these provisions so that new buildings would determine their street wall location based on the furthest portions of adjacent buildings that are within 25 feet of the shared side lot line. This would address the technical issue raised about courtyards, while still ensuring the overall goals of the proposed change.

The Commission believes that the changes to street wall regulations for high-density residence and commercial districts (generally R8 districts and above) are appropriate to these types of zoning districts. In commercial districts, which generally have more rigid street wall requirements, the proposal would permit new limited flexibility for building articulation at ground level on wide streets, and also ensure that all buildings in these districts would comply with street wall requirements to ensure a more uniform streetscape. To this end, on narrow streets, the proposal includes a street wall requirement where none currently exists to ensure that contextual buildings would be in keeping with their surroundings. The Commission notes that the specific rule included in the proposal for residence districts on narrow streets referenced the requirements for medium-density districts. To provide consistency with other high-density districts and to reflect these districts' more varied character, the Commission modifies the proposed street wall requirement for narrow streets in these residence districts to instead be a percentage-based rule so that 70 percent of the street wall would be required within 15 feet of the street line.

The proposed allowances for building articulation and modified court regulations offer new opportunities for design articulation, and the Commission is hopeful these modifications will lead to buildings with more varied and interesting facades that are more in keeping with older apartment buildings in the city. These technical regulations, while known mainly by practitioners, have a noticeable effect on the city's streetscape, and have unnecessarily limited the inclusion of design elements like bay windows and courts in new buildings. One of the new features, the small court, would allow courts found in older apartment buildings on which could front kitchens, bathrooms

and other spaces that do not need “required windows” for code purposes. As drafted, the requirements above a height of 75 feet for this new feature would have inadvertently discouraged the provision of larger small courts below 75 feet, and so the Commission is modifying the provision so that the setback depth above 75 feet would be proportional to the minimum depth of the court below 75 feet.

Corner Buildings

The Commission believes the proposed modifications specific to corner buildings are appropriate. Older apartment buildings in the city on corner lots tend to “wrap” the corner, providing a consistent street wall along both street frontages. Current lot coverage and “transition rules” make this difficult to accomplish in new buildings and have tended to result in buildings on corners that shift all of their bulk onto one street frontage and leave open spaces along the other frontage, breaking the continuous street wall along the midblock. To better allow this more traditional building form, the proposal removes the 80 percent coverage limit for corner buildings and adjusts the “transition rule” for buildings adjacent to lower-density districts.

The Commission notes that it has approved corner lot coverage modifications in many special districts to allow for traditional corner lot buildings, though this has never been carried over into the citywide regulations. The proposal offers the opportunity to address this inconsistency and allow for corner buildings more in keeping with their context. The Commission heard some concerns that this modification was too liberal, but no specific issues were identified. The Commission notes that all residential units still require legal windows fronting onto yards, courts or streets, and that the currently applicable court and yard regulations would continue to apply. Effectively, these other requirements will provide an effective limit on the coverage of corner buildings ensuring adequate light and air instead of the current zoning requirement.

The Commission also agrees that the current “transition rule” that limits the height of buildings within 25 feet of a lower-density district (R1 through R6B) makes it difficult to build a traditional corner building and that the proposed modifications would alleviate the current regulation’s restrictiveness. In this transition area along district boundaries, the height of buildings is typically

limited to 35 feet and, as a result, many buildings simply leave an open area between the two structures that breaks the street wall. As a result, this provision also tends to emphasize the height difference between the lower and higher density districts, rather than incrementally stepping down and providing an effective transition. While the Commission agrees there is a tradeoff here that would allow taller portions of new buildings to be closer to lower-density buildings, it allows for traditional corner buildings that are more in keeping with older buildings and would not leave open gaps in the midblock street wall. As a side benefit, the Commission notes the combination of these two modifications also allows buildings to be somewhat shorter overall – as floor area can be more-easily accommodated in the building base.

Setback Requirements

The Commission believes that the proposed modifications to setback requirements are appropriate and will offer greater opportunities for an improved streetscape in front of new buildings. As currently written, the specified minimum front and rear setbacks are inadvertently working in concert to force many residential buildings to be built directly at the property line to avoid one setback, when a ground-level setback with planting would be more appropriate and in keeping with a building's context. These requirements also make buildings less efficient and more costly to construct. To address this situation, the proposal removes the rear yard setback requirement and allows the front setback to be reduced by one foot for every foot that the building is set back from the property line. The Commission agrees that the required rear yard would continue to ensure adequate light and air to rear-facing portions of buildings, and the requirement that a minimum setback of five feet be provided from the front street wall would maintain design articulation.

Building Envelopes and Number of Stories

Beyond the specific changes to improve building quality described above, there are a series of more limited changes to the regulations that define the overall shape of contextual buildings. These include changes to the maximum permitted base heights, number of stories, heights in R9 and R10 contextual districts, and regulations affecting specific limited areas of the city. The Commission believes these various changes are appropriate, as modified herein.

The changes to the maximum permitted base heights in various zoning districts are intended to improve the overall streetscape, as the current regulations make it difficult to accommodate an active ground floor. As described above, the Commission agrees that this issue should be addressed to allow for better buildings with ground floors that contribute to their neighborhoods. While most comments during the public review process were focused on the changes to the maximum building height, the Commission did receive some comments about these changes. However, the Commission believes that these changes are appropriate and necessary to accommodate better buildings with improved ground floors.

The Commission is pleased that the proposal includes new limits on the maximum number of stories that can be included in contextual buildings. Adding this provision helps ensure that buildings cannot use the additional flexibility created through other aspects of the proposal to pack additional floors into the building envelope through lowered ceiling heights. The Commission notes the positive reception this aspect of the proposal received. However, there are numerous discretionary provisions in the Zoning Resolution through which the maximum height of buildings can be increased, such as through the FRESH authorization (Section 63-22). The Commission therefore modifies the proposal to clarify that these new maximum story limits can also be modified through discretionary actions in the Zoning Resolution.

In the highest density contextual districts, the Commission understands it is difficult for new buildings to fit their full permitted floor area in a well-designed building and that the current regulations often result in buildings with flat, dull facades and deep floor plates. The proposal increases the maximum building heights in these districts by an additional 5 to 10 feet, as necessary to accommodate a comparable level of design flexibility as compared to other lower-density districts. The Commission heard concerns about allowing height increases in these contextual districts greater than five feet for buildings that do not provide affordable housing. While the Commission acknowledges there is a trade-off here, it notes that these high-density districts account for less than five percent of contextually zoned areas, that buildings in these districts are much taller and that the additional height, as a percentage of overall height, is in keeping or even

lower than those the proposal includes for medium-density districts, and so retains this element of the proposal.

The Commission is also pleased that the proposal addresses the misalignments that exist between the required building envelope in contextual districts and the optional Quality Housing building envelope in non-contextual districts. These misalignments, which include lower maximum heights in some non-contextual districts than their comparable contextual versions, tend to make the utilization of the Quality Housing option more difficult and therefore less likely to be utilized than the original 1961 zoning “height factor” option that allows taller buildings set back from the street. The Commission believes that this change will put the Quality Housing option on a more equal footing in these zoning districts. In addition, in some non-contextual districts, the use of the Quality Housing option was prohibited in portions of certain non-contextual “study areas” by the 1987 Quality Housing text amendment until the program could be better evaluated. Many of these areas have been rezoned since then, and the Commission agrees that it is appropriate to remove the residual restrictions, which have minimal practical effect.

The Commission agrees that it is appropriate to adjust the building envelopes that exist in some special districts which mimic or specifically reference the controls of the comparable contextual zoning district. These areas face the same challenges in constructing high-quality buildings as comparable contextual districts, so the same provisions that address these issues should be made available to them.

Unit Size and Configuration

The Commission believes that the limited changes to regulations affecting the interior configuration of buildings are appropriate. The proposal modifies the required minimum average unit size in high-density districts to what is already required for medium-density districts, and also removes the secondary minimum unit size requirement (400 square feet) in Quality Housing buildings. The Commission agrees that there is no rationale to require larger unit sizes in high-density districts than in medium-density districts, and that this change would allow buildings in these districts greater flexibility in arranging and designing the sizes of dwelling units.

Additionally, the Commission agrees the minimum unit size requirement unnecessarily restricts the ability to provide some smaller units in a building while balancing them out with larger units, to better serve a more varied population. The Commission heard some comments that this change would lead to residential buildings for a general population fully made up of micro-units. This is not correct. The Building Code, Housing Maintenance Code, Multiple Dwelling Law and other regulations would effectively limit the minimum size of any unit, and the required minimum average unit sizes would continue to limit the total number of units that can be provided in a building, ensuring such a situation could not occur. The proposal also includes appropriate changes to some zoning regulations affecting windows that are outdated and not reflective of modern energy-efficiency and noise-attenuation requirements.

Irregular Site Conditions

The Commission believes that the changes to address varied irregular site conditions in the city's R6 through R10 districts are appropriate, as modified herein. The Commission understands that many current regulations were designed with regular site conditions in mind and resultant buildings on irregular lots (from irregular topography, street grids, lot depths or some pre-existing lot configuration) are often forced into unnecessarily difficult situations to comply with the bulk regulations. These conflicts often lead to buildings that are built directly on the property line with little room for design articulation. The proposed modifications to zoning regulations would better address a variety of these conditions including shallow, sloping or acutely angled lots, as well as those with multiple buildings on the same lot. The Commission notes that these changes generated few concerns during the public review process and design professionals at the public hearing stated they would improve design opportunities on these challenged sites.

More particularly, the proposal would allow a wider range of shallow sites to utilize provisions that allow required yard and coverage dimensions to be adjusted in proportion to a site's depth, beginning for lots that are 95 feet deep. The Commission heard some testimony that suggested this flexibility should be limited to lots that are 80 feet deep or less, but does not agree. While lots in Manhattan are typically 100 feet deep, lots in other parts of the city are typically slightly shallower, usually around 90 or 95 feet. In these instances, the current yard regulations tend to force new

buildings directly onto the front property line in order to build an efficient building floor plate while providing the required 30-foot rear yard. The modest reduction of this required yard afforded by the proposal (six inches for every foot the lot depth is less than 95 feet), would allow these buildings to set away from the property line and better address the sidewalk. Limiting this provision to only very-shallow lots would continue to make it difficult for a great percentage of slightly-shallow lots to balance efficiency and a quality relationship to the street. Additionally, the Commission believes the modifications for acutely angled and sloping sites that would also offer limited additional flexibility to address these specific conditions are appropriate.

The Commission heard some concerns about the proposed adjustments to the regulations for sites with multiple buildings and their effects on large tower-in-the-park sites in the city. Some commenters have mischaracterized the current regulations, assuming that they require a 60-foot buffer around all buildings. In fact, new buildings are already permitted to abut existing buildings, and are permitted separations of between 40 and 60 feet under a height of 120 feet, depending on whether one or both of the facing walls have legally required windows. In addition, such sites are regulated through existing lot coverage requirements that limit the amount of new development that can occur on these large sites. The Commission believes that this change, which aligns the distance between building requirements with the State Multiple Dwelling Law, would make it easier to construct new, efficient buildings on smaller lots, often with limited irregularities.

The proposal includes a new BSA special permit for contextual buildings on irregular sites to address more unusual site conditions that cannot be addressed through as-of-right zoning regulations. This permit would allow modifications, subject to findings that include consideration of light and air and the effect on surrounding properties, to contextual lot coverage, street wall location, and certain other bulk regulations to address site-specific conditions that cannot be anticipated through a citywide regulation. In addition, buildings with more than 50 percent of their residential floor area devoted to affordable housing would be permitted additional flexibility to further address such site conditions. The Commission believes that the creation of this special permit is appropriate. While some comments suggested such a provision was unnecessary because the variance procedure already provides an avenue for relief, the Commission notes important

differences between the conditions required to provide relief and the types of relief available. Variance applications are required to demonstrate uniqueness and financial hardship. There are many irregular lot conditions where uniqueness may not be possible to demonstrate, such as where a street cuts through a grid of blocks at odd angles. In this condition, all the lots along the street may face an irregular lot condition, but none may be unique. Also, buildings that include a large percentage of affordable housing typically receive public subsidy and so the financial hardship standard may or may not be met. In addition, the relief available under the proposed special permit is limited to certain bulk provisions, and does not include the latitude to modify permitted floor area in the manner that a variance may. However, while the text as referred required the Board to consider whether the relief had an adverse effect on the “surrounding buildings”, the Commission believes it more appropriate for the BSA to consider the broader “surrounding area” when evaluating a modification, and has amended the proposal to incorporate this language.

Other Changes

Lastly, the Commission notes that the proposal includes a series of modifications to the language and organization of the Zoning Resolution to make its provisions clearer to the reader. These changes include removing obsolete terms and the re-organization of the various bulk regulations for residential buildings. The Commission believes these changes are appropriate. In addition to the various modifications made by the Commission described above, the Commission also modifies a number of sections in the proposed text amendment to correct cross-references, grammar, and improve paragraph structure and overall clarity of the regulations.

Conclusion

The Commission has carefully considered the recommendations and comments received during the public review of the application for the zoning text amendment (N 160049 ZRY), and believes that the proposed zoning text, as modified, is appropriate. The proposal, as modified, effectively balances the required trade-offs and will support the creation of new affordable housing and senior care facilities, help deploy public resources devoted to affordable housing more efficiently, and to

encourage better residential buildings that are more in keeping with their surroundings and which help enliven the pedestrian environment.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on January 22, 2016, with respect to this application (CEQR No. 15DCP104Y), and the Technical Memorandum, dated February 3, 2016, (the “Technical Memorandum 001”), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Modified Text Amendment Alternative as analyzed in Chapter 22, “Alternatives” of the FEIS and in the Technical Memorandum, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;

The report of the City Planning Commission, together with the FEIS and the Technical Memorandum, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; 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 the 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:

Zoning for Quality and Affordability Text Amendment

CPC Modifications

February 4, 2016

Matter in underline is new, to be added;

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

Matter within # # is defined in Section 12-10;

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

Article I - General Provisions

Chapter 1

Title, Establishment of Controls and Interpretation of Regulations

* * *

11-00

TITLE

11-01

Long Title

A Resolution regulating the height and bulk of buildings and other structures, regulating and determining the area of yards, courts and other open spaces, and the density of population, and regulating and restricting the location of trades and industries and the location of buildings designed for specific uses within the City of New York, and for such purposes dividing the City into districts.

11-02

Short Title

This Resolution shall be known and may be cited as the Zoning Resolution of the City of New York.

* * *

11-20

INTERPRETATION OF PROVISIONS

11-23

Demolition and Replacement

The alteration of an existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development# for the purposes of the following provisions. The provisions of this Section shall apply notwithstanding the provisions of Article V (Non-Conforming Uses and Non-Complying Buildings). However, these provisions shall not apply where the #building# to be replaced is a #single-# or #two-family residence# utilizing the provisions of Article V.

- Section 23-03 (Street Tree Planting in Residence Districts)
- Section 23-04 (Planting Strips in Residence Districts)
- Section 33-03 (Street Tree Planting in Commercial Districts)
- Section 37-35 (Parking Wrap and Screening Requirements ~~Retail Continuity~~)
- Section 37-40 (OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR)
- Section 81-42 (Retail Continuity along Designated Streets)
- Section 81-46 (Off-Street Relocation or Renovation of a Subway Stair)
- Section 81-72 (Use Regulations Modified)
- Section 82-12 (Mandatory Off-Street Relocation of a Subway Stair)
- Section 82-23 (Street Wall Transparency)
- Section 91-12 (Uses on Designated Retail Streets)
- Section 91-41 (Regulations for Designated Retail Streets)
- Section 91-43 (Off-Street Relocation or Renovation of a Subway Stair)
- Section 93-14 (Ground Floor Level Requirements)
- Section 93-65 (Transit Facilities)
- Section 93-66 (Open Area Requirements in the Large-Scale Plan Subdistrict A)

Section 93-70	(PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES)
Section 95-03	(Transit Easement)
Section 95-04	(Certification of Transit Easement Volume)
Section 95-08	(Special Use Regulations)
Section 97-12	(Arts and Entertainment Use Requirement)
Section 97-22	(Uses Not Permitted on the Ground Floor of Buildings)
Section 97-23	(Transparency Requirements)
Section 98-14	(Ground Floor Use and Transparency Requirements on Tenth Avenue)
Section 98-53	(Required Open Areas on the East Side of the High Line)
Section 98-54	(Transparency Requirements on the East Side of the High Line)
Section 98-60	(SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS)
Section 101-11	(Special Ground Floor Use Regulations)
Section 101-12	(Transparency Requirements)
Section 101-43	(Off-street Relocation or Renovation of a Subway Stair)
Section 108-30	(MODIFICATION OF STREET TREE REQUIREMENTS)
Section 109-132	(Treatment of the ground level wall)
Section 109-21	(Use Regulations)
Section 109-33	(Special Front Wall Regulations)
Section 115-14	(Transparency Requirement in C4-5X and C6 Districts)
Section 116-12	(Mandatory Ground Floor Use and Frontage Requirements)
Section 116-13	(Transparency Requirements)
Section 117-31	(Special Use Regulations)

- Section 117-42 (Special Bulk and Use Regulations in the Court Square Subdistrict)
- Section 117-44 (Mandatory Subway Improvements)
- Section 117-45 (Developer's Notice)
- Section 117-513 (Transparency requirement)
- Section 117-553 (Mandatory sidewalk widening) ~~and ground floor uses), paragraph (b)~~
- Section 118-40 (ENTRANCE AND STREET WALL TRANSPARENCY REQUIREMENTS)
- Section ~~118-60~~118-50 (OFF-STREET RELOCATION OF A SUBWAY STAIR WITHIN THE SPECIAL UNION SQUARE DISTRICT)
- Section 119-112 (Tier I tree planting requirements)
- Section 119-216 (Tier II tree planting requirements)
- Section 122-50 (SPECIAL PROVISIONS FOR PLANTING STRIPS)
- Section 124-30 (MANDATORY IMPROVEMENTS)
- Section 124-40 (PUBLICLY ACCESSIBLE OPEN SPACE REQUIREMENTS)
- Section 126-21 (Street Tree Planting)

* * *

Article I - General Provisions

Chapter 2

Construction of Language and Definitions

* * *

12-10

DEFINITIONS

Words in the text or tables of this Resolution which are *#italicized#* shall be interpreted in accordance with the provisions set forth in this Section.

* * *

Adult physical culture establishments

An “adult physical culture establishment,” is any establishment, club or business by whatever name designated which offers or advertises or is equipped or arranged so as to provide as part of its services, massages, body rubs, alcohol rubs, baths or other similar treatment, by members of the opposite sex, except for activities which are excluded below or defined under *#physical culture or health establishment#* in Section 12-10 and which are, therefore, not included within the definition of an *#adult physical culture establishment#*:

- (1) treatment by a licensed physician, a licensed chiropractor, a licensed osteopath, a New York licensed masseur or masseuse, a licensed practical nurse or a registered professional nurse;
- (2) electrolysis treatment by a licensed operator of electrolysis equipment;
- (3) hospitals, ~~nursing homes~~ *#long-term care facilities#*, or ambulatory diagnostic or treatment health care facilities listed in Use Group 4;
- (4) barbershops or beauty parlors which offer massage to the scalp, the face, the neck or shoulders only; and
- (5) athletic facilities of an educational institution including an alumni club, or of a philanthropic or charitable institution.

* * *

Affordable independent residence for seniors

An “affordable independent residence for seniors” is a #building# or portion thereof, containing #residences#, in which at least 90 percent of the #dwelling units# allocated to “affordable independent

residence for seniors” are each occupied by at least one person who is 62 years of age or over; where, except for a #super’s unit#, all of the #dwelling units# allocated to “affordable independent residence for seniors” are #income-restricted housing units# used for class A occupancy as defined in the New York State Multiple Dwelling Law. For the purposes of this definition, #super’s unit#, shall be as defined in Section 23-911 (General definitions).

An #affordable independent residence for seniors# may consist of one or more #buildings# on the same or contiguous #zoning lots#, or on lots which would be contiguous but for their separation by a #street#, and shall contain related #accessory# social and welfare facilities primarily for #residents#, such as cafeterias or dining halls, community rooms, workshops and other essential service facilities, which may also be made available to the community. Floor space in an amount not less than four percent of the total #floor area# of such #affordable independent residence for seniors# shall be allocated to such #accessory# facilities. Such floor space may occupy #floor area# or #cellar# space, and may include indoor recreation space provided in accordance with Section 28-21 (Required Recreation Space) for #Quality Housing buildings#. In no event shall the floor space occupied by lobbies, passageways, storage space or other spaces normally provided in #residential buildings# be attributed to the #floor area# of the #accessory# social and welfare facilities.

An #affordable independent residence for seniors# shall also include a #building used, #enlarged# or #developed# prior to [date of adoption] as a “non-profit residence for the elderly”.

* * *

Base plane

The “base plane” is a plane from which the height of a #building or other structure# is measured as specified in certain Sections. For #buildings#, portions of #buildings# with #street walls# at least 15 feet in width, or #building segments# within 100 feet of a #street line#, the level of the #base plane# is any level between #curb level# and #street wall line level#. Beyond 100 feet of a #street line#, the level of the #base plane# is the average elevation of the final grade adjoining the #building# or #building segment#, determined in the manner prescribed by the Building Code of the City of New York for adjoining grade elevation. In either case, in the #flood zone#, either the #base flood elevation# may be the level of the #base plane# or #building# height may be measured from the #flood-resistant construction elevation#, as provided in Article VI, Chapter 4. For the purposes of this definition, #abutting buildings# on a single #zoning lot# may be considered a single #building#. In addition, the following regulations shall apply:

- (a) Within 100 feet of a #street line#:
 - (1) The level of the #base plane# for a #building# or #building segment# without a #street wall# shall be determined by the average elevation of the final grade adjoining such #building# or #building segment#.

* * *

- (4) As an option, on sites which slope from the #street wall line level# to the #rear wall line level# by at least ~~ten~~ five percent to the horizontal, the level of the #base plane# may extend in a sloping plane from such #street wall line level# to such #rear wall line level#. When a sloping #base plane# is thus established, the average elevation of the final grade at the #rear wall line# shall not be lower than the #rear wall line level#.

* * *

Floor area

“Floor area” is the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#. In particular, #floor area# includes:

- (a) #basement# space, except as specifically excluded in this definition;

* * *

- (f) floor space in open or roofed ~~terraces~~, bridges, breeze ways or porches, if more than 50 percent of the perimeter of such ~~terrace~~, bridge, breeze way, or porch is enclosed, and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure;

* * *

- (n) floor space in exterior balconies or in open or roofed terraces if more than 67 percent of the perimeter of such balcony or terrace is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. For the purposes of such calculation, exterior #building# walls on adjoining #zoning lots# #abutting# an open or roofed terrace shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony; and

* * *

However, the #floor area# of a #building# shall not include:

- (1) #cellar# space, except where such space is used for dwelling purposes. #Cellar# space used for retailing shall be included for the purpose of calculating requirements for #accessory# off-street parking spaces, #accessory# bicycle parking spaces and #accessory# off-street loading berths;

* * *

- (5) floor space in open or roofed ~~terraces~~, bridges, breeze ways or porches, provided that not more

than 50 percent of the perimeter of such ~~terrace, bridge,~~ breeze way, or porch is enclosed, and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure;

* * *

- (10) floor space in exterior balconies or in open or roofed terraces provided that not more than 67 percent of the perimeter of such balcony or terrace is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. For the purposes of such calculation, exterior #building# walls on adjoining #zoning lots# #abutting# an open or roofed terrace shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony;

* * *

Height factor

The “height factor” of a #zoning lot# is equal to the total #floor area# of a #building# divided by its #lot coverage#. If two or more #buildings# are located on the same #zoning lot#, the #height factor# is the sum of their #floor areas# divided by the sum of their #lot coverages#. ~~The #height factor# is thus equal to the number of #stories#, if the #building# were erected without setbacks. In computing a #height factor#, a fraction of .5 or more may be considered a whole number, and smaller fractions shall be disregarded.~~

For example, a #zoning lot# with a #residential building# containing 60,000 square feet of #floor area# and a #lot coverage# of 5,000 square feet has a #height factor# of 12, and a #zoning lot# with two #residential buildings# containing a total of 80,000 square feet of #floor area# and 10,000 square feet of total #lot coverage# has a #height factor# of 8.

In computing a #height factor#, a fraction of one-half or more may be considered a whole number, and smaller fractions shall be disregarded.

* * *

Income-restricted housing unit

An “income-restricted housing unit” is a #dwelling unit# that complies with the definition of #affordable housing unit# set forth in Section 23-911 (General definitions), or any other #dwelling unit# with a legally binding restriction on household income at or below 80 percent of the #income index#, as prescribed by a City, State, or Federal agency, law, or regulation, for a period of not less than 30 years. For the purposes of this definition, #income index# shall be as defined in Section 23-911 (General definitions).

Any #dwelling unit# for which the applicable number of required #accessory# off-street parking spaces was established pursuant to the provisions of Section 25-25 (Modification of Requirements for Public, Publicly-Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly) as such Section existed between December 15, 1961 and [date of adoption] shall be considered an #income-restricted housing unit#. In addition, #dwelling units# in public housing developments owned by the New York City Housing Authority for which the applicable number of required #accessory# off-street parking spaces was established pursuant to the zoning regulations in effect between July 20, 1950 and December 15, 1961 shall be considered #income-restricted housing units#.

* * *

Long-term care facility

A “long-term care facility” is a #community facility use# that has secured appropriate certificate of authority or licensure by the New York State Department of Health and shall include:

- (a) nursing homes or assisted living facilities as defined in the New York State Public Health Law; and
- (b) continuing care retirement communities, consisting of independent living #dwelling units# in addition to nursing home beds and assisted living facilities as defined in the Public Health Law. Such continuing care retirement communities may be located in one or more #buildings# on the same or contiguous #zoning lots#, or on lots which would be contiguous but for their separation by a #street#. All such continuing care retirement communities shall:
 - (1) offer a life care contract that includes unlimited long-term care services along with housing for independent living and #residential# services and amenities; and
 - (2) include fewer independent living #dwelling units# than the combined number of assisted living #dwelling units# or #rooming units# and nursing home beds on such same or contiguous #zoning lots#, or on lots which would be contiguous but for their separation by a #street#. For the purposes of this calculation, the number of such assisted living #dwelling units# or #rooming units# shall be the number of such units in the State-licensed assisted living facilities or assisted living #residences#; and the number of such nursing home beds shall be the number of authorized State-licensed nursing home beds, as applicable. For the purposes of this definition, the term #rooming units# shall be as defined in the New York City Housing Maintenance Code.

If a continuing care retirement community does not comply with conditions (1) and (2) above, the independent living #dwelling units# shall be considered a #residential use#.

* * *

Lot coverage

“Lot coverage” is that portion of a #zoning lot# which, when viewed directly from above, would be covered by a #building# or any part of a #building#. However, for purposes of computing a #height factor#, any portion of such #building# covered by a roof which qualifies as #open space#, or any terrace, balcony, breeze way, or porch or portion thereof not included in the #floor area# of a #building#, shall not be included in #lot coverage#.

For example, a #zoning lot# of 20,000 square feet consists of one portion, 100 feet by 100 feet, as a #corner lot# portion, and another portion, 100 feet by 100 feet, as an #interior lot# portion. In a district that allows 70 percent coverage of the #interior lot# portion, that portion can have a #lot coverage# of 7,000 square feet, while the #corner lot# portion which is allowed 100 ~~80~~ percent coverage can have a #lot coverage# of 10,000 ~~8,000~~ square feet.

When a #height factor# is not computed for a #residential building# or #residential# portion of a #building#, ~~the portion of any balcony which does not project from the face of the #building# shall be counted as #lot coverage#, but other~~ obstructions permitted pursuant to Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall not be included in #lot coverage#, except that the portion of any balcony which does not project from the face of the #building# shall be counted as #lot coverage#.

* * *

~~Non-profit residence for the elderly~~

~~A “non-profit residence for the elderly” is a #residence# occupied at least 90 percent by elderly families, the head or spouse of which is sixty two years of age or over, or by single elderly persons who are sixty-two years of age or over, and which:~~

- ~~(a) — contains housekeeping, semi housekeeping or non housekeeping units especially designed for elderly persons or families; and~~
- ~~(b) — consists of one or more #buildings# on the same or contiguous #zoning lots#, or on lots which would be contiguous but for their separation by a #street# and contains related #accessory# social and welfare facilities primarily for residents which may also be made available to the community, such as cafeterias, or dining halls, community rooms, workshops and other essential service facilities provided that these facilities shall occupy #floor area# or #cellar# space in an amount not less than four percent of the total #floor area# of the #non-profit residence for the elderly#. In no event shall the floor space occupied by lobbies, passageways, storage space or other spaces normally provided in usual #residential buildings# be considered as a part of the #floor area# attributable to the Social and Welfare facilities; and~~
- ~~(c) — is either:
 - ~~(1) — owned by or constructed for the New York City Housing Authority, or~~~~

~~(2) — constructed with the assistance of mortgage financing or other financial assistance insured by or procured through or with the assistance of a municipal, State, or Federal governmental agency, and is maintained on a non-profit basis by a charitable organization or its wholly owned subsidiary incorporated pursuant to the provisions of the New York State Not For Profit Corporation Law.~~

~~However, any #non-profit residence for the elderly# to which seed money has been advanced under Article II of the State Private Housing Finance Law prior to January 23, 1969 shall have the option to be continued under the provisions of the Zoning Resolution as amended on January 23, 1969 or under the provisions of the Zoning Resolution as effective just prior thereto.~~

~~In the Borough of Manhattan in R7-2 Districts, the definition of a #non-profit residence for the elderly# shall also apply to projects reserved for the elderly for a period of not less than 40 years approved under Article 2 and 5 of the State Private Housing Finance Law provided the project is operated by a sponsor or co-sponsor which is a non-profit organization. The certificate of occupancy shall bear the designation “Non-profit residence for the elderly,” as defined in Section 12-10 of the Zoning Resolution.~~

* * *

Predominantly built-up area

A “predominantly built-up area” is a #block# entirely within R4 or R5 Districts, including a #Commercial District# mapped within such #Residential Districts#, having a maximum area of four acres with #buildings# on #zoning lots# comprising 50 percent or more of the area of the #block#. However, a #predominantly built-up area# shall not include a #block# which is located partly in a R4A, R4-1, R4B, R5B or R5D District.

All such #buildings# shall have certificates of occupancy or other evidence acceptable to the Commissioner of Buildings issued not less than three years prior to the date of application for a building permit. Special optional regulations applying only to #zoning lots# of not more than 1.5 acres in a #predominantly built-up area# are set forth in the following Sections:

- | | |
|----------------|---|
| Section 23-143 | (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio <u>Optional regulations for predominantly built-up areas</u>) |
| Section 23-22 | (Required Lot Area per Dwelling Unit, Lot Area per Room or Floor Area per Room <u>Maximum Number of Dwelling Units</u>) |
| Section 23-44 | (Permitted Obstructions in Required Yards or Rear Yard Equivalents) |
| Section 23-631 | (Height and setback in R1, R2, R3, R4 and R5 Districts <u>General provisions</u>) |

Section 25-22 (Requirements Where Individual Parking Facilities ~~are~~ Are Provided)

Section 25-23 (Requirements Where Group Parking Facilities ~~are~~ Are Required)

The regulations applicable to a #predominantly built-up area# shall not apply to any #zoning lot# occupied as of October 21, 1987, by a #single-# or #two-family detached# or #semi-detached residence# where 75 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# as of October 21, 1987. However, the regulations applicable to a #predominantly built-up area# may apply to such #zoning lots# where 75 percent or more of the aggregate length of the #block# fronts facing each other, on both sides of the #street#, is comprised of #zoning lots# occupied as of October 21, 1987, by #commercial# or #manufacturing uses#.

Furthermore, the regulations applicable to a #predominantly built-up area# shall continue to apply in the #Special Coney Island Mixed Use District# and the #Special Ocean Parkway District#, and in areas subject to the provisions of paragraph (d) of Section 23-16 23-146 (Optional provisions for certain R5 and R6 Districts in Brooklyn Special Floor Area and Lot Coverage Provisions for Certain Areas).

* * *

Quality Housing building

A “Quality Housing building” is a #building#, #developed#, #enlarged#, #extended# or #converted#, pursuant to the Quality Housing Program. The Quality Housing Program consists of specific #bulk# requirements set forth for #Quality Housing buildings# in Article II, Chapter 3 and Article III, Chapter 5. Where a #building# adheres to such #bulk# requirements, which, depending on the requirements for the zoning district, may be required or may be an option, additional standards and requirements, as set forth in Article II, Chapter 8, apply in conjunction with such #bulk# provisions for #Quality Housing buildings#.

* * *

Residence, or residential

A “residence” is one or more #dwelling units# or #rooming units#, including common spaces such as hallways, lobbies, stairways, laundry facilities, recreation areas or storage areas. A #residence# may, for example, consist of one-family or two-family houses, multiple dwellings, boarding or rooming houses, or #apartment hotels#. However, #residences# do not include:

- (a) such transient accommodations as #transient hotels#, #motels# or #tourist cabins#, or #trailer camps#;
- (b) #non-profit hospital staff dwellings#; or
- (c) student dormitories, fraternity or sorority student houses, monasteries or convents, ~~sanitariums,~~

~~nursing homes~~ #long-term care facilities#, or other living or sleeping accommodations in #community facility buildings# or portions of #buildings# used for #community facility uses#.

“Residential” means pertaining to a #residence#.

* * *

Transit Zone

The “Transit Zone” is the area within the boundaries shown in Appendix I where special parking provisions apply.

* * *

Article I - General Provisions

Chapter 3

Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core

13-00

GENERAL PURPOSES

The provisions of this Chapter establish comprehensive regulations for off-street parking in the #Manhattan Core#, as defined in Section 12-10.

These regulations reflect best practices to address sustainability goals, while accommodating the parking needs of residents and businesses in a balanced manner.

* * *

13-20

SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES

All #accessory# off-street parking facilities, automobile rental establishments, and #public parking lots developed#, #enlarged# or #extended# in the #Manhattan Core# after May 8, 2013, shall comply with the applicable provisions of this Section, inclusive.

* * *

13-22

Applicability of Enclosure and Screening Requirements

(a) Screening

In addition to the screening provisions of paragraph (a)(1) of Section 13-221 (Enclosure and screening requirements), the ground floor #use# provisions of the following Sections shall apply:

- (1) Sections 32-431 (Ground floor use in C1-8A, C1-9A, C2-7A, C2-8A, C4-6A and C4-7A Districts) and 32-432 (Ground floor use in Community Board 7, Borough of Manhattan);
- (2) ~~Section 37-35 (Retail Continuity)~~ Section 32-435 (Ground floor use in High Density Commercial Districts);

* * *

(b) Transparency

The transparency provisions of paragraph (a)(2) of Section 13-221 shall not apply to portions of ground floor level #street walls# that are subject to the following Sections:

- (1) Section ~~32-435 (Ground floor use in High Density Commercial Districts)~~ 37-37 (Street Wall Articulation);

* * *

13-221

Enclosure and screening requirements

- (a) #Accessory# off-street parking facilities

All #accessory# off-street parking spaces shall be located within a #completely enclosed building#, with the exception of parking spaces #accessory# to a hospital, as listed in Use Group 4, and as provided in Section 13-45 (Special Permits for Additional Parking Spaces). In addition, such parking facilities shall comply with the following provisions:

- (1) Screening

Any portion of an #accessory# off-street parking facility, ~~except for entrances and exits,~~ that is located above #curb level# shall comply with the applicable parking wrap and screening provisions set forth in Section 37-35. ~~be located behind permitted #commercial#, #community facility# or #residential floor area# so that no portion of such facility is visible from adjacent public sidewalks or #publicly accessible open areas#.~~ Such #floor area# shall have a minimum dimension of 30 feet, as measured perpendicular to the #street wall# of the #building#.

~~Alternatively, for parking facilities, or portions thereof, fronting upon a #narrow street# within a #Residence District#, off-street parking facilities may be screened by a densely-planted buffer strip, with a depth of at least 10 feet.~~

- (2) Transparency

Portions of ground floor #commercial# and #community facility uses# screening the parking facility in accordance with the provisions of paragraph (a) ~~(1) of this Section of Section 37-35~~ shall be glazed with transparent materials in accordance with Section 37-34. ~~which may include #show windows#, transom windows or glazed portions of doors.~~ Such transparent materials may be provided anywhere on the portion of the ground floor level #street wall# occupied by such #uses#, ~~except that:~~

- (i) ~~the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet; and~~

- (ii) ~~transparent materials shall occupy at least 50 percent of the surface area of such ground floor level #street wall# between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Transparent materials provided to satisfy such 50 percent requirement shall not begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and shall have a minimum width of two feet.~~

However, for #buildings# where the #base flood elevation# is higher than the level of the adjoining sidewalk, all such transparency requirements shall be measured from ~~a height of one foot above the height of the #base flood elevation#~~ the level of the #flood-resistant construction elevation#, as defined in Section 64-11, instead of from the level of the adjoining sidewalk.

* * *

Article I - Residence District Regulations

Chapter 5

Residential Conversion within Existing Buildings

15-00

GENERAL PURPOSES

Special regulations for the conversion of non-residential floor area to residences have been established in order to promote and protect public health, safety and general welfare. These goals include, among others, the following specific purposes:

- (a) to permit owners to increase the return on their investment in appropriate existing buildings by authorizing the conversion to residences without requiring such residences to conform to the provisions of Article II of this Resolution;
- (b) to reduce the deleterious effects on commercial and manufacturing uses caused by the reduction of land and floor area available to such uses permitted under the provisions of this Chapter by providing relocation incentives for such uses;
- (c) to protect important job-producing industries, particularly those with a unique social or economic relationship to the surrounding community;
- (d) to provide sufficient space for commercial and manufacturing activities which are an integral part of New York City's economy;
- (e) to provide for adequate returns to property owners by allowing more profitable residential use with a limited mix of commercial and manufacturing uses;
- (f) to provide a new housing opportunity of a type and at a density appropriate to these Community Districts;
- (g) to ensure the provision of safe and sanitary housing units in converted buildings; and
- (h) to ensure the provision of adequate amenities in conjunction with residential development.

15-01

Applicability

* * *

15-012

Applicability within C6-1G, C6-2G, M1-5A, M1-5B or M1-6D Districts

#Conversions# in #buildings#, or portions thereof, in C6-1G or C6-2G Districts shall be permitted only by special permit pursuant to Section 74-782 (Residential conversion within C6-1G, C6-2G, C6-2M, C6-4M, M1-5A, M1-5B, M1-5M and M1-6M Districts).

Except as specifically set forth in Sections 15-013 and ~~15-026~~ 15-024, the provisions of this Chapter are not applicable in M1-5A or M1-5B Districts.

* * *

**15-02
General Provisions**

**15-021
Special use regulations**

* * *

(c) In M1-5 and M1-6 Districts located within the rectangle formed by West 23rd Street, Fifth Avenue, West 31st Street and Eighth Avenue, no new #dwelling units# shall be permitted.

* * *

All #dwelling units# permitted pursuant to this paragraph (c) shall be required to comply with the requirements of Section 15-22 (Number of Permitted Dwelling Units) or Section ~~15-026~~ 15-024 (Special bulk regulations for certain pre-existing dwelling units, joint living-work quarters for artists and loft dwellings) where applicable, and with Section 15-23 (Light and Air Provisions).

* * *

(f) In C8 and M1 Districts, no new #dwelling units# are permitted. However, within such districts in the following areas:

* * *

Such a determination of #residential# occupancy on June 4, 1981 shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

~~The provisions of Section 15-025 (Double glazed windows) shall not apply to #dwelling units# permitted pursuant to this paragraph (f). All #dwelling units# permitted pursuant to this paragraph (f) shall be required to have double glazed windows.~~

* * *

15-024

Notice of filing to create dwelling units

Within ten days of filing an application with the Department of Buildings for an alteration permit for #dwelling units#, a duplicate copy of such application shall be sent to the Department of City Planning by the applicant for information purposes.

15-025

Double glazed windows

All #dwelling units# in #buildings# which contain one or more #uses# listed in Section 15-60 (REFERENCED COMMERCIAL AND MANUFACTURING USES) and #converted# under the provisions of this Chapter shall be required to have double glazing on all windows. However, #dwelling units# occupied by #residential# tenants on September 1, 1980, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, or in Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, shall not be required to have double glazed windows.

15-024 15-026

Special bulk regulations for certain pre-existing dwelling units, joint living-work quarters for artists and loft dwellings

* * *

15-10

REGULATIONS GOVERNING RESIDENTIAL CONVERSIONS WITHIN EXISTING BUILDINGS IN RESIDENTIAL AND COMMERCIAL DISTRICTS, EXCEPT C6-2M AND C6-4M DISTRICTS

* * *

15-111

Number of permitted dwelling units

* * *

In addition, the following provisions shall apply:

* * *

The density provisions of this Section may be replaced by the regulations of Section ~~15-026~~ 15-024 for #dwelling units# that are registered Interim Multiple Dwellings or are covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law or that the Loft Board determines were occupied for #residential use# on September 1, 1980.

* * *

15-20

REGULATIONS GOVERNING RESIDENTIAL CONVERSIONS WITHIN EXISTING BUILDINGS IN C6-2M, C6-4M, M1-5M AND M1-6M DISTRICTS

- (a) The #lot area# requirements of the following Sections are hereby superseded and replaced with the requirements of Sections 15-21 and 15-22 for the #conversion# of non-#residential floor area# to #residences#:

Sections 23-20 (DENSITY REGULATIONS) through 23-26 (~~DENSITY REGULATIONS~~) (Special Provisions for Zoning Lots Divided by District Boundaries);

Section 24-20 (APPLICABILITY OF DENSITY REGULATIONS TO ZONING LOTS CONTAINING BOTH RESIDENTIAL AND COMMUNITY FACILITY USES);

Section 35-40 (APPLICABILITY OF DENSITY REGULATIONS TO ~~MIXED BUILDINGS~~);
and

* * *

15-40

AUTHORIZATION

15-41

Enlargements of Converted Buildings

In all #Commercial# and #Residence Districts#, for #enlargements# of #buildings converted# to #residences#, the City Planning Commission may authorize:

- (a) a waiver of the requirements of Section 15-12 (Open Space Equivalent) for the existing portion of the #building# #converted# to #residences#; and
- (b) the maximum #floor area ratio# permitted pursuant to Section 23-151 ~~23-142~~ for the applicable district without regard for #height factor# or #open space ratio# requirements.

* * *

15-60

REFERENCED COMMERCIAL AND MANUFACTURING USES

The following #uses# shall be applicable to Sections 15-021,~~15-025~~, 15-212 and 73-53.
In Use Group 7B:

* * *

Article II - Residence District Regulations

Chapter 2 Use Regulations

* * *

22-10 USES PERMITTED AS-OF-RIGHT

* * *

22-12 Use Group 2

R3 R4 R5 R6 R7 R8 R9 R10

Use Group 2 consists of all other types of #residences#.

A. #Residential uses#

#Residences# of all kinds, including #apartment hotels# and ~~#non-profit residences for the elderly#~~ #affordable independent residences for seniors#, except that:

- (1) in R3A, R3X, R4A and R5A Districts, #residential uses# shall be limited to #single-# or #two-family detached residences# except that in R3A Districts single- or two-family #zero lot line buildings# are also permitted;
- (2) in R3-1 and R4-1 Districts, #residential uses# shall be limited to #single-# or #two-family residences detached# or #semi-detached# except that in R4-1 Districts single- or two-family #zero lot line buildings# are also permitted;
- (3) in R4B Districts, #residential uses# shall be limited to #single-# or #two-family residences# in #detached#, #semi-detached#, #attached#, or #zero lot line buildings#.

#Residences# shall also include #rooming units# existing as of [date of adoption].

B. #Accessory uses#

22-13 Use Group 3

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

Use Group 3 consists of community facilities that:

- (1) may appropriately be located in #residential# areas to serve educational needs or to provide other essential services for the residents; or
- (2) can perform their activities more effectively in a #residential# environment, unaffected by objectionable influences from adjacent industrial or general service #uses#; and
- (3) do not create significant objectionable influences in #residential# areas.

A. #Community facilities#

Colleges or universities¹, including professional schools but excluding business colleges or trade schools

College or school student dormitories and fraternity or sorority student houses¹

~~Domiciliary care facilities for adults^{2,3} under the jurisdiction of the New York State Board of Social Welfare which have secured certification by such agency~~

Libraries, museums or non-commercial art galleries

#Long-term care facilities#²

Monasteries, convents or novitiates, without restrictions as to use for living purposes or location in relation to other #uses#

#Non-profit hospital staff dwellings# located on the same #zoning lot# as the non-profit or voluntary hospital and related facilities or on a separate #zoning lot# that is immediately contiguous thereto or would be contiguous but for its separation by a #street# or a #street# intersection

~~Nursing homes and health-related facilities³ as defined in Section 10 NYCRR 700.2(a) of the New York State Hospital Code, each of which have secured certification by the appropriate governmental agency. Nursing homes and health-related facilities are not permitted within the boundaries of any Community District in which one or more of the conditions set forth in Section 22-42 (Certification of Certain Community Facility Uses) applies except by special permit as set forth in Section 74-90~~

Philanthropic or non-profit institutions with sleeping accommodations³⁴

~~Sanitariums³~~

#Schools#

B. #Accessory uses#

1 Not permitted in R1 or R2 Districts as-of-right

2 In R1 and R2 Districts, permitted only by special permit by the City Planning Commission pursuant to Section 74-901 (Long-term care facilities in R1 and R2 Districts and certain Commercial Districts)

2 ~~Permitted only by special permit by the City Planning Commission pursuant to Section 74-903~~

3 ~~Nursing homes, health related facilities, domiciliary care facilities for adults and sanitariums that are proprietary facilities are not permitted in R1 or R2 Districts~~

43 The number of persons employed in central office functions shall not exceed 50, and the amount of #floor area# used for such purposes shall not exceed 25 percent of the total #floor area#, or, in R8, R9 or R10 Districts, 25,000 square feet, whichever is greater

* * *

22-14

Use Group 4

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

Use Group 4 consists primarily of community facilities that:

- (1) may appropriately be located in #residential# areas to provide recreational, religious, health and other essential services for the residents; or
- (2) can perform their activities more effectively in a #residential# environment, unaffected by objectionable influences from adjacent medium and heavy industrial #uses#; and
- (3) do not create significant objectionable influences in #residential# areas.

Those open #uses# of land which are compatible with a #residential# environment are also included.

A. #Community facilities#

* * *

B. Open #uses#

Agricultural #uses#, including greenhouses, nurseries, or truck gardens, provided that no offensive odors or dust are created, and that there is no sale of products not produced on the same #zoning lot#

* * *

Railroad or transit rights-of-way³

* * *

³ Use of #railroad or transit air space# is subject to the provisions of Section 22-41 (Air Space over a Railroad or Transit ~~Rights-of-Way~~ Right-of-way or Yard)

* * *

**22-20
USES PERMITTED BY SPECIAL PERMIT**

* * *

**22-22
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4, or as otherwise indicated in this Section.

* * *

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~
~~Domiciliary care facilities for adults~~

* * *

R1 R2
#Long-term care facilities#

* * *

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~
~~Nursing home and health-related facilities in Community Districts in which the conditions set forth in~~

~~Section 22-42 (Certification of Certain Community Facility Uses) apply. However, proprietary nursing homes, proprietary health related facilities and proprietary domiciliary care facilities for adults are not permitted in R1 and R2 Districts and the special permit provisions shall not apply to such facilities~~

* * *

22-40

SUPPLEMENTARY USE REGULATIONS

* * *

22-42

Certification of Certain Community Facility Uses

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

~~In all #Residence Districts#, for any nursing homes and health related facilities or #enlargement#, #extension# or change in #use# thereof, the City Planning Commission shall certify to the Department of Buildings, prior to the filing of any plans by the applicant for a building permit for such #use#, that none of the following conditions applies to the Community District within which such #use# or #enlargement#, #extension# or change in such #use# is to be located:~~

- ~~(a) — the ratio between the number of beds for such #uses# in existence, under construction or approved toward construction by the appropriate Federal or State governmental agency, to the population of the Community District compared to such ratio for other Community Districts shows a relative concentration of facilities covered in this Section in the affected district; or~~
- ~~(b) — a scarcity of land for general community purposes exists; or~~
- ~~(c) — the incidence of construction of facilities for the last three years warrants review over these facilities because they threaten to disrupt the land use balance in the community.~~

~~If the Commission finds that one or more of the conditions set forth in this Section applies to the Community District within which such #use# or #enlargement#, #extension# or change in such #use# is to be located, a special permit pursuant to Section 74-90 shall be required.~~

* * *

Article II - Residence District Regulations

Chapter 3

Residential Bulk Regulations in Residence Districts

23-00

APPLICABILITY AND GENERAL PURPOSES

23-01

Applicability of ~~This~~ this Chapter

The ~~bulk~~ regulations of this Chapter apply to any ~~zoning lot~~ or portion of a ~~zoning lot~~ located in any ~~Residence District~~ which contains any ~~building or other structure~~, ~~other than a community facility building~~ or the ~~community facility~~ portion of a ~~building~~ ~~residential building or other structure~~, or to the ~~residential~~ portion of a ~~building or other structure~~ used for both ~~residential and community facility uses~~. The ~~bulk~~ regulations of Article II, Chapter 4, shall apply to a any zoning lot or portion of a zoning lot containing a ~~community facility building~~ or to the ~~community facility~~ portion of a ~~building~~ used for both ~~residential~~ and ~~community facility uses~~, except as set forth in Section 24-012 (Exceptions to the bulk provisions of this Chapter). In addition, the ~~bulk~~ regulations of this Chapter, or of specified Sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

Existing ~~buildings or other structures~~ that do not comply with one or more of the applicable ~~bulk~~ regulations are ~~non-complying buildings or other structures~~ and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying to ~~large-scale residential developments~~ or ~~residential uses~~ in ~~large-scale community facility developments~~ are set forth in Article VII, Chapter 8.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the ~~conversion~~ of non-~~residential floor area~~ to ~~residences~~ in ~~buildings~~ erected prior to December 15, 1961 or January 1, 1977, as applicable, shall be subject to the provisions of Article ~~I~~, Chapter 5 (Residential ~~Conversion~~ Conversions within Existing Buildings), unless such ~~conversions~~ meet the requirements for ~~residential developments~~ of Article II (Residence District Regulations).

Special regulations applying in the ~~waterfront area~~ are set forth in Article VI, Chapter 2.

Special regulations applying in the ~~flood zone~~ are set forth in Article VI, Chapter 4.

23-011

Quality Housing Program

R5D R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

- (a) In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building or other structure# shall comply with the ~~applicable district~~ #bulk# regulations for #Quality Housing buildings# set forth in this Chapter and any #building# containing #residences# shall also comply with the requirements of Article II, Chapter 8 (Quality Housing Program). However, the provisions of Article II, Chapter 8, shall not apply to #buildings converted# pursuant to Article I, Chapter 5.

In R5D Districts, only certain requirements of Article II, Chapter 8, shall apply as set forth in Section 28-01 (Applicability of this Chapter).

R6 R7 R8 R9 R10

- (b) In the districts indicated without a letter suffix, the #bulk# regulations applicable to #Quality Housing buildings# may, as an alternative, be applied to #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to all of the requirements of the Quality Housing Program. Such #buildings# may be subsequently #enlarged# only pursuant to the Quality Housing Program. In these districts, the Quality Housing #bulk# regulations may apply to #developments# or #enlargements# on #zoning lots# with existing #buildings# to remain, if:
- (1) the existing #buildings# contain no #residences# and the entire #zoning lot# will comply with the #floor area ratio# and density standards applicable to #Quality Housing buildings#; or
 - (2) the existing #buildings# contain #residences#, and:
 - (i) such #buildings# comply with the maximum base heights and maximum #building# heights listed in the tables in Sections ~~23-662 23-633 or 35-24~~ for the applicable district, and the entire #zoning lot# will comply with the #floor area ratio#, and #lot coverage# and density standards applicable to #Quality Housing buildings#; or
 - (ii) for #developments# or #enlargements# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors):

- a. the entire #zoning lot# will comply with the #floor area ratio# set forth in Sections 23-154 (Inclusionary Housing) or 23-155 (Affordable independent residences for seniors), as applicable;
- b. the entire #zoning lot# will comply with the #lot coverage# regulations for the applicable zoning district set forth in Section 23-153 (For Quality Housing buildings); and either:
- c. the entire #zoning lot# will comply with the height and setback requirements of the applicable zoning district set forth in paragraph (b) of Section 23-664; or
- d. in R6 through R8 Districts, where the #zoning lot# is located within 150 feet of the types of transportation infrastructure listed in paragraphs (c)(1) through (c)(4) of Section 23-664, the entire #zoning lot# will comply with the height and setback requirements of the applicable zoning district set forth in paragraph (c) of Section 23-664. Such 150-foot measurement shall be measured perpendicular to the edge of such infrastructure.

All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8.

R6 R7 R8 R9 R10

(c) In the districts indicated without a letter suffix, the optional Quality Housing #bulk# regulations permitted as an alternative pursuant to paragraph (b) of this Section, shall not apply to:

- (1) Article VII, Chapter 8 (Large Scale Residential Developments);
- (2) Special Purpose Districts, ~~except the following:~~

However, such optional Quality Housing #bulk# regulations are permitted as an alternative to apply in the following Special Purpose Districts:

#Special 125th Street District#;

* * *

#Special Tribeca Mixed Use District#;

- (3) ~~#zoning lots# in R6 or R7 Districts within the study areas set forth in this paragraph, (c)(3), and occupied, as of August 14, 1987, 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#. For any #building# on such #zoning lot#, the #floor area ratio# and density requirements of the underlying district shall apply. On a #narrow street# that intersects with a #wide street#, the 70 percent #residential use# requirement on a #narrow street# shall be measured from a distance of 100 feet from its intersection with a #wide street#.~~

The study areas are:

~~In the Borough of The Bronx:~~

~~Soundview Area~~

~~The area bounded by Story Avenue, the Bronx River, Westchester Avenue, Bronx River Avenue and Rosedale Avenue.~~

~~Castle Hill Area~~

~~The area bounded by Castle Hill Avenue, Westchester Avenue and East Tremont Avenue.~~

~~In the Borough of Brooklyn:~~

~~Midwood Area~~

~~The area bounded by Avenue M, Coney Island Avenue, Avenue O, and a line midway between East 10th Street and Coney Island Avenue.~~

~~Brighton Beach Area~~

~~The area bounded by Shore Parkway, NYCTA Brighton Right of Way, Brighton Beach Avenue and Ocean Parkway.~~

~~In the Borough of Queens:~~

~~Elmhurst/Corona Area~~

~~The area bounded by Roosevelt Avenue, 114th Street, 34th Avenue and 112th Street.~~

~~Forest Hills Area~~

~~The area bounded by Queens Boulevard, Union Turnpike, Austin Street and 76th Road.~~

~~Flushing Area~~

~~The area bounded by 35th Avenue, 149th Street, Northern Boulevard, 147th Street, Ash Avenue, Parsons Boulevard, Franklin Avenue, Bowne Avenue, Cherry Avenue, Kissena Boulevard, Elder Avenue, Main Street, Dahlia Avenue, Saull Street, Maple Avenue, Frame Place, 41st Avenue, College Point Boulevard, Roosevelt Avenue and Prince Street.~~

R6 R7 R8 R9 R10

(d) In the districts indicated, for #Quality Housing buildings#, the applicable #bulk# regulations of this Chapter may be modified for #zoning lots# with irregular site conditions or site planning constraints by special permit of the Board of Standards and Appeals, pursuant to Section 73-623 (Bulk modifications for Quality Housing buildings on irregular sites).

R6 R7 R8 R9 R10

(e) In the districts indicated, where a Special Purpose District modifies the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter, the additional provisions for #Quality Housing buildings# set forth in Article II, Chapter 8 shall continue to apply. In addition, where any Special Purpose District that requires elements of Article II, Chapter 8 to apply to non-#Quality Housing buildings#, all associated #floor area# exemptions shall apply.

23-012

Lower density growth management areas

For areas designated as #lower density growth management areas# pursuant to Section 12-10 (DEFINITIONS), the underlying district regulations shall apply. Such regulations are superseded or supplemented as set forth in the following Sections:

Section 11-45 (Authorizations or Permits in Lower Density Growth Management Areas)

* * *

Section ~~23-14~~ 23-141 (~~Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts~~ Open Space and Floor Area Regulations in R1 through R5 Districts)

Section 23-32 (Minimum Lot Area or Lot Width for Residences)

* * *

Section 23-462 (Side yards for all other ~~residential~~ buildings containing residences)

Section 23-532 (Required rear yard equivalents)

Section 23-634 (Height and setback Setback Requirements in R1 through Through, R2, R3, R4 and R5 Districts)

* * *

23-10
OPEN SPACE AND FLOOR AREA REGULATIONS
R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the #open space# and #floor area# provisions for a #building or other structure# shall be as set forth in this Section, inclusive.

The regulations for permitted obstructions in required #open space# in all districts are set forth in Section 23-12. The regulations for balconies in all districts are set forth in Section 23-13.

#Open space# and #floor area# regulations applicable to R1 through R5 Districts are set forth in Section 23-14. #Open space# and #floor area# regulations applicable to R6 through R10 Districts are set forth in Section 23-15.

Special #open space# and #floor area# provisions are set forth in Sections 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) for tower-on-a-base #buildings# in R9 Districts, as well as for certain areas in Community District 7 and Community District 9 in the Borough of Manhattan, and Community District 12 in the Borough of Brooklyn. Additional provisions are set forth in Sections 23-17 (Existing Public Amenities for Which Floor Area Bonuses Have Been Received) and 23-18 (Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations).

* * *

23-14

Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio

Open Space and Floor Area Regulations in R1 through R5 Districts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated In all districts, as indicated, except as otherwise provided in Section 23-17 (Special Provisions for Zoning Lots Divided by District Boundaries), for any #zoning lot#, the minimum required #open space# or #open space ratio# shall not be less than set forth in this Section, and the maximum #lot coverage# shall not exceed the #lot coverage# as set forth in this Section. Any given #lot area# or area of #open space# shall be counted only once in determining the #floor area ratio#, the amount of #open space# or the #open space ratio#.

In R1 and R2 Districts without a letter suffix, the #floor area# and #open space# provisions of Section 23-141 shall apply. In R1 and R2 Districts with a letter suffix, and R3, R4 and R5 Districts, the provisions of Section 23-142 shall apply.

In R4 and R5 Districts without a letter suffix, the provisions of Section 23-143 shall apply to #buildings# utilizing the optional provisions for a #predominantly built-up area#. In R3-2, R4 and R5 Districts without a letter suffix, the provisions of Section 23-144 shall apply to #affordable independent residences for seniors#.

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, the maximum #floor area ratio# for each #use# shall be as set forth in the applicable provisions of this Section, inclusive, or Section 24-10 (FLOOR AREA AND LOT COVERAGE REGULATIONS), inclusive, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#. However, for #zoning lots# providing #affordable independent residences for seniors# and other #residential uses#, the sum of all #floor area# allocated to #uses# other than #affordable independent residences for seniors# on the #zoning lot# shall not exceed the maximum #floor area ratio# permitted for #residential uses# set forth in Sections 23-142 or 23-143, as applicable.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

In addition to complying with the provisions of this Section, all #zoning lots# shall be subject to the provisions set forth in Section 23-22 (Maximum Number of Dwelling Units ~~or Rooming Units~~) as well as all other applicable #bulk# regulations as set forth in this Chapter.

23-141

Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts in R1 and R2 Districts without a letter suffix

R1 R2 R3 R4 R5

In the districts indicated, except R1-2A, R2A and R2X Districts, the minimum required #open space ratio# shall be 150.0, and the maximum #floor area ratio# shall be 0.50.

~~Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, the minimum required #open space# or #open space ratio#, the maximum #lot coverage# and the maximum #floor area ratio# for any #zoning lot# shall be as set forth in the following tables:~~

(a)

District	Minimum Required #Open Space Ratio#	Maximum #Floor Area Ratio#
R1* R2*	150.0	0.50

~~* R1 2A, R2A and R2X are subject to the provisions of paragraph (b) of this Section~~

(b)

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum #Floor Area Ratio#
R1 2A	30	70	.50
R2A	30	70	.50
R2X	governed by #yard# requirements		.85
R3 1 R3 2	35	65	.50
R3A R3X	governed by #yard# requirements		.50
R4	45	55	.75
R4A R4 1	governed by #yard# requirements		.75
R4B	55	45	.90
R5	55	45	1.25
R5A	governed by #yard# requirements		1.10
R5B	55	45	1.35
R5D	60*	40*	2.00

~~* For #corner lots#, the maximum #lot coverage# shall be 80 percent and the minimum required #open space# shall be 20 percent~~

In addition, the following rules shall apply:

~~(1) In R2X, R3, R4, R4A and R4 1 Districts, except R3, R4A and R4 1 Districts within #lower density growth management areas#, the #floor area ratio# in the table in this~~

paragraph, (b), may be increased by up to 20 percent provided that any such increase in #floor area# is located directly under a sloping roof which rises at least three and one half inches in vertical distance for each foot of horizontal distance and the structural headroom of such #floor area# is between five and eight feet.

- (2) — In R3, R4A and R4-1 Districts in #lower density growth management areas#, the #floor area ratio# in the table in this Section may be increased by up to 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.
- (3) — In R3, R4 and R5 Districts, the permitted #floor area# of a #single # or #two family detached# or #semi-detached residence developed# after June 30, 1989, may be increased by up to 300 square feet if at least one enclosed #accessory# off street parking space is provided in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12 (Permitted Obstructions in Open Space), paragraph (e), 23-441 (Location of garages in side yards of corner lots) or 23-442 (Location of garages in side yards of other zoning lots).
- (4) — In R1-2A Districts and in R3, R4A and R4-1 Districts within #lower density growth management areas#, the permitted #floor area# of a #single # or #two family detached# or #semi-detached residence# may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces are in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12, paragraph (e), 23-441 or 23-442, except that in R1-2A Districts, such parking spaces need not be located in the #side lot ribbon#.
- (5) — In R2A Districts, the permitted #floor area# may be increased by up to 300 square feet for a detached garage located in a #rear yard#, except where a parking space is provided within a #building# containing #residences#.

(e) — The maximum #floor area ratio# and #lot coverage# and the minimum required #open space# for any #zoning lot# utilizing the special optional regulations of a #predominantly built up area# are set forth in the following table:

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum #Floor Area Ratio#
R4	55	45	1.35

- (d) ~~In R3 Districts, except for #zoning lots# containing #single #, #two #, or three #family residences#, 50 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard#, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off street parking spaces or open or enclosed #accessory# off street loading berths.~~
- (e) ~~In R4 and R5 Districts, except for #zoning lots# containing #single #, #two # or three #family residences#, 33 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard# or, in R5D Districts, open area between the #street line# and #street wall# of a #building# or its prolongation, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off street parking spaces, or open or enclosed #accessory# off street loading berths.~~

23-142

In R6, R7, R8 or R9 Districts

Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts

R6 R7 R8 R9 R1 R2 R3 R4 R5

In R1 and R2 Districts with a letter suffix and R3 through R5 Districts, the maximum #lot coverage#, minimum #open space# and maximum #floor area ratio# shall be as set forth in the following table:

<u>District</u>	<u>Maximum #Lot Coverage# (in percent)</u>	<u>Minimum Required #Open Space# (in percent)</u>	<u>Maximum #Floor Area Ratio#</u>
<u>R1-2A</u>	<u>30</u>	<u>70</u>	<u>0.50</u>
<u>R2A</u>	<u>30</u>	<u>70</u>	<u>0.50</u>
<u>R2X</u>	<u>Not applicable, governed by #yard# requirements</u>		<u>0.85</u>
<u>R3-1 R3-2</u>	<u>35</u>	<u>65</u>	<u>0.50</u>
<u>R3A R3X</u>	<u>Not applicable, governed by #yard# requirements</u>		<u>0.50</u>

<u>R4</u>		<u>45</u>	<u>55</u>	<u>0.75</u>
<u>R4-1 R4A</u>	<u>Not applicable, governed by #yard# requirements</u>			<u>0.75</u>
<u>R4B</u>		<u>55</u>	<u>45</u>	<u>0.90</u>
<u>R5</u>		<u>55</u>	<u>45</u>	<u>1.25</u>
<u>R5A</u>	<u>Not applicable, governed by #yard# requirements</u>			<u>1.10</u>
<u>R5B</u>		<u>55</u>	<u>45</u>	<u>1.35</u>
<u>R5D</u>		<u>60*</u>	<u>40*</u>	<u>2.00</u>

* For #corner lots#, the maximum #lot coverage# shall be 80 percent and the minimum required #open space# shall be 20 percent

In addition, the following rules shall apply:

- (a) In R2X, R3, R4, R4-1 and R4A Districts, except R3, R4-1 and R4A Districts within #lower density growth management areas#, the #floor area ratio# in the table in this Section, may be increased by up to 20 percent provided that any such increase in #floor area# is located directly under a sloping roof which rises at least three and one half inches in vertical distance for each foot of horizontal distance and the structural headroom of such #floor area# is between five and eight feet.
- (b) In R3, R4A and R4-1 Districts in #lower density growth management areas#, the #floor area ratio# in the table in this Section may be increased by up to 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.
- (c) In R3, R4 and R5 Districts, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence developed# after June 30, 1989, may be increased by up to 300 square feet if at least one enclosed #accessory# off-street parking space is provided in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12 (Permitted Obstructions in Open Space), paragraph (e), 23-441 (Location of garages in side yards of corner lots) or 23-442 (Location of garages in side yards of other zoning lots).
- (d) In R1-2A Districts and in R3, R4A and R4-1 Districts within #lower density growth management areas#, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence# may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces are in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12, paragraph (e), 23-441 or 23-442, except that in R1-2A Districts, such parking spaces need not be located in the #side lot ribbon#.
- (e) In R2A Districts, the permitted #floor area# may be increased by up to 300 square feet for a detached garage located in a #rear yard#, except where a parking space is provided within a #building# containing #residences#.

- (f) In R3 Districts, except for #zoning lots# containing #single-#, #two-#, or three-#family residences#, 50 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard#, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces or open or enclosed #accessory# off-street loading berths.
- (g) In R4 and R5 Districts, except for #zoning lots# containing #single-#, #two-# or three-#family residences#, 33 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard#, or in R5D Districts, the open area between the #street line# and #street wall# of a #building# or its prolongation, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces, or open or enclosed #accessory# off-street loading berths.

Except as otherwise provided in the following Sections:

~~Section 23-144 (In designated areas where the Inclusionary Housing Program is applicable)~~

~~Section 23-145 (For Quality Housing buildings)~~

~~Section 23-146 (Optional provisions for certain R5 and R6 Districts in Brooklyn)~~

~~Section 23-147 (For non-profit residences for the elderly);~~

~~Section 23-148 (For tower-on-a-base buildings in R9 Districts); and~~

~~Section 23-149 (Special floor area regulations for certain sites in Community District 9, Borough of Manhattan).~~

~~In the districts indicated, the minimum required #open space ratio# and the maximum #floor area ratio# for any #zoning lot# shall be as set forth in the following table for #zoning lots# with the #height factor# indicated in the table.~~

MINIMUM REQUIRED OPEN SPACE RATIO AND MAXIMUM FLOOR AREA RATIO			
R6 through R9 Districts			
In R6 Districts	In R7 Districts	In R8 Districts	In R9 Districts
Min. Req.	Min. Req.	Min. Req.	Min. Req.

For #zoning lots# with a #height factor# of	#open space ratio#	Max. #floor area ratio#	#open space ratio#	Max. #floor area ratio#	#open space ratio#	Max. #floor area ratio#	#open space ratio#	Max. #floor area ratio#
1	27.5	0.78	15.5	0.87	5.9	0.94	1.0	0.99
2	28.0	1.28	16.0	1.52	6.2	1.78	1.4	1.95
3	28.5	1.62	16.5	2.01	6.5	2.51	1.8	2.85
4	29.0	1.85	17.0	2.38	6.8	3.14	2.2	3.68
5	29.5	2.02	17.5	2.67	7.1	3.69	2.6	4.42
6	30.0	2.14	18.0	2.88	7.4	4.15	3.0	5.08
7	30.5	2.23	18.5	3.05	7.7	4.55	3.4	5.65
8	31.0	2.30	19.0	3.17	8.0	4.88	3.8	6.13
9	31.5	2.35	19.5	3.27	8.3	5.15	4.2	6.54
10	32.0	2.38	20.0	3.33	8.6	5.38	4.6	6.85
11	32.5	2.40	20.5	3.38	8.9	5.56	5.0	7.09
12	33.0	2.42	21.0	3.41	9.2	5.71	5.4	7.30
13	33.5	2.43	21.5	3.42	9.5	5.81	5.8	7.41
14	34.0	2.43	22.0	3.44	9.8	5.92	6.2	7.52
15	34.5	2.43	22.5	3.42	10.1	5.95	6.6	7.52
16	35.0	2.42	23.0	3.41	10.4	5.99	7.0	7.52
17	35.5	2.42	23.5	3.40	10.7	6.02	7.4	7.52
18	36.0	2.40	24.0	3.38	11.0	6.02	7.8	7.46
19	36.5	2.39	24.5	3.36	11.3	6.02	8.2	7.41
20	37.0	2.38	25.0	3.33	11.6	6.02	8.6	7.35

21 37.5 2.36 25.5 3.30 11.9 5.99 9.0 7.25

23-143

For high buildings in R6, R7, R8 or R9 Districts

Optional regulations for predominantly built-up areas

R6 R7 R8 R9

R4 R5

In the districts indicated without a letter suffix, the maximum #floor area ratio# and #lot coverage# and the minimum required #open space# for any #zoning lot# utilizing the special optional regulations of a #predominantly built-up area# are set forth in the following table:

<u>District</u>	<u>Maximum #Lot Coverage# (in percent)</u>	<u>Minimum Required #Open Space# (in percent)</u>	<u>Maximum #Floor Area Ratio#</u>
<u>R4</u>	<u>55</u>	<u>45</u>	<u>1.35</u>
<u>R5</u>	<u>55</u>	<u>45</u>	<u>1.65</u>

Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, for #zoning lots# with #height factors# greater than 21, the minimum required #open space ratio# shall be as set forth in the following table:

OPEN SPACE RATIO FOR HIGH BUILDINGS

<u>District</u>	<u>Minimum Required #Open Space Ratio# at #Height Factor# of 21</u>	<u>Additional Required #Open Space Ratio# for each Additional #Height Factor#</u>
<u>R6</u>	<u>37.5</u>	<u>0.5</u>
<u>R7</u>	<u>25.5</u>	<u>0.5</u>

R8	11.9	0.3
R9	9.0	0.4

For such #zoning lots#, the maximum #floor area ratio# shall be such as can be attained at the required #open space ratio# for the #height factor#.*

* The #floor area ratio# attainable at a given #height factor# and a given #open space ratio# may be computed from the following formula:

$$\frac{F.A.R.}{100} = \frac{O.S.R.}{100} + \frac{H.F.}{100}$$

23-144

In designated areas where the Inclusionary Housing Program is applicable
Affordable independent residences for seniors

R3-2 R4 R5

In the districts indicated, except R4A, R4B, R4-1, R5A, R5B and R5D Districts, the maximum #floor area ratio# for #affordable independent residences for seniors# shall be as set forth in the following table. #Open space# and #lot coverage# shall be governed by the #yard# requirements of the applicable district.

In R5D Districts, the #open space# and #floor area# regulations set forth in Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall apply to #affordable independent residences for seniors#.

MAXIMUM FLOOR AREA RATIO FOR
AFFORDABLE INDEPENDENT RESIDENCES FOR SENIORS
IN R3-2, R4 AND R5 DISTRICTS

<u>District</u>	<u>Maximum #Floor Area Ratio#</u>
<u>R3-2</u>	<u>0.95</u>
<u>R4</u>	<u>1.29</u>
<u>R5</u>	<u>1.95</u>

In ~~#Inclusionary Housing designated areas#~~, the maximum permitted ~~#floor area ratios#~~ shall be as set forth in Section 23-952 (Floor area compensation in Inclusionary Housing designated areas). The locations of such areas are specified in APPENDIX F (~~Inclusionary Housing Designated Areas~~) of this Resolution.

23-145

For Quality Housing buildings

R6 R7 R8 R9 R10

In the districts indicated, the maximum ~~#residential lot coverage#~~ and the maximum ~~#floor area ratio#~~ for a ~~#zoning lot#~~ where ~~#Quality Housing buildings#~~ are ~~#developed#~~ or ~~#enlarged#~~ shall be as set forth in the following table. The maximums for ~~#zoning lots#~~, or portions thereof, located within 100 feet of a ~~#wide street#~~ in R6, R7 or R8 Districts without a letter suffix outside the ~~#Manhattan Core#~~, shall be as designated by the same district with an asterisk. In an R6 District inside the ~~#Manhattan Core#~~ located within 100 feet of a ~~#wide street#~~, the maximums shall be indicated by the same district with a double asterisk.

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR
QUALITY HOUSING BUILDINGS
(in percent)

District	Maximum #Lot Coverage#		Maximum #Floor Area Ratio#
	#Corner Lot#	#Interior Lot# or #Through Lot#	
R6	80	60	2.20
R6**	80	60	2.43
R6* R6A R7B	80	65	3.00
R6B	80	60	2.00
R7	80	65	3.44
R7* R7A	80	65	4.00
R7D	80	65	4.20

R7X	80	70	5.00
R8 R8A R8X	80	70	6.02
R8*	80	70	7.20
R8B	80	70	4.00
R9 R9A	80	70	7.52
R9D R9X	80	70	9.00
R10	100	70	10.00

23-146

Optional provisions for certain R5 and R6 Districts in Brooklyn

R5-R6

Within the area bounded by 39th Street, Dahill Road, Ditmas Avenue, McDonald Avenue, Bay Parkway, 61st Street and Fort Hamilton Parkway in Community Board 12, in the Borough of Brooklyn, special optional regulations as set forth in this Section are applicable for #zoning lots# containing #buildings# used exclusively as one, #two # or three #family residences#, provided such #zoning lot# complies with all of the provisions of this Section. Except as modified by the express provisions of this Section, the regulations of R5 and R6 Districts remain in effect.

(a) — #Floor area#, #lot coverage#, #open space#, density and #height factor# regulations

The regulations of Article II, Chapter 3, relating to #floor area ratio#, #open space#, density and #height factor# are hereby made inapplicable. In lieu thereof, the maximum #floor area ratio# for a #corner lot# shall not exceed 1.65 and the maximum #floor area ratio# for an #interior# or #through lot# shall not exceed 1.8 in R5 Districts and 1.95 in R6 Districts. Notwithstanding the definition of #floor area# in Section 12-10, the lowest #story# shall be included in the definition of #floor area#, and floor space used for #accessory# off-street parking spaces shall be included in the definition of #floor area# unless such spaces are located in a #cellar#. The #lot coverage# for a #corner lot# shall not exceed 55 percent and the #lot coverage# for an #interior# or #through lot# shall not exceed 60 percent in R5 Districts and 65 percent in R6 Districts.

(b) — #Building# height

No ~~building~~ shall exceed a height of 35 feet above ~~curb level~~, or three ~~stories~~, whichever is less. The regulations of Article II, Chapter 3, relating to height and setback, are hereby made inapplicable.

(c) ~~Front yards~~

In R5 Districts, the following ~~front yard~~ regulations are applicable. A ~~front yard~~ shall be provided with a depth of not less than five feet, provided that for ~~corner lots~~, one ~~front yard~~ with a depth of not less than 10 feet is required. If the depth of the ~~front yard~~ exceeds 10 feet, such ~~front yard~~ shall have a depth of not less than 18 feet. In R6 Districts, a ~~front yard~~ is not required.

(d) ~~Side yards~~

In R5 Districts, the following ~~side yard~~ regulations shall apply:

- (1) ~~Where an existing building on an adjacent zoning lot is located on the common side lot line, no side yard is required. However, if an open area extending along such common side lot line is provided, it shall be at least eight feet wide.~~
- (2) ~~Where an existing building on an adjacent zoning lot is located less than eight feet from, but not on, the common side lot line, a side yard at least four feet wide is required. However, in no case shall the distance between a new or enlarged building and an existing building across a common side lot line on an adjacent zoning lot be less than eight feet.~~
- (3) ~~Where an adjacent zoning lot is vacant or where an existing building on an adjacent zoning lot is located more than eight feet from the common side lot line, a side yard at least four feet wide is required.~~
- (4) ~~In R6 Districts, a side yard is not required. However, when a building is 62 feet in depth or more, an eight foot side yard or an outer court as set forth in paragraph (f) of this Section is required.~~
- (5) ~~Notwithstanding the provisions of paragraphs (d)(1) and (d)(3), detached one, two and three family residences on corner lots shall provide side yards of five feet and 20 feet. Semi-detached one, two and three family residences on corner lots shall provide one side yard of 20 feet.~~

(e) ~~Rear yards~~

~~Single or two family residences consisting of detached, semi-detached or zero lot line buildings may project up to ten feet into a required rear yard or rear yard equivalent, provided that there is a side yard of at least eight feet for such semi-detached or zero lot~~

~~line buildings#, and that the total width of #side yards# for a #detached building# is at least eight feet.~~

~~(f) — #Outer court# and minimum distance between #legally required windows# and walls or #lot lines#~~

~~In R6 Districts, the #outer court# provisions of Section 23-84 are modified as follows: an #outer court# shall have a minimum width of 10 feet and a depth of not more than twice the width.~~

~~Where a #building# is attached, along a common #side lot line#, to a portion of an existing or new #building# on an adjacent #zoning lot#, there may be a joint #outer court# across such common #side lot line# with a minimum width of 10 feet. The requirements of Section 23-86 are hereby made inapplicable.~~

~~(g) — Off street parking in R5 and R6 Districts~~

~~No #accessory# off street parking is required in R5 and R6 Districts.~~

23-147

For non-profit residences for the elderly

~~R3 R4 R5 R6 R7~~

~~(a) — In the districts indicated, except R5D Districts, the minimum required #open space ratio# and the maximum #floor area ratio# for #non profit residences for the elderly# shall be as set forth in the following table:~~

Maximum #Floor Area Ratio#	Minimum #Open Space Ratio#	Districts
0.95	66.5	R3
1.29	39.4	R4
1.95	23.1	R5
3.90	17.7	R6
5.01	12.8	R7

~~In R5D Districts, the #open space# and #floor area# regulations set forth in Section 23-141 shall apply to #non profit residences for the elderly#.~~

However, in R6 or R7 Districts, the minimum required #open space ratio# shall not apply to #non-profit residences for the elderly# that are #Quality Housing buildings#. Such #buildings# shall be subject to the requirements of R6A or R7A Districts, respectively, as set forth in paragraph (b) of this Section.

R6A R6B R7A R7B R7D R7X

(b) — In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR
NON-PROFIT RESIDENCES FOR THE ELDERLY
(in percent)

Maximum #Lot Coverage#		Maximum #Floor Area Ratio#	District
#Corner Lot#	#Interior Lot# or #Through Lot#		
80	65	3.90	R6A R7B
80	60	2.00	R6B
80	70	5.01	R7A R7D R7X

23-148

For tower-on-a-base buildings in R9 Districts

In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 80 percent on a #corner lot# and 70 percent on an #interior lot#.

23-149

Special floor area regulations for certain sites in Community District 9, Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality

Housing Program and are subject to the #floor area# regulations set forth in Section 23-145 (For Quality Housing buildings).

23-15

Maximum Floor Area Ratio in R10 Districts

Open Space and Floor Area Regulations in R6 through R10 Districts

R10

R6 R7 R8 R9 R10

In the districts indicated, for any #zoning lot#, the minimum required #open space# or #open space ratio# shall not be less than set forth in this Section, and the maximum #lot coverage# shall not exceed the #lot coverage# as set forth in this Section. Any given #lot area# or area of #open space# shall be counted only once in determining the #floor area ratio#, the amount of #open space# or the #open space ratio#.

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building# containing #residences# shall comply with the #floor area ratio# and #lot coverage# regulations for #Quality Housing buildings# set forth in Sections 23-153 (For Quality Housing buildings).

In R6, R7, R8, R9 and R10 Districts without a letter suffix, #buildings# containing #residences# may be #developed# or #enlarged# pursuant to the basic #floor area# and #open space# regulations set forth in Section 23-151 (Basic regulations for R6 though R9 Districts) or 23-152 (Basic regulations for R10 Districts), as applicable, or the regulations for #Quality Housing buildings# set forth in Section 23-153.

All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8.

The applicable #floor area ratio# for the district may be increased for #buildings# on #zoning lots# containing #affordable housing# or #affordable independent residences for seniors#, pursuant to Sections 23-154 (Inclusionary Housing) or 23-155 (Affordable independent residences for seniors), as applicable.

Special #lot coverage# provisions for shallow #zoning lots#, and #interior# or #through lots# within 100 feet of corners or located along the short dimension of the #block# are set forth in Section 23-156 (Special lot coverage provisions for certain interior or through lots).

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, the maximum #floor area ratio# for each #use# shall be as set forth in the applicable provisions of this Section, inclusive, or Section 24-10 (FLOOR AREA AND LOT COVERAGE REGULATIONS), inclusive, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

However, for #zoning lots# providing #affordable independent residences for seniors# and other #residential uses#, the total #floor area# allocated to #uses# other than #affordable independent residences for seniors# on the #zoning lot# shall not exceed the maximum #floor area ratio# permitted for #residential uses# set forth in Sections 23-151 or 23-153, as applicable. Furthermore, for such #zoning

lots# providing #affordable independent residences for seniors# and other #residential uses# within R10 Districts or within Inclusionary Housing Designated Areas, the maximum #floor area ratio# on the #zoning lot# shall not exceed the #floor area ratio# for the Inclusionary Housing Program set forth in Section 23-154, as applicable, and the maximum #floor area ratio# allocated to #affordable independent residences for seniors# shall not exceed the base #floor area ratio# specified in such Section, as applicable, except where such #affordable independent residences for seniors# meet the definition of #affordable housing# set forth in Section 23-911. #Zoning lots# with #buildings# used exclusively for #affordable independent residences for seniors# within R10 Districts or within Inclusionary Housing Designated Areas shall remain subject to the maximum #floor are ratios# set forth in Section 23-155.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

In addition to complying with the provisions of this Section, all #zoning lots# shall be subject to the provisions set forth in Section 23-22 (Maximum Number of Dwelling Units) as well as all other applicable #bulk# regulations as set forth in this Chapter.

In the district indicated, except in #Inclusionary Housing designated areas#, the #floor area ratio# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING), inclusive.

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of Manhattan, in R10 Districts, except R10A or R10X Districts, the maximum #floor area ratio# shall 10.0.

23-151

Basic regulations for R6 through R9 Districts

R6 R7 R8 R9

In the districts indicated without a letter suffix, the minimum required #open space ratio# and the maximum #floor area ratio# for any #zoning lot# shall be determined by the #height factor# of such #zoning lot# as set forth in this Section.

MINIMUM REQUIRED OPEN SPACE RATIO AND MAXIMUM FLOOR AREA RATIO

R6 through R9 Districts

In R6 Districts

In R7 Districts

In R8 Districts

In R9 Districts

<u>For #zoning lots# with a #height factor# of:</u>	<u>Min. Req. #open space ratio#</u>	<u>Max. #floor area ratio#</u>	<u>Min. Req. #open space ratio#</u>	<u>Max. #floor area ratio#</u>	<u>Min. Req. #open space ratio#</u>	<u>Max. #floor area ratio#</u>	<u>Min. Req. #open space ratio#</u>	<u>Max. #floor area ratio#</u>
<u>1</u>	<u>27.5</u>	<u>0.78</u>	<u>15.5</u>	<u>0.87</u>	<u>5.9</u>	<u>0.94</u>	<u>1.0</u>	<u>0.99</u>
<u>2</u>	<u>28.0</u>	<u>1.28</u>	<u>16.0</u>	<u>1.52</u>	<u>6.2</u>	<u>1.78</u>	<u>1.4</u>	<u>1.95</u>
<u>3</u>	<u>28.5</u>	<u>1.62</u>	<u>16.5</u>	<u>2.01</u>	<u>6.5</u>	<u>2.51</u>	<u>1.8</u>	<u>2.85</u>
<u>4</u>	<u>29.0</u>	<u>1.85</u>	<u>17.0</u>	<u>2.38</u>	<u>6.8</u>	<u>3.14</u>	<u>2.2</u>	<u>3.68</u>
<u>5</u>	<u>29.5</u>	<u>2.02</u>	<u>17.5</u>	<u>2.67</u>	<u>7.1</u>	<u>3.69</u>	<u>2.6</u>	<u>4.42</u>
<u>6</u>	<u>30.0</u>	<u>2.14</u>	<u>18.0</u>	<u>2.88</u>	<u>7.4</u>	<u>4.15</u>	<u>3.0</u>	<u>5.08</u>
<u>7</u>	<u>30.5</u>	<u>2.23</u>	<u>18.5</u>	<u>3.05</u>	<u>7.7</u>	<u>4.55</u>	<u>3.4</u>	<u>5.65</u>
<u>8</u>	<u>31.0</u>	<u>2.30</u>	<u>19.0</u>	<u>3.17</u>	<u>8.0</u>	<u>4.88</u>	<u>3.8</u>	<u>6.13</u>
<u>9</u>	<u>31.5</u>	<u>2.35</u>	<u>19.5</u>	<u>3.27</u>	<u>8.3</u>	<u>5.15</u>	<u>4.2</u>	<u>6.54</u>
<u>10</u>	<u>32.0</u>	<u>2.38</u>	<u>20.0</u>	<u>3.33</u>	<u>8.6</u>	<u>5.38</u>	<u>4.6</u>	<u>6.85</u>
<u>11</u>	<u>32.5</u>	<u>2.40</u>	<u>20.5</u>	<u>3.38</u>	<u>8.9</u>	<u>5.56</u>	<u>5.0</u>	<u>7.09</u>
<u>12</u>	<u>33.0</u>	<u>2.42</u>	<u>21.0</u>	<u>3.41</u>	<u>9.2</u>	<u>5.71</u>	<u>5.4</u>	<u>7.30</u>
<u>13</u>	<u>33.5</u>	<u>2.43</u>	<u>21.5</u>	<u>3.42</u>	<u>9.5</u>	<u>5.81</u>	<u>5.8</u>	<u>7.41</u>
<u>14</u>	<u>34.0</u>	<u>2.43</u>	<u>22.0</u>	<u>3.44</u>	<u>9.8</u>	<u>5.92</u>	<u>6.2</u>	<u>7.52</u>
<u>15</u>	<u>34.5</u>	<u>2.43</u>	<u>22.5</u>	<u>3.42</u>	<u>10.1</u>	<u>5.95</u>	<u>6.6</u>	<u>7.52</u>
<u>16</u>	<u>35.0</u>	<u>2.42</u>	<u>23.0</u>	<u>3.41</u>	<u>10.4</u>	<u>5.99</u>	<u>7.0</u>	<u>7.52</u>
<u>17</u>	<u>35.5</u>	<u>2.42</u>	<u>23.5</u>	<u>3.40</u>	<u>10.7</u>	<u>6.02</u>	<u>7.4</u>	<u>7.52</u>
<u>18</u>	<u>36.0</u>	<u>2.40</u>	<u>24.0</u>	<u>3.38</u>	<u>11.0</u>	<u>6.02</u>	<u>7.8</u>	<u>7.46</u>

<u>19</u>	<u>36.5</u>	<u>2.39</u>	<u>24.5</u>	<u>3.36</u>	<u>11.3</u>	<u>6.02</u>	<u>8.2</u>	<u>7.41</u>
<u>20</u>	<u>37.0</u>	<u>2.38</u>	<u>25.0</u>	<u>3.33</u>	<u>11.6</u>	<u>6.02</u>	<u>8.6</u>	<u>7.35</u>
<u>21</u>	<u>37.5</u>	<u>2.36</u>	<u>25.5</u>	<u>3.30</u>	<u>11.9</u>	<u>5.99</u>	<u>9.0</u>	<u>7.25</u>

For #zoning lots# with #height factors# greater than 21, the minimum required #open space ratio# shall be as set forth in the following table:

OPEN SPACE RATIO FOR HIGH BUILDINGS

<u>District</u>	<u>Minimum Required #Open Space Ratio# at #Height Factor# of 21</u>	<u>Additional Required #Open Space Ratio# for each Additional #Height Factor#</u>
<u>R6</u>	<u>37.5</u>	<u>0.5</u>
<u>R7</u>	<u>25.5</u>	<u>0.5</u>
<u>R8</u>	<u>11.9</u>	<u>0.3</u>
<u>R9</u>	<u>9.0</u>	<u>0.4</u>

For these #zoning lots#, the maximum #floor area ratio# shall be such as can be attained at the required #open space ratio# for the #height factor#.*

* The #floor area ratio# attainable at a given #height factor# and a given #open space ratio# may be computed from the following formula:

$$\frac{1}{\text{F.A.R.}} = \frac{\text{O.S.R.}}{100} + \frac{1}{\text{H.F.}}$$

23-152

Basic regulations for R10 Districts

In R10 Districts, the #floor area ratio# on a #zoning lot# shall not exceed 10.0.

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0.

23-153

For Quality Housing buildings

R6 R7 R8 R9 R10

In the districts indicated, for #Quality Housing buildings#, the maximum #floor area ratio# and maximum #residential lot coverage# for #interior lots# or #through lots# shall be as set forth in the following table. The maximum #residential lot coverage# for a #corner lot# shall be 100 percent.

The maximums for #zoning lots#, or portions thereof, located within 100 feet of a #wide street# in R6, R7 or R8 Districts without a letter suffix outside the #Manhattan Core#, shall be as designated by the same district with an asterisk. In an R6 District inside the #Manhattan Core# located within 100 feet of a #wide street#, the maximums shall be indicated by the same district with a double asterisk.

**MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR QUALITY HOUSING BUILDINGS**

<u>District</u>	<u>Maximum #Lot Coverage# for an #Interior Lot# or #Through Lot# (in percent)</u>	<u>Maximum #Floor Area Ratio#</u>
<u>R6</u>	<u>60</u>	<u>2.20</u>
<u>R6**</u>	<u>60</u>	<u>2.43</u>
<u>R6* R6A R7B</u>	<u>65</u>	<u>3.00</u>
<u>R6B</u>	<u>60</u>	<u>2.00</u>
<u>R7</u>	<u>65</u>	<u>3.44</u>
<u>R7* R7A</u>	<u>65</u>	<u>4.00</u>
<u>R7D</u>	<u>65</u>	<u>4.20</u>
<u>R7X</u>	<u>70</u>	<u>5.00</u>
<u>R8 R8A R8X</u>	<u>70</u>	<u>6.02</u>
<u>R8*</u>	<u>70</u>	<u>7.20</u>

<u>R8B</u>	<u>70</u>	<u>4.00</u>
<u>R9 R9A</u>	<u>70</u>	<u>7.52</u>
<u>R9D R9X</u>	<u>70</u>	<u>9.00</u>
<u>R10</u>	<u>70</u>	<u>10.00</u>

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. 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 Sections 12-10 and 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 paragraph (a), the #floor area# of the #compensated zoning lot# may be increased by the amount 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

<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>

With #public funding#

1.25

#New construction affordable housing#,
#substantial rehabilitation affordable housing#
or #preservation affordable housing#

(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 paragraph (b), 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, 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>2.00</u>	<u>2.20</u>
<u>R6B</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.

23-155

Affordable independent residences for seniors

R6 R7 R8 R9 R10

In the districts indicated, for #buildings# complying with the height and setback regulations for #Quality Housing buildings# set forth in Section 23-66, the maximum #floor area ratio# for #affordable

independent residences for seniors# shall be as set forth in the following table, and the maximum #lot coverage# shall be as set forth in Section 23-153 (For Quality Housing buildings), as applicable.

For #buildings# in R6, R7, R8, R9 or R10 Districts without a letter suffix utilizing the basic #bulk# regulations, the maximum #floor area ratio# and #open space ratio# for #affordable independent residences for seniors# shall be as set forth for #residential uses# in Sections 23-151 (Basic regulations for R6 through R9 Districts) and 23-152 (Basic regulations for R10 Districts), as applicable.

MAXIMUM
FLOOR AREA RATIO FOR
AFFORDABLE INDEPENDENT RESIDENCES FOR SENIORS
IN QUALITY HOUSING BUILDINGS

<u>District</u>	<u>Maximum #Floor Area Ratio#</u>
<u>R6 R6A R7B</u>	<u>3.90</u>
<u>R6B</u>	<u>2.20</u>
<u>R7 R7A</u>	<u>5.01</u>
<u>R7D</u>	<u>5.60</u>
<u>R7X</u>	<u>6.00</u>
<u>R8 R8A R8X</u>	<u>7.20</u>
<u>R8B</u>	<u>4.00</u>
<u>R9</u>	<u>8.00</u>
<u>R9A</u>	<u>8.50</u>
<u>R9X</u>	<u>9.70</u>
<u>R9D</u>	<u>10.00</u>
<u>R10 R10A R10X</u>	<u>12.00</u>

23-156

Special lot coverage provisions for certain interior or through lots

R6 R7 R8 R9 R10

In the districts indicated, the maximum #lot coverage# set forth in 23-153 (For Quality Housing buildings), may be increased for shallow #zoning lots# in accordance with paragraph (a) of this Section, and may be increased for #interior# or #through lots# within 100 feet of corners or located along the short dimension of the #block#, in accordance with paragraph (b) of this Section.

(a) Shallow #zoning lots#

The maximum #lot coverage# for shallow #interior# or #through lots# may be increased as follows:

(1) For shallow #interior lots#

In the districts indicated, if an #interior lot#, or portion thereof, was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a #building permit#, and is less than 95 feet deep at any point, the maximum #lot coverage# of such #zoning lot#, or portion thereof, may be increased by one percent for every five feet the depth of such #zoning lot#, or portion thereof, is less than 95 feet. Where the #front lot line# or #rear lot line# of a #zoning lot# intersects a #side lot line# at an angle other than 90 degrees, the depth of such #zoning lot#, or portion thereof, shall be measured at the midpoint of such irregularly angled #lot line#.

(2) For shallow #through lots#

In the districts indicated, if a #through lot#, or portion thereof, was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a #building permit#, and is less than 190 feet deep at any point, the maximum #lot coverage# of such #zoning lot#, or portion thereof, may be increased by one percent for every five feet the depth of such #zoning lot#, or portion thereof, is less than 190 feet. Where the #front lot line# or #rear lot line# of a #zoning lot# intersects a #side lot line# at an angle other than 90 degrees, the depth of such #zoning lot#, or portion thereof, shall be measured at the midpoint of such irregularly angled #lot line#.

(3) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraphs (a) and (b) of this Section, the special #lot coverage# provisions of this Section may be applied to a #zoning lot#, or portion thereof, created after December 15, 1961, provided that the shallow lot condition was in existence on December 15, 1961, and subsequently such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

(4) For #zoning lots# with shallow portions

Where a portion of a #zoning lot# is less than 95 feet for an #interior lot#, or 190 feet for a #through lot#, an adjusted maximum #lot coverage# shall be established for the #zoning

lot# by multiplying the maximum percent of #lot coverage# permitted for the shallow portion of the #zoning lot# established pursuant to paragraphs (a)(1) or (a)(2) of this Section by the percentage such portion constitutes of the #lot area# of the #zoning lot#, and by multiplying the maximum percent of #lot coverage# permitted for the non-shallow portion of the #zoning lot# established pursuant to Section 23-153 (For Quality Housing buildings) by the percentage such portion constitutes of the #lot area# of the #zoning lot#. The sum of the areas of #lot coverage# thus obtained shall be the adjusted maximum percent of #lot coverage# for the #zoning lot#.

(5) Maximum coverage

In no event shall the maximum #lot coverage# of an #interior lot# or #through lot# exceed 80 percent. Shallow portions of a #zoning lot# may exceed such maximum, so long as the adjusted maximum #lot coverage# set forth in paragraph (a)(4) of this Section complies with such maximum.

(b) Within 100 feet of corners or along the short dimension of the #block#

The maximum #lot coverage# for #interior# or #through lots#, or portions thereof, within 100 feet of the corner, or located along the short dimension of the #block#, may be increased as follows:

(1) Within 100 feet of the corner

In the districts indicated, for #interior# or #through lots#, or portions thereof, within 100 feet of the point of intersection of two #street lines# intersecting at an angle of 135 degrees or less, the maximum #lot coverage# shall be 100 percent.

(2) Along the short dimension of the block

In the districts indicated, whenever a #front lot line# of an #interior# or #through lot# coincides with all or part of a #street line# measuring less than 230 feet in length between two intersecting #streets#, the maximum #lot coverage# for such #zoning lot#, or portion thereof, shall be 100 percent within 100 feet of such #front lot line#.

23-16

Special Floor Area and Lot Coverage Provisions for Certain Areas

The #floor area ratio# provisions of Sections 23-14 (Open Space and Floor Area Regulations in R1 through R5 Districts) and 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts), inclusive, shall be modified for certain areas, as follows:

(a) For tower-on-a-base buildings in R9 Districts

In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 100 percent on a #corner lot# and 70 percent on an #interior lot#.

(b) For R10 Districts in Community District 7 in the Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, in R10 Districts, except R10A or R10X Districts, the maximum #floor area ratio# shall be 10.0.

(c) For R8 Districts in Community District 9 in the Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program and are subject to the #floor area# regulations set forth in Section 23-153 (For Quality Housing buildings).

(d) Optional provisions for certain R5 and R6 Districts in Community District 12 in the Borough of Brooklyn

Within the area bounded by 39th Street, Dahill Road, Ditmas Avenue, McDonald Avenue, Bay Parkway, 61st Street and Fort Hamilton Parkway in Community Board 12, in the Borough of Brooklyn, special optional provisions are established for #zoning lots# containing #buildings# used exclusively as #single-#, #two-# or three-#family residences#, as set forth in this Section, inclusive. Except as modified by the express provisions of this Section, the regulations of R5 and R6 Districts remain in effect.

(1) #Floor area#, #lot coverage#, #open space#, density and #height factor# regulations

Where the optional provisions of this Section are applied, the regulations of Article II, Chapter 3, relating to #floor area ratio#, #open space#, density and #height factor# are hereby made inapplicable. In lieu thereof, the maximum #floor area ratio# for a #corner lot# shall not exceed 1.65 and the #floor area ratio# for an #interior# or #through lot# shall not exceed 1.8 in R5 Districts and 1.95 in R6 Districts. Notwithstanding the definition of #floor area# in Section 12-10, the lowest #story# shall be included in the definition of #floor area#, and floor space used for #accessory# off-street parking spaces shall be included in the definition of #floor area# unless such spaces are located in a #cellar#. The #lot coverage# for a #corner lot# shall not exceed 55 percent and the #lot coverage# for an #interior# or #through lot# shall not exceed 60 percent in R5 Districts and 65 percent in R6 Districts.

(2) #Building# height

No #building# shall exceed a height of 35 feet above #curb level#, or three #stories#, whichever is less. Where the optional provisions of this Section are applied, the regulations of Article II, Chapter 3, relating to height and setback, are hereby made inapplicable, except that the provisions of Section 23-62 (Permitted Obstructions) shall apply.

(3) #Front yards#

In R5 Districts, the following #front yard# regulations are applicable. A #front yard# shall be provided with a depth of not less than five feet provided that, for #corner lots#, one #front yard# with a depth of not less than 10 feet is required. If the depth of the #front yard# exceeds 10 feet, such #front yard# shall have a depth of not less than 18 feet. In R6 Districts, a #front yard# is not required.

(4) #Side yards#

In R5 Districts, the following #side yard# regulations shall apply:

- (i) Where an existing #building# on an adjacent #zoning lot# is located on the common #side lot line#, no #side yard# is required. However, if an open area extending along such common #side lot line# is provided, it shall be at least eight feet wide.
- (ii) Where an existing #building# on an adjacent #zoning lot# is located less than eight feet from, but not on, the common #side lot line#, a #side yard# at least four feet wide is required. However, in no case shall the distance between a new or #enlarged building# and an existing #building# across a common #side lot line# on an adjacent #zoning lot# be less than eight feet.
- (iii) Where an adjacent #zoning lot# is vacant or where an existing #building# on an adjacent #zoning lot# is located more than eight feet from the common #side lot line#, a #side yard# at least four feet wide is required.
- (iv) In R6 Districts, a #side yard# is not required. However, when a #building# is 62 feet or more in depth, an eight foot #side yard# or an #outer court# as set forth in paragraph (d)(6) of this Section is required.
- (v) Notwithstanding the provisions of paragraphs (d)(1) and (d)(3), #detached single-#, #two-# and three-#family residences# on #corner lots# shall provide #side yards# of five feet and 20 feet. #Semi-detached single-#, #two-# and three-#family residences# on #corner lots# shall provide one #side yard# of 20 feet.

(5) #Rear yards#

#Single-# or #two-family residences# consisting of #detached#, #semi-detached# or #zero lot line buildings# may project up to 10 feet into a required #rear yard# or #rear yard equivalent#, provided that there is a #side yard# of at least eight feet for such #semi-detached# or #zero lot line buildings#, and that the total width of #side yards# for a #detached building# is at least eight feet.

- (6) #Outer court# and minimum distance between #legally required windows# and walls or #lot lines#

In R6 Districts, the #outer court# provisions of Section 23-84 are modified as follows: an #outer court# shall have a minimum width of 10 feet and a depth of not more than twice the width.

Where a #building# is attached, along a common #side lot line#, to a portion of an existing or new #building# on an adjacent #zoning lot#, there may be a joint #outer court# with a minimum width of 10 feet across such common #side lot line#. The requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) are hereby made inapplicable.

- (7) Off-street parking in R5 and R6 Districts

No #accessory# off-street parking is required in R5 and R6 Districts.

23-17 23-16

Existing Public Amenities for Which Floor Area Bonuses Have Been Received

* * *

Regulations Applying in Special Situations

23-18 23-17

Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations

* * *

23-20

DENSITY REGULATIONS

23-21

Required Floor Area per Dwelling Unit ~~or Floor Area per Rooming Unit~~

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

This Section shall apply to existing #buildings# in which the number of #rooming units# or #dwelling units# is increased as well as to all new #development#.

Any given #floor area# shall be counted only once in meeting the #floor area# requirements.

In all districts, as indicated, the #floor area# requirement per #dwelling unit# or #rooming unit# shall not be less than as set forth in this Section, except as provided in Sections 23-24 (Special Provisions for Buildings ~~Used Partly for Non-Residential~~ Containing Multiple Uses) or Section 23-25 (Special Provisions for Existing Small Zoning Lots).

23-22

Maximum Number of Dwelling Units ~~or Rooming Units~~

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, ~~no #rooming units# shall be permitted and~~ any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

For the purposes of this Section, where a #floor area ratio# is determined pursuant to Section 23-151 (Basic regulations for R6 through R9 Districts) ~~Sections 23-142 or 23-143~~, notwithstanding the #height factor# of the #zoning lot#, the maximum #residential floor area ratio# shall be 2.43 in an R6 District within 100 feet of a #wide street#, 3.44 in an R7 District, and 6.02 in an R8 District. In an R6 District beyond 100 feet of a #wide street#, the maximum #residential floor area ratio# shall be as specified in Section 23-151 ~~Sections 23-142 or 23-143~~, or 2.2, whichever is greater.

For #affordable independent residences for seniors#, there shall be no applicable #dwelling unit# factor.

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, special provisions are set forth in Section 23-24 (Special Provisions for Buildings Containing Multiple Uses) to determine the maximum number of #dwelling units# permitted.

FACTOR FOR DETERMINING MAXIMUM NUMBER
OF DWELLING UNITS ~~OR ROOMING UNITS~~

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
R1-1	4,750	
R1-2	2,850	
R2, R2A	1,900	
R2X	2,900	
R3-1 R3-2*	625	
R3A	710	
R3-2 R4 R4-1 R4B	870	
R3X	1,000	
R4A	1,280	
R4** R5** R5B	900	
R5, R5D	760	
R5A	1,560	
R5B***	1,350	
R6 R7 <u>R8 R9 R10</u> R8B	680	500
R8 R8A R8X R9 R9A	740	530
R9-1 R9X R10	790	600

* for #single-# and #two-family detached# and #semi-detached residences#

** for #residences# in a #predominantly built-up area#

*** for #zoning lots# with less than 40 feet of #street# frontage and existing on the effective date of establishing such districts on the #zoning maps#

23-221

Maximum number of dwelling units or rooming units for non-profit residences for the elderly
~~R3-2 R4 R5 R6 R7~~

In the districts indicated, except R4-1, R4A, R4B and R5A Districts, the maximum number of #dwelling units# or, where permitted, #rooming units# for #non-profit residences for the elderly#, shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. No #rooming units# shall be permitted in R3-2, R4 or R5 Districts. Fractions equal to or greater than three quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

**FACTOR FOR DETERMINING MAXIMUM NUMBER
OF DWELLING UNITS OR ROOMING UNITS**

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
R3-2	680	
R4-R5B	680	
R5-R5D	700	
R6-R7	710	570

23-23

Minimum Size of Dwelling Units

R3 R4 R5

- (a) In the districts indicated, for all #buildings# other than #affordable independent residences for seniors non-profit residences for the elderly#, each #dwelling unit# shall contain at least 300 square feet of #floor area#.

R3 R4A R4-1

- (b) In the districts indicated, for all two-family #detached# and, where permitted, two-family #semi-detached# and #zero lot line buildings#, one #dwelling unit# shall contain at least 925 square feet.

Regulations Applying in Special Situations

23-24

Special Provisions for Buildings Used Partly for Non-Residential Containing Multiple Uses

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, ~~if a #building# is used partly for #residences# and partly for non #residential uses# (other than #community facility uses#, the provisions for which are set forth in Article II, Chapter 4), for #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#,~~ the maximum number of #dwelling units# ~~or #rooming units#~~ permitted on the #zoning lot# shall equal the total #residential floor area# permitted on the #zoning lot# after deducting any non-#residential floor area# and any #floor area# allocated to #affordable independent residences for seniors#, divided by the applicable factor in Section 23-22 (Maximum Number of Dwelling Units ~~or Rooming Units~~). Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

23-25

Special Provisions for Existing Small Zoning Lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, notwithstanding the provisions of Section 23-22 (Maximum Number of Dwelling Units ~~or Rooming Units~~), one #single-family detached residence# or, where permitted, one #single-family residence#, may be built upon a #zoning lot# consisting entirely of a tract of land that was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit.

* * *

23-30

LOT AREA AND LOT WIDTH REGULATIONS

* * *

Regulations Applying in Special Situations

* * *

23-35

Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas

In R1, R2, R3-1, R3A, R3X, R4-1 and R4A Districts in #lower density growth management areas#, the minimum #lot area# and #lot width# regulations of this Section shall apply to any #zoning lot# containing #buildings# used for:

- (a) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals or #long-term care facilities# ~~nursing homes as defined in the New York State Hospital Code~~; and

* * *

**23-40
YARD REGULATIONS**

Definitions and General Provisions

* * *

**23-44
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Residence Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

* * *

- (b) In any #rear yard# or #rear yard equivalent#:
 - (1) Balconies, unenclosed, subject to the provisions of Section 23-13;
 - (2) Breezeways;
 - (3) Fire escapes;
 - (4) Greenhouses, non-commercial, #accessory#, limited to one #story# or 15 ~~14~~-feet in height above adjoining grade, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard#;
 - (5) Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:
 - (i) if #accessory# to a #single-# or #two-family residence#, the height of a #building# containing such parking spaces shall not exceed ~~ten~~ 10 feet in height above the adjoining grade and such #building# shall be #detached# from such

#residence#. Furthermore, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#. In addition, solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

- (ii) if #accessory# to any other kind of #building# containing #residences#, the height of a #building#, or portion thereof, containing such parking spaces within the #rear yard#, shall not exceed ~~ten~~ 10 feet above adjoining grade, including the apex of a pitched roof in R3, R4 or R5 Districts, or ~~15 fourteen~~ 14 feet above #curb level# or #base plane#, as applicable, in R6, R7, R8, R9 or R10 Districts. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

* * *

(9) any portion of a #building# used for #residential uses# other than #dwelling units# in #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), provided that:

- (i) such #zoning lot# is located in an R6 through R10 District other than R6B, R7B or R8B District;
- (ii) the height of such #building# portion does not exceed one #story#, or 15 feet above the adjoining grade, whichever is less;
- (iii) such #building# portion is located within 100 feet of a #wide street#, except for #buildings# meeting the criteria of paragraph (a)(1) of Section 23-664; and
- (iv) such space shall be accessible to all residents of the #building#.

In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such portion of a #building# within the #rear yard#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

Basic Regulations - Side Yards

23-46

Minimum Required Side Yards

* * *

23-462

Side yards for all other buildings containing residences

R3-2 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, except as set forth in Section 23-461 (Side yards for single- or two-family residences) or Section 23-49 (Special Provisions for Side Lot Line Walls), #side yards# shall be provided for all #zoning lots# with #buildings# containing #residences# as provided in this Section:

* * *

R6 R7 R8 R9 R10

- (c) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall have a minimum width of eight feet, measured perpendicular to the #side lot line#, and extend along the entire #side lot line#, except where a #court# is provided in accordance with the applicable provisions of Section 23-60 (HEIGHT AND SETBACK REGULATIONS). measure at least eight feet wide for the entire length of the #side lot line# Obstructions permitted pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be permitted in such open areas.

* * *

Rear Yards

23-52

Special Provisions for Shallow Interior Lots

~~R3 R4 R5 R6 R7 R8 R9 R10~~

R3 R4 R5

- (a) In the districts indicated, if an #interior lot#:

~~(a)(1)~~ was owned separately and individually from all other adjoining tracts of land, both on

December 15, 1961, and on the date of application for a building permit; and

~~(b)~~(2) is less than 70 feet deep at any point;

the depth of a required #rear yard# for such #interior lot# may be reduced by one foot for each foot by which the maximum depth of such #zoning lot# is less than 70 feet. On any #interior lot# with a maximum depth of 50 feet or less, the minimum depth of a required #rear yard# shall be ~~ten~~ 10 feet.

R6 R7 R8 R9 R10

(b) In the districts indicated, if an #interior lot#, or portion thereof:

(1) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit; and

(2) is less than 95 feet deep at any point;

the depth of a required #rear yard#, or portion thereof, for such #interior lot#, may be reduced by six inches for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 95 feet. However, in no event shall the minimum depth of a #required yard#, or portion thereof, be reduced to less than 10 feet.

(c) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraph (b) of this Section, in R6 through R10 Districts, the special #rear yard# provisions of this Section may be applied to a #zoning lot# created after December 15, 1961, or portion thereof, provided that the shallow lot condition was in existence on December 15, 1961, and subsequently, such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

23-53

Special Provisions for Through Lots

* * *

23-532

Required rear yard equivalents

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, except for #Quality Housing buildings# in R6 through R10 districts, the provisions for which are set forth in Section 23-533 as indicated, on any #through lot# that is 110 feet or more in maximum depth from #street# to #street#, one of the following #rear yard equivalents# shall be provided:

- (a) an open area with a minimum depth of 60 feet, midway, (or within five feet of being midway), between the two #street lines# upon which such #through lot# fronts;

* * *

However, in #lower density growth management areas# and in R5D, ~~R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A and R10X~~ Districts, and for #Quality Housing buildings# in ~~other R6 through R10 Districts~~, on any #through lot# at least 180 feet in maximum depth from #street# to #street#, a #rear yard equivalent# shall be provided only as set forth in paragraph (a) of this Section.

Any such #rear yard equivalent# shall be unobstructed from its lowest level to the sky, except as provided in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

23-533

Required rear yard equivalents for Quality Housing buildings

R6 R7 R8 R9 R10

For #Quality Housing buildings# in R6 through R10 districts, on any #through lot# that is 110 feet or more in maximum depth from #street# to #street#, a #rear yard equivalent# consisting of an open area with a minimum depth of 60 feet, midway, or within 10 feet of being midway between the two #street lines# upon which such #through lot# fronts, shall be provided.

However, for #through lots# with a depth of 190 feet or less, an open area with a minimum depth equivalent to the depth required pursuant to Section 23-534 (Special provisions for shallow through lots), may be provided. Additionally, for #through lots# with a depth of 180 feet or less, one of the following #rear yard equivalents# may be provided as an alternative:

- (a) two open areas, each adjoining and extending along the full length of a #street line# and each with a minimum depth of 30 feet measured from such #street line#, except the depth of such required open area along one #street line# may be decreased, provided that a corresponding increase in the depth of the open area along the other #street line# is made; or
- (b) an open area adjoining and extending along the full length of each #side lot line# with a minimum width of 30 feet measured from each such #side lot line#, except that the width of such required open area along one #side lot line# may be decreased, provided that a corresponding increase in the depth of the open area along the other #street line# is made. If an open area along a #side lot line# is provided, it shall be at least eight feet.

Any such #rear yard equivalent# shall be unobstructed from its lowest level to the sky, except as provided in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

23-534

Special provisions for shallow through lots

R6 R7 R8 R9 R10

(a) In the districts indicated, if a #through lot#, or portion thereof:

(1) is less than 190 feet deep at any point; and

(2) was less than 190 deep, both on December 15, 1961 and on the date of application for a building permit;

the depth of a required #rear yard equivalent#, or portion thereof, for such #through lot#, may be reduced by one foot for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 190 feet. However, in no event shall the minimum depth of a required #rear yard equivalent#, or portion thereof, provided between two or more #buildings# on a single #zoning lot# be reduced to less than 40 feet, and in no event shall the minimum depth of such required #rear yard equivalent#, or portion thereof, be reduced to less than 20 feet.

(b) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraph (a) of this Section, in R6 through R10 Districts, the special #rear yard equivalent# provisions of this Section may be applied to a #zoning lot# created after December 15, 1961, or portion thereof, provided that the shallow lot condition was in existence on December 15, 1961, and, subsequently, such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

* * *

23-54

Other Special Provisions for Rear Yards

* * *

23-543

For zoning lots with multiple rear lot lines

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for #zoning lots# with multiple #rear lot lines#, if a #rear yard# extends from a #rear lot line# away from the #street line# which is used to determine such #rear lot line#, the following rules shall apply along such #rear lot line#:

(a) In all districts, a #rear yard# with a minimum depth of 30 feet shall be provided where such #rear lot line# coincides with a #rear lot line# of an adjoining #zoning lot#, except as modified in Section 23-52 (Special Provisions for Shallow Interior Lots).

* * *

23-544

In certain districts

R2X

In the district indicated, a #residential building# may extend ~~ten~~ 10 feet into a required #rear yard# or #rear yard equivalent# pursuant to the provisions of Section 23-631 (General provisions Height and setback in R1, R2, R3, R4 or R5 Districts).

* * *

23-60

HEIGHT AND SETBACK REGULATIONS

Definitions and General Provisions

23-61

Definitions Applicability

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

~~Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively to this Section, in this Section.~~

In all districts, as indicated, height and setback regulations for a #building or other structure# shall be as set forth in Section 23-60, inclusive.

Height and setback regulations applicable to R1 through R5 Districts are set forth in Section 23-63. #Buildings# in R5D Districts shall also comply with additional provisions set forth in Article II, Chapter 8.

Height and setback regulations applicable to R6 through R10 Districts are set forth in Sections 23-64 (Basic Height and Setback Requirements), 23-65 (Tower Regulations) and 23-66 (Height and Setback Requirements for Quality Housing Buildings), as applicable.

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, all #buildings# containing #residences# shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in Sections 23-62 (Permitted Obstructions) and 23-66. In R6, R7, R8, R9 or R10 Districts without a letter suffix, a #building# containing #residences# may be #developed# or #enlarged#

pursuant to the basic height and setback requirements of Sections 23-62, 23-64 or 23-65, as applicable, or pursuant to the #bulk# regulations for #Quality Housing buildings#. All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8, as applicable.

Special height and setback provisions are set forth in Sections 23-67 (Special Height and Setback Provisions for Certain Areas) for #zoning lots# adjoining a #public park#, as well as for certain areas in Community Districts 7, 4 and 9 in the Borough of Manhattan. Additional provisions are set forth in Sections 23-68 (Special Provisions for Zoning Lots Divided by District Boundaries) and 23-69 (Special Height Limitations).

23-62

Permitted Obstructions

In all #Residence Districts#, except as provided in Section 23-621 (Permitted obstructions in certain districts), the obstructions listed in paragraphs (a) through (r) in this Section shall be permitted to penetrate a maximum height limit or #sky exposure plane# set forth in Sections 23-63 (Height and Setback Requirements in R1 Through R5 Districts ~~Maximum Height of Walls and Required Setbacks~~), 23-64 (Basic Height and Setback Requirements ~~Alternate Front Setbacks~~), 23-66 (Height and Setback Requirements for Quality Housing Buildings) or 23-69 (Special Height Limitations):

* * *

- (c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 23-63, 23-64, ~~or~~ 23-65 (Tower Regulations) or 23-66;

* * *

23-621

Permitted obstructions in certain districts

R2A R2X R3 R4 R4-1 R4A ~~R4-1~~ R5A

- (a) In the districts indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to Section 23-62. However, in R3-2, and R4 Districts, except R4A, R4B and R4-1 Districts, elevator or stair bulkheads, roof water tanks and #accessory# mechanical equipment provided pursuant to paragraph (g) of Section 23-62 shall be permitted for #buildings# containing #affordable independent residences for seniors#.

* * *

~~R6 R7 R8 R9 R10 R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(c) In the districts indicated, ~~for #Quality Housing buildings#, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts,~~ the permitted obstructions set forth in Section 23-62 shall apply to any #building or other structure#, except that within a required front setback distance above a maximum base height, the following rules shall apply:

* * *

23-63

Maximum Height of Walls and Required Setbacks ~~Height and Setback Requirements in R1 Through R5 Districts~~

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

In the districts indicated, the height and setback of a #building or other structure# shall be as set forth in Section 23-631 (General provisions). Additional provisions pertaining to required side and rear setbacks are set forth in Section 23-632 (Required side and rear setbacks).

~~In all districts, as indicated, the maximum height of a front wall or of any other portion of a #building or other structure# shall be set forth in this Section, except as otherwise provided in Sections 23-62 (Permitted Obstructions), 23-64 (Alternate Front Setbacks), 23-65 (Tower Regulations), 23-692 (Height limitations for narrow buildings or enlargements), 23-693 (Special provisions applying adjacent to R1 through R6B Districts) or 74-85 (Special Height and Setback Regulations).~~

23-631

Height and setback in R1, R2, R3, R4 and R5 Districts ~~General provisions~~

Height and setback regulations for R1 through R5 Districts are set forth in this Section. Such maximum heights may only be penetrated by permitted obstructions set forth in Section 23-62.

R1 R2

(a) In the districts indicated, except R1-2A, R2A and R2X Districts, the front wall or any other portion of a #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table:

* * *

R1-2A R2A R2X R3 R4 R4-1 R4A ~~R4-1~~ R5A

(b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (h) and ~~(i)~~ (j) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and #abutting semi-detached buildings# may be considered to be one #building#.

* * *

Above these heights, sloping planes control the maximum height of the #building or other structure# requiring either a setback or a pitched roof. These planes start at the maximum permitted height of the perimeter walls and meet at a ridge line of 35 feet above the #base plane#. The exact locations of these planes are flexible and are determined in the steps set forth in paragraphs (b)(1) through (b)(5), as follows:

- (1) At a height of 35 feet above and parallel to the #base plane#, a plane is projected above the area enclosed by and including the perimeter walls of the #building or other structure#. A second plane (the perimeter wall plane) is projected in the same manner at a height of 21 or 25 feet above the #base plane#. (See Figure A)

* * *

- (5) The perimeter walls are then extended vertically beyond the perimeter wall plane, up to the heights defined by the sloping planes generated in paragraph (4). (See Figure E). The perimeter walls of the #building or other structure#, the sloping planes and the perimeter wall extensions define the #building# envelope. (See Figure F). ~~The #building# envelope may be penetrated above the maximum permitted perimeter wall height by those items set forth in Section 23-621 (Permitted obstructions in certain districts).~~ Those items listed in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and roofed porches and porticoes subject to all applicable provisions, may penetrate the #building# envelope below the maximum permitted perimeter wall height. Eaves may extend the roof lines 18 inches beyond the exterior walls.

* * *

R4B

- (c) In the district indicated, no portion of the #building or other structure#, including the apex of a roof, shall penetrate a plane 24 feet in height above the #base plane# ~~except for permitted obstructions as set forth in Section 23-62.~~

R5

- (d) In the district indicated, except R5A, R5B and R5D Districts, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 30 feet. Above

such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height, at 20 degrees to the horizontal. On #corner lots#, the 30 foot maximum #street wall# height shall apply to only one #street# frontage. #Buildings or other structures# which utilize the optional regulations of Section ~~23-143~~ ~~23-141~~ applying to a #predominantly built-up area# shall be subject to the height and setback regulations for an R5B District. The provisions of this paragraph may be modified pursuant to ~~Section 23-62 and~~ paragraphs (h) and ~~(j)~~ ~~(i)~~ of this Section.

R5B

- (e) In the district indicated, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 33 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 30 feet. Above such height, no portion of the #building or other structure# shall penetrate a plane rising from the maximum #street wall# height, at 20 degrees to the horizontal, to a maximum height of 33 feet above the #base plane#. On #corner lots#, the 30 foot maximum #street wall# height shall apply to only one #street# frontage. The provisions of this paragraph may be modified pursuant to ~~Section 23-62 and~~ paragraph (h) of this Section.

R5D

- (f) In the district indicated, no portion of a #building or other structure# shall penetrate a plane 45 feet, or four stories, whichever is less, 40 feet above the #base plane#. However, where the level of the finished floor of the second #story# above grade in such #building or other structure# is less than 13 feet above the level of the adjoining sidewalk, the maximum height of such #building# shall be reduced to 40 feet.

* * *

- (h) The height and setback regulations of this Section are modified as follows:

- (1) In R3-1 and R3-2 Districts, #single-# or #two-family detached residences# on #zoning lots# of at least 9,500 square feet in area and at least 100 feet of frontage along a #street# may use the height and setback regulations applicable in an R2 District.
- ~~(2) In R3 and R4A Districts, #non-profit residences for the elderly# may use the height and setback regulations applicable in an R4 District.~~
- ~~(3) In R5 Districts, except R5A and R5D Districts, as an alternative front setback regulation for #non-profit residences for the elderly#, no portion of the #building or other structure# shall penetrate a #sky exposure plane# which begins at a height of 27 feet above an #initial setback distance# of 10 feet and rises over the #zoning lot# at a slope of one foot of vertical distance for each foot of horizontal distance to a maximum height of 40 feet~~

above the #base plane#. On #corner lots#, the #sky exposure plane# shall apply to only one #street# frontage. The provisions of this subparagraph may be modified pursuant to ~~Section 23-62 and paragraph (i) of this Section.~~

~~(2)(4)~~— In the #Special Ocean Parkway District#, the #Special Coney Island Mixed Use District#, and the #Special Hunters Point Mixed Use District#, for #buildings or other structures# subject to the regulations of an R5 District other than an R5D District, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 32 feet. Above such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height at 20 degrees to the horizontal. On #corner lots#, the 32 foot maximum #street wall# height shall apply to only one #street# frontage.

In these special districts, for #developments# or #enlargements# which utilize the optional regulations applicable to a #predominantly built-up area#, the maximum height of a #building# containing #residences# shall not exceed 32 feet above the #base plane#. Furthermore, for such #developments# or #enlargements# with pitched roofs, the midpoint of such pitched roof shall not exceed a height of 32 feet above the #base plane#. The provisions of this paragraph may be modified pursuant to ~~Section 23-62 and paragraph (j) of this Section.~~

~~(3)(5)~~ In accordance with Section 78-31 (Location of Buildings, Distribution of Bulk and Open Space and Modification of Height and Setbacks), #buildings# within a #large-scale residential development# may use the alternate height and setback regulations set forth in Section 78-31, paragraphs (b)(1) through (b)(3).

R3-2 R4 R5

- (i) In the districts indicated, except R4-1, R4A, R4B, R5A, R5B and R5D Districts, as an alternative to the provisions set forth in paragraphs (b) and (d) of this Section for #developments# or #enlargements# where at least 20 percent of the #floor area# of the #zoning lot# is allocated to #affordable independent residences for seniors#, the following provisions shall apply: within 25 feet of a #street line#, no portion of the #building or other structure# shall exceed a height of 45 feet, and beyond 25 feet of a #street line#, no portion of a #building or other #structure# shall exceed a height of 65 feet or six stories, whichever is less.
- (j) In the districts indicated, except R4-1, R4A, R4B, ~~R4-1~~, R5A, R5B and R5D Districts, the City Planning Commission may authorize a #building or other structure# that penetrates the height and setback regulations set forth in paragraphs (b), ~~and (d)~~ or (i) of this Section, except for #buildings# utilizing the optional regulations for #predominantly built-up areas#. As a condition for granting such authorizations, the Commission shall find that:

- (1) by concentrating permitted #floor area# in a #building# or #buildings# of greater height, the preservation of an existing #building#, topography, vegetation or view corridors having environmental, historic or aesthetic value to the public will be assured, and that such preservation would not be possible by careful siting of lower #buildings# containing the same permitted #floor area#; ~~or, for #non-profit residences for the elderly#, the additional #floor area# permitted is accommodated in an efficient manner;~~
- (2) such modification is the least modification required to achieve the purpose for which it is granted;

* * *

23-632

~~Front setbacks in districts where front yards are not required~~ Required side and rear setbacks

Side and rear setbacks shall be provided as specified in this Section. Permitted obstructions in required side and rear setbacks are set forth in paragraph (a) of this Section. Required side and rear setbacks for tall buildings in certain R1 through R5 Districts are set forth in paragraph (b) and required side and rear setbacks for #buildings# containing non-#residential uses# in certain R1 through R5 Districts are set forth in paragraph (c) of this Section.

(a) Permitted obstructions in required side and rear setbacks

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall thickness, parapet walls not more than four feet in height, roof thickness, solar energy systems up to four feet high, vegetated roofs and weirs are permitted as set forth in Section 23-62 (Permitted Obstructions). Chimneys or flues shall also be permitted, provided that the total width does not exceed 10 percent of the width of the #building's# walls facing such open area.

(b) Required side and rear setbacks for tall buildings in certain low bulk districts

R1 R2 R3 R4 R5

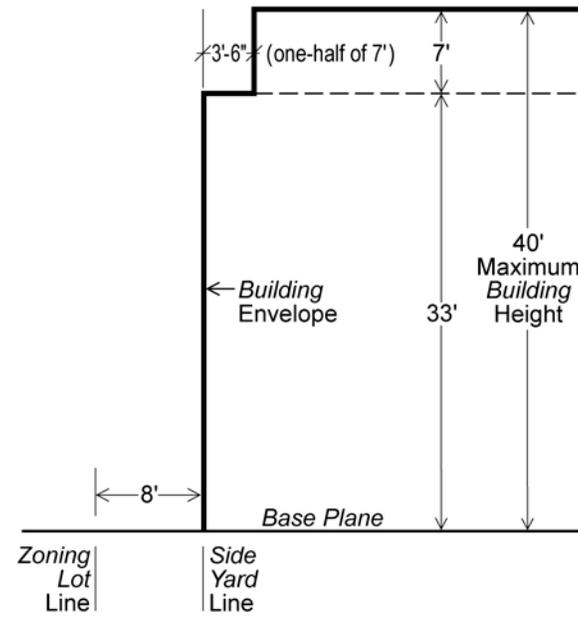
In R1 and R2 Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 30 feet above the mean level of adjacent natural grade shall be set back from such #side yard# line or #rear yard line# for a distance equal to one-half the height of that portion of the #building or other structure# which is higher than 30 feet above the mean level of adjacent natural grade.

In R3, R4 and R5 Districts, except R5A and R5D Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 33 feet above the level of

the #base plane# shall be set back from such #side yard# line or such #rear yard line# for a distance equal to one-half the height of that portion of the #building or other structure# which is higher than 33 feet above the level of the #base plane# (see illustration below of R5 District Side Yard Setback).

However, the following modifications may be applied to #buildings# containing #affordable independent residences for seniors#:

- (1) no #rear yard# setback need be provided; and
- (2) for a #side yard#, the resultant setback required by the calculation above need not exceed a depth of 10 feet, as measured from the #building# wall fronting such #side yard#.



Side Yard Setback

(R5 example)

(c) Required side and rear setbacks for permitted non-residential uses in low bulk districts

R1 R2 R3 R4 R5

In the districts indicated, except R5D Districts, no portion of any #building# used for permitted non-#residential uses# which is more than 30 feet or more than three #stories#, whichever is less, above the level of a #side yard# or #rear yard#, shall be nearer to a #side lot line# or #rear lot line# bounding such #yard# than a distance equal to the height above yard level of such portion of the #building#.

R6 R7 R8 R9 R10

- (a) In the districts indicated, except for #Quality Housing buildings#, and except as set forth in paragraph (b) of this Section, if the front wall or other portion of a #building or other structure# is located at the #street line# or within the #initial setback distance# set forth in the following table, the height of such front wall or other portion of a #building or other structure# shall not exceed the maximum height above #curb level# set forth in the following table. Above such specified maximum height and beyond the #initial setback distance#, the #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table:

MAXIMUM HEIGHT OF FRONT WALL AND REQUIRED FRONT SETBACKS

#Initial Setback Distance# (in feet)		Maximum Height of a Front Wall or other portion of a #Building or other structure# within the #Initial Setback Distance#	Height above #Street Line# (in feet)	#Sky Exposure Plane#			
				Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)			
On #Narrow Street#	On #Wide Street#			On #Narrow Street#		On #Wide Street#	
				Vertical Distance	Horizontal Distance	Vertical Distance	Horizontal Distance

R6 or R7 Districts

20	15	60 feet or six #stories#, whichever is less	60	2.7	to 1	5.6	to 1
----	----	---	----	-----	------	-----	------

In the districts indicated, ~~#street wall#~~ location and height and setback regulations are set forth in this Section. The height of all ~~#buildings or other structures#~~ shall be measured from the ~~#base plane#~~. The provisions of Sections 23-64 (Alternate Front Setbacks) and 23-65 (Tower Regulations) shall not apply, except as otherwise set forth for ~~#buildings#~~ in R9D and R10X Districts.

(a) ~~#Street wall#~~ location

~~R6A R7A R7D R7X R9D~~

- (1) ~~In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the #street wall# shall be located no closer to the #street line# than the closest #street wall# of an existing #building# to such #street line#, located on the same #block#, and within 150 feet of such #building#. However, a #street wall# need not be located further from the #street line# than 15 feet. On #corner lots#, these #street wall# location provisions shall apply along only one #street line#.~~

~~R6B R7B R8B~~

- (2) ~~In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the #street wall# of a #building# on a #zoning lot# with at least 50 feet of frontage along a #street line# shall be located no closer to the #street line# than the #street wall# of an adjacent existing #building#. On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#. For all #zoning lots#, the #street wall# need not be located further from a #street line# than 15 feet. On #corner lots#, the #street wall# along one #street line# need not be located further from the #street line# than five feet.~~

~~R8A R8X R9A R9X R10A R10X~~

- (3) ~~In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following #street wall# location provisions shall apply along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street#:~~
- ~~(i) the #street wall# shall extend along the entire #street# frontage of a #zoning lot#;~~
 - ~~(ii) at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and extend to at least the minimum base height specified in the table in this Section or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street~~

walls# may be recessed beyond eight feet of the #street line# provided any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#; and

- (iii) the #street wall# location provisions of paragraph (a)(3) of this Section, inclusive, shall not apply to houses of worship.

No #street wall# location provisions shall apply along any #narrow street# beyond 50 feet of their intersection with a #wide street#.

For the purposes of applying the provisions of paragraph (a) of this Section, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(b) Setback regulations

In the districts indicated, for all #buildings or other structures#, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, setbacks are required for all portions of #buildings or other structures# that exceed the maximum base height specified in the table in this Section. Such setbacks shall be provided in accordance with the following regulations:

- (1) At a height not lower than the minimum base height or higher than the maximum base height specified in the table in this Section, a setback with a depth of at least 10 feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#, except such dimensions may include the depth of any permitted recesses in the #street wall#.
- (2) On #narrow streets#, where a #street wall# is required to be located further than 10 feet from a #street line# in accordance with paragraph (a) of this Section, the depth of the required setback above the minimum base height may be reduced one foot for every foot that the #street wall# is required to be located beyond 10 feet of the #street line#, but in no event shall a setback less than 10 feet in depth be provided above the minimum base height.
- (3) These setback provisions are optional for any #building# wall that is either located beyond 50 feet of a #street line# or oriented so that lines drawn perpendicular to it, in plan, would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be

deemed to be the #street line#. Furthermore, dormers provided in accordance with the provisions of Section 23-621 may penetrate a required setback area.

- (4) In R9D Districts, for #buildings or other structures# on #zoning lots# that front upon an elevated rail line, at a height between grade level and 25 feet, a setback with a depth of at least 20 feet shall be provided from the #street line# fronting on such elevated rail line. The depth of such setback may be reduced by one foot for every foot that the depth of the #zoning lot#, measured perpendicular to the elevated rail line, is less than 110 feet, but in no event shall a setback less than 10 feet in depth be provided.

(e) Maximum #building# height

No #building or other structure# shall exceed the maximum #building# height specified in the table in this Section, except as otherwise provided below:

R9D-R10X

In the districts indicated, any #building or other structure#, or portions thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 23-651), above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to Section 23-621 (Permitted obstructions in certain districts) shall not be included in tower coverage. Such tower or towers may exceed a height limit of 85 feet above the #base plane# provided:

- (1) at all levels, such tower is set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except such dimensions may include the depth of any permitted recesses in the #street wall#;
- (2) the base of such tower complies with the #street wall# location provisions of paragraph (a) of this Section and the setback provisions of paragraph (b) of this Section; and
- (3) the minimum coverage of such tower above a height of 85 feet above the #base plane# is at least 33 percent of the #lot area# of the #zoning lot#; however, such minimum coverage requirement shall not apply to the highest 40 feet of such tower.
- (4) In R9D Districts, the highest four #stories#, or as many #stories# as are located entirely above a height of 165 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this paragraph, (c)(4), each tower shall have

four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each tower face. Required setback areas may overlap.

- (5) In R9D Districts, for towers fronting on elevated rail lines, the outermost walls of each #story# located entirely above a height of 85 feet shall be inscribed within a rectangle. The maximum length of any side of such rectangle that is parallel or within 45 degrees of being parallel to such elevated rail line shall be 125 feet, or 75 percent of the frontage of the #zoning lot# along such elevated rail line, whichever is less.

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(d) Additional regulations

In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, the following additional regulations shall apply:

- (1) Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location requirements of paragraph (a) of this Section.
- (2) On #through lots# which extend less than 180 feet in maximum depth from #street# to #street#, the #street wall# location requirements of paragraph (a) of this Section shall be mandatory along only one #street# frontage.
- (3) The #street wall# location and minimum base height provisions of paragraph (a) of this Section shall not apply along any #street# frontage of a #zoning lot# occupied by #buildings# whose #street wall# heights or widths will remain unaltered.
- (4) The minimum base height provisions of paragraph (a) of this Section shall not apply to #buildings developed# or #enlarged# after February 2, 2011, that do not exceed such minimum base heights, except where such #buildings# are located on #zoning lots# with multiple #buildings#, one or more of which is #developed#, #enlarged# or altered after February 2, 2011, to a height exceeding such minimum base heights.
- (5) The City Planning Commission may, upon application, authorize modifications in the required #street wall# location if the Commission finds that existing #buildings#, or existing open areas serving existing #buildings# to remain on the #zoning lot#, would be adversely affected by the location of the #street walls# in the manner prescribed in this Section.
- (6) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height and #street wall# location

regulations of this Section, or as modified in any applicable Special District, shall be modified as follows:

- (i) The minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of this Section, or as modified in any applicable Special District.
 - (ii) The maximum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of this Section, provided that such height not exceed 150 feet and provided such #zoning lot# is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.
 - (iii) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of this Section, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.
- (7) In R9D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

**MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT
AND MAXIMUM BUILDING HEIGHT**

District ⁵	Minimum Base Height	Maximum Base Height	Maximum #Building or other Structure# Height
R6B	30	40	50
R6 ²	30	45	55

R6 ¹ inside #Manhattan Core#	40	55	65
R6 ¹ outside #Manhattan Core#	40	60	70
R6A			
R7 ¹ inside #Manhattan Core#	40	60	75
R7 ² R7B			
R7 ¹ outside #Manhattan Core#	40	65	80
R7A			
R7D	60	85	100
R7X	60	85	125
R8B	55	60	75
R8 ²	60	80	105
R8 ¹ R8A	60	85	120
R8X	60	85	150
R9 ² R9A ²	60	95	135
R9A R9 ¹	60	102	145
R9D	60	85 ⁴	— ³
R9X ²	60	120	160
R9X ¹	105	120	170
R10 ² R10A ²	60	125	185
R10 ¹ R10A ¹	125	150	210
			— ³
R10X	60	85	

¹ For #zoning lots# or portions thereof within 100 feet of a #wide street#

² For #zoning lots# on a #narrow street# except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

- ³ ~~Buildings or other structures~~ may exceed a maximum base height of 85 feet in accordance with paragraph (c) of this Section
- ⁴ ~~For buildings or other structures~~ that front upon an elevated rail line, the maximum base height shall be 25 feet
- ⁵ ~~Where the New York City Administrative Code establishes restrictions on the location of buildings on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern street lines of Eastern Parkway.~~

23-634

Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, all buildings or other structures located in R10 Districts, except R10A or R10X Districts, shall comply with the requirements of this Section.

The front building wall of all buildings on a zoning lot with any frontage on a wide street, shall extend along the entire wide street frontage of the zoning lot without a setback for a height of 125 feet above the curb level or the full height of the building, whichever is less. Above a height of 125 feet, the front building wall may be set back at least 10 feet on a wide street or 15 feet on a narrow street. Above a height of 150 feet, the front building wall shall be set back at least 10 feet. These mandatory front building wall requirements also apply to all buildings along all street lines of narrow streets within 50 feet of their intersection with the street lines of wide streets. For the next 20 feet along the street line of a narrow street, the mandatory front building wall requirements are optional. The height and setback regulations of the underlying district shall apply along street lines, or portions thereof, not subject to the front building wall requirements.

Front wall recesses are permitted above the level of the second story ceiling or 23 feet above curb level, whichever is less, provided that the aggregate width of all recesses at the level of any story does not exceed 50 percent of the width of the front wall. The depth of such recess shall not exceed 10 feet. No front wall recesses are permitted within 20 feet of the intersection of two street lines.

Front wall openings are permitted below the level of the second story ceiling, for entrances only.

The preceding street wall location provisions shall not apply along any street frontage of a zoning lot occupied by existing buildings whose street walls remain unaffected by alterations or enlargements to such existing buildings.

However, the provisions of this Section shall not apply to any #building# for which the City Planning Commission has granted a special permit pursuant to Section 24-95 (Housing Quality) nor shall it apply to any #building# located within the #Special Lincoln Square District# or within the former West Side Urban Renewal Area excluding frontages along Central Park West or to the #block# bounded by Frederick Douglass Circle, Cathedral Parkway, Manhattan Avenue, West 109th Street and Central Park West. On application, the City Planning Commission may grant special authorization for minor modifications of the mandatory front wall provisions of this Section involving an #enlargement#, upon a showing of compelling necessity. Such authorization, however, may in no event include modification of permitted #floor area# regulations.

23-635

Special bulk regulations for certain sites in Community District 4, Borough of Manhattan

Within the boundaries of Community District 4 in the Borough of Manhattan, excluding the #Special Clinton District#, for #developments# or #enlargements# in R8 Districts without a letter suffix, on #zoning lots# larger than 1.5 acres that include #residences# for which #public funding#, as defined in Section 23-911 (General definitions) is committed to be provided, the City Planning Commission may authorize modifications of height and setback regulations, provided the Commission finds that such modifications will facilitate the provision of such #residences#, and such modifications will not unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# on the #zoning lot# or nearby properties, #open space# or #streets#. Prior to issuing a building permit for any #development# or #enlargement# utilizing modifications granted by this authorization, the Department of Buildings shall be furnished with written notice of a commitment from the appropriate funding agency for the provision of such #public funding#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

23-636

Special height and setback regulations for certain sites in Community District 9, Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program.

23-64

Alternate Front Setbacks Basic Height and Setback Requirements

R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, for #buildings# other than #Quality Housing buildings#, the height and setback of a #building or other structure# shall be as set forth in Section 23-641 (Front setbacks), or 23-642 (Alternate front setbacks). In R9 and R10 districts, towers are permitted in accordance with the provisions of Section 23-65.

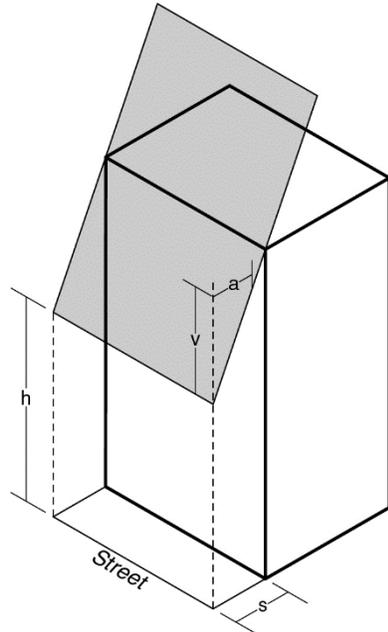
(a) — In the districts indicated, except for #Quality Housing buildings#, and except as set forth in paragraph (b) of this Section, if an open area is provided along the full length of the #front lot line# with the minimum depth set forth in the following table, the provisions of Section 23-63 (Maximum Height of Front Wall and Required Front Setbacks) shall not apply. The minimum depth of such an open area shall be measured perpendicular to the #front lot line#. However, in such instances, except as otherwise provided in Sections 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations), no #building or other structure# shall penetrate the alternate #sky exposure plane# set forth in the following table, and the #sky exposure plane# shall be measured from a point above the #street line#.

In R9 or R10 Districts, the provisions of this Section shall be inapplicable to any #development# or #enlargement# with more than 25 percent of the total #floor area# of the #building# in #residential use#.

ALTERNATE REQUIRED FRONT SETBACKS

Depth of Optional Front Open Area (in feet)		Height above #Street Line# (in feet)	Alternate #Sky Exposure Plane#	
			Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)	
On #Narrow Street#	On #Wide Street#		On #Narrow Street#	On #Wide Street#
			Vertical Distance	Hori-zontal Distance
R6 or R7 Districts				
15	40	60	3.7 to 1	7.6 to 1
R8 R9 R10 Districts				

[REMOVE DIAGRAM]



a - Horizontal distance
 h - Height of sky exposure plane above street line
 s - Depth of the optional front open area
 v - Vertical distance

 Sky Exposure Plane

ALTERNATE SKY EXPOSURE PLANE
R6 R7 R8 R9 R10 Districts

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(b) — ~~In the districts indicated, for all #buildings or other structures#, the provisions of this Section shall be inapplicable.~~

23-641

Front setbacks

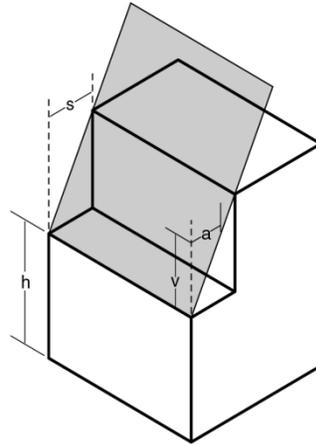
R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, if the front wall or other portion of a #building or other structure# is located at the #street line# or within the #initial setback distance# set forth in the following table, the height of such front wall or other portion of a #building or other structure# shall not exceed the maximum height above the #street line# set forth in the following table. Above such specified maximum

height and beyond the #initial setback distance#, the #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table, except as otherwise provided in Sections 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations).

MAXIMUM HEIGHT OF FRONT WALL AND REQUIRED FRONT SETBACKS

<u>#Initial Setback Distance# (in feet)</u>		<u>Maximum Height of a Front Wall or other portion of a #Building or Other Structure# within the #Initial Setback Distance#</u>	<u>Height above #Street Line# (in feet)</u>	<u>#Sky Exposure Plane#</u>			
				<u>Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)</u>			
<u>On #Narrow Street#</u>	<u>On #Wide Street#</u>			<u>On #Narrow Street#</u>		<u>On #Wide Street#</u>	
				<u>Vertical Distance</u>	<u>Horizontal Distance</u>	<u>Vertical Distance</u>	<u>Horizontal Distance</u>
<u>R6 or R7 Districts</u>							
<u>20</u>	<u>15</u>	<u>60 feet or six #stories#, whichever is lower</u>	<u>60</u>	<u>2.7</u>	<u>to 1</u>	<u>5.6</u>	<u>to 1</u>
<u>R8 R9 or R10 Districts</u>							
<u>20</u>	<u>15</u>	<u>85 feet or nine #stories#, whichever is lower</u>	<u>85</u>	<u>2.7</u>	<u>to 1</u>	<u>5.6</u>	<u>to 1</u>



a - Horizontal distance s - Initial setback distance
 h - Height of sky exposure plane above street line v - Vertical distance
 Sky Exposure Plane

SKY EXPOSURE PLANE
R6 R7 R8 R9 R10 Districts

23-642

Alternate front setbacks

R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, if an open area is provided along the entire length of the #front lot line# with the minimum depth set forth in the following table, the provisions of this Section may apply in lieu of the provisions of Section 23-641 (Front setbacks). The #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table, except as otherwise provided in Section 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations).

In R9 or R10 Districts, the provisions of this Section shall be inapplicable to any #development# or #enlargement# with more than 25 percent of the total #floor area# of the #building# in #residential use#.

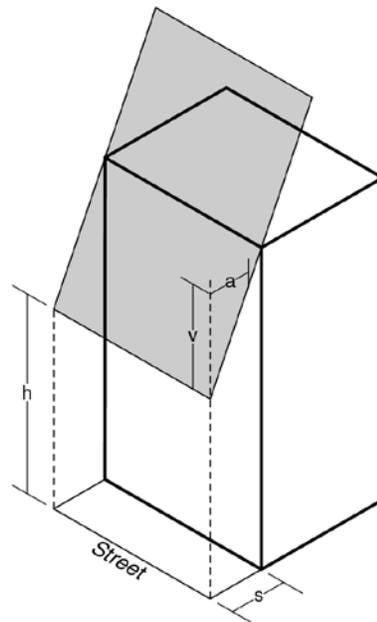
ALTERNATE REQUIRED FRONT SETBACKS

Alternate #Sky Exposure Plane#

Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)

Depth of Optional Front Open Area

<u>(in feet, measured perpendicular to #street line#)</u>		<u>Height above #Street Line# (in feet)</u>	<u>On #Narrow Street#</u>		<u>On #Wide Street#</u>	
<u>On #Narrow Street#</u>	<u>On #Wide Street#</u>		<u>Vertical Distance</u>	<u>Horizontal Distance</u>	<u>Vertical Distance</u>	<u>Horizontal Distance</u>
<u>R6 or R7 Districts</u>						
<u>15</u>	<u>10</u>	<u>60</u>	<u>3.7</u>	<u>to 1</u>	<u>7.6</u>	<u>to 1</u>
<u>R8 R9 or R10 Districts</u>						
<u>15</u>	<u>10</u>	<u>85</u>	<u>3.7</u>	<u>to 1</u>	<u>7.6</u>	<u>to 1</u>



a - Horizontal distance
 h - Height of sky exposure plane above street line
 s - Depth of the optional front open area
 v - Vertical distance
 Sky Exposure Plane

ALTERNATE SKY EXPOSURE PLANE
R6 R7 R8 R9 R10 Districts

Supplementary Regulations

Tower Regulations

R9 R10

In the districts indicated without a letter suffix, except for #Quality Housing buildings#, and except as set forth in paragraph (c) of this Section, any portion or portions of #buildings# which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot#, or for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table below, may penetrate an established #sky exposure plane# in accordance with the provisions of this Section. Such portions of #buildings# that penetrate a #sky exposure plane# are hereinafter referred to as towers.

* * *

(c) Inapplicability of tower regulations

The provisions of this Section ~~23-65~~ shall not apply to any #building# ~~(1)~~ located wholly or partly in a #Residence District#, that is within 100 feet of a #public park# with an area of one acre or more, or a #street line# opposite such #public park# ~~;~~ ~~or~~

~~(2) located in a R9A, R9X, R10A or R10X District.~~

23-651

Tower-on-a-base

Any #development# or #enlargement# that meets the location and #floor area# criteria of paragraph (a) of Section 23-65 and includes a tower shall be constructed as a tower-on-a-base, in accordance with the regulations set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

(a) Tower regulations

(1) At any level above a #building# base (referred to hereinafter as a “base”), any portion or portions of a #building# (referred to hereinafter as a “tower”) shall occupy in the aggregate:

* * *

(2) Any tower located above a base shall not be subject to the provisions of Sections ~~23-63 (Maximum Height of Walls and Required Setbacks)~~ 23-64 (Basic Height and Setback Requirements).

(3) At least 55 percent of the total #floor area# permitted on the #zoning lot# shall be located in #stories# located either partially or entirely below a height of 150 feet.

* * *

A tower proposed pursuant to Section 23-65 (Tower Regulations) that has been granted a special permit by the City Planning Commission prior to February 9, 1994, may be started or continued pursuant to that special permit.

* * *

23-66

Required Side and Rear Setbacks- Height and Setback Requirements for Quality Housing Buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the #street wall# location provisions of Sections 23-661 and the height and setback provisions of Section 23-662 shall apply to #Quality Housing buildings#. These provisions may be modified pursuant to the provisions of either Section 23-663 (Tower regulations in R9D and R10X Districts) or 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), as applicable. Additional provisions are set forth in Section 23-665.

Where the City Planning Commission grants additional height to a #development# or #enlargement# subject to the provisions of Section 23-662 or Section 23-664 pursuant to an authorization or special permit of this Resolution, the Commission may, in conjunction, increase the permitted number of #stories#.

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to four feet high, vegetated roofs, and weirs, are permitted as set forth in Section 23-62 (Permitted Obstructions).

23-661

Required side and rear setbacks for tall residential buildings in low bulk districts-Street wall location

R6 R7 R8 R9 R10

In the districts indicated, the #street wall# location provisions of paragraphs (a), (b) or (c) of this Section shall apply to all #Quality Housing buildings#, as applicable.

Any #street wall# may be divided into different segments, and located at varying depths from the #street line#, to allow for #building# recesses, projections, #outer courts# and other forms of articulation, provided that each portion complies with the applicable #street wall# location provisions of paragraphs (a), (b) or (c) of this Section. Recesses, projections and other forms of articulation beyond the #street

wall# locations established in paragraphs (a), (b) or (c) are permitted only in accordance with paragraph (d) of this Section.

R6A R7A R7D R7X R9D

- (a) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the following shall apply:
- (1) the #street wall# shall be located no closer to the #street line# than the #street wall#, or portion thereof, of an existing adjacent #building# on an adjoining #zoning lot# located on the same #street# frontage, that is both within 10 feet of the #street line# and within 25 feet of the shared #side lot line# between the #zoning lots#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.
 - (2) On #corner lots#, the #street wall# location provisions of paragraph (a)(1) shall apply along only one #street line#.

R6B R7B R8B

- (b) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the following shall apply:
- (1) On #zoning lots# with at least 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to the #street line# than the #street wall#, or portion thereof, of an existing adjacent #building# on an adjoining #zoning lot# located on the same #street# frontage, that is both within 15 feet of the #street line# and within 25 feet of the shared #side lot line# between the #zoning lots#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.
 - (2) On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located neither closer to nor farther from the #street line# than the #street wall#, or portion thereof, of an existing adjacent #building# on an adjoining #zoning lot# located on the same #street# frontage that is both within 15 feet of the #street line# and within 25 feet of the shared #side lot line# between the #zoning lots#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.

- (3) On #corner lots#, the #street wall# regulations of (b)(1) or (b)(2), as applicable, shall apply along both #street# frontages, except that along one #street line# the #street wall# need not be located farther from the #street line# than five feet.

R8A R8X R9A R9X R10A R10X

- (c) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following shall apply:
- (1) Along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street# the #street wall# shall extend along the entire #street# frontage of a #zoning lot#. At least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and extend to at least the minimum base height specified in Section 23-662 (Maximum height of buildings and setback regulations), or the height of the #building#, whichever is less. Up to 30 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#.
- (2) Along #narrow streets# beyond 50 feet of their intersection with a #wide street#, at least 70 percent of the #street wall# shall be located within 15 feet of the #street line#.

R6 R7 R8 R9 R10

- (d) #Street wall# articulation, including, but not limited to, window recesses and structural expression on the #building# facade, shall be permitted to project or recess beyond the #street wall# locations established in paragraphs (a), (b) or (c) of this Section, provided such articulation does not exceed a depth or projection of 12 inches. In addition, to accommodate other forms of #street wall# articulation, such as bay windows, and facade recesses, up to 50 percent of the #aggregate width of street wall#, at any level, may recess or project beyond such #street wall# location provisions of this Section, provided that no such recess or projection exceeds a depth of three feet, as measured perpendicular to the #street wall#, or portion thereof. No projection shall extend beyond the #street line#, except where encroachments into the public right-of-way are permitted by the New York City Administrative Code.

R1 R2 R5

In R1 and R2 Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 30 feet above the mean level of adjacent natural grade shall be set back from

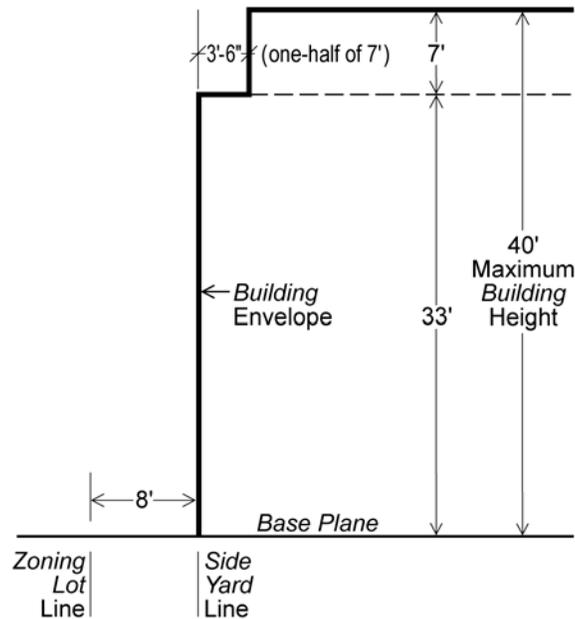
such ~~#side yard# line or #rear yard line#~~ for a distance equal to one half the height of that portion of the ~~#building or other structure#~~ which is higher than 30 feet above the mean level of adjacent natural grade.

In an R5 District, except R5A and R5D Districts, any portion of a ~~#building or other structure#~~ bounding a ~~#side yard#~~ or a ~~#rear yard#~~ which is more than 33 feet above the level of the ~~#base plane#~~ shall be set back from such ~~#side yard# line or such #rear yard line#~~ for a distance equal to one half the height of that portion of the ~~#building or other structure#~~ which is higher than 33 feet above the level of the ~~#base plane#~~ (see illustration of Side Yard Setback).

The following are permitted to project into any open area required under the provisions of this Section:

- (a) — parapet walls not more than four feet high; and
- (b) — chimneys or flues with a total width not exceeding 10 percent of the width of the ~~#building's#~~ walls facing such open area.

[REMOVE DIAGRAM]



Side Yard Setback
(R5 example)

23-662

Required side and rear setbacks for permitted non-residential uses in low bulk districts
Maximum height of buildings and setback regulations

R6 R7 R8 R9 R10

In the districts indicated, height and setback regulations for #Quality Housing buildings# are set forth in this Section. Definitions applicable to Sections 23-66, and 35-65, inclusive, are set forth in paragraph (a) of this Section. The height of a #Quality Housing building or other structure# shall not exceed the maximum height limit specified for the applicable district in paragraph (b) of this Section, or the maximum number of permitted #stories#, whichever is lower, except as further provided elsewhere in this Chapter. A setback is required for all portions of #buildings or other structures# that exceed the maximum base height specified for the applicable district in paragraph (b), and shall be provided in accordance with paragraph (c) of this Section.

(a) Definitions

Excluded districts

For the purposes of Sections 23-66, and 35-65, inclusive, “excluded districts” shall refer to #developments# or #enlargements# of #Quality Housing buildings# within R7B, R8B, R9D or R10X Districts, or within R6 and R7 Districts located within the #Manhattan Core# or located on #narrow streets# beyond 100 feet of an intersection with a #wide street# outside the #Manhattan Core#.

Non-qualifying ground floor

For the purposes of Sections 23-66, and 35-65, inclusive, “non-qualifying ground floor” shall refer to a ground floor of a #development# or #enlargement# that does not meet the requirements for a #qualifying ground floor#.

Qualifying ground floor

For the purposes of Sections 23-66, and 35-65, inclusive, “qualifying ground floor” shall refer to the ground floor of a #development# or #enlargement#, on a #zoning lot#, or portion thereof, located within an R6 through R10 District, other than an #excluded district#, where the level of the finished floor of the second #story# in a #Quality Housing building# is 13 feet or more above the level of the adjoining sidewalk.

(b) Building heights and permitted number of stories

For #Quality Housing buildings#, the minimum and maximum base height, maximum height of a #building or other structure#, and maximum number of #stories# permitted shall be as set forth in Table 1 below for the applicable zoning district. Separate maximum #building# heights are set forth within such Table for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#.

TABLE 1
MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT,

MAXIMUM BUILDING HEIGHT AND MAXIMUM NUMBER OF STORIES

<u>FOR CONTEXTUAL DISTRICTS</u>					
<u>District</u>	<u>Minimum Base Height (in feet)</u>	<u>Maximum Base Height (in feet)</u>	<u>Maximum Height of #Building or other Structures# with #non-qualifying ground floors# (in feet)</u>	<u>Maximum Height of #Building or other Structures# with #qualifying ground floors# (in feet)</u>	<u>Maximum Number of #Stories#</u>
<u>R6A</u>	<u>40</u>	<u>65</u>	<u>70</u>	<u>75</u>	<u>7</u>
<u>R6B</u>	<u>30</u>	<u>45</u>	<u>50</u>	<u>55</u>	<u>5</u>
<u>R7A</u>	<u>40</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>8</u>
<u>R7B</u>	<u>40</u>	<u>65</u>	<u>75⁵</u>	<u>75⁵</u>	<u>7</u>
<u>R7D</u>	<u>60</u>	<u>85</u>	<u>100</u>	<u>105</u>	<u>10</u>
<u>R7X</u>	<u>60</u>	<u>95</u>	<u>120</u>	<u>125</u>	<u>12</u>
<u>R8A</u>	<u>60</u>	<u>95</u>	<u>120</u>	<u>125</u>	<u>12</u>
<u>R8B</u>	<u>55</u>	<u>65</u>	<u>75⁵</u>	<u>75⁵</u>	<u>7</u>
<u>R8X</u>	<u>60</u>	<u>95</u>	<u>150</u>	<u>155</u>	<u>15</u>
<u>R9A¹</u>	<u>60</u>	<u>105</u>	<u>150</u>	<u>155</u>	<u>15</u>
<u>R9A²</u>	<u>60</u>	<u>105</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R9D</u>	<u>60</u>	<u>85⁴</u>	<u>N/A³</u>	<u>N/A³</u>	<u>N/A</u>
<u>R9X¹</u>	<u>105</u>	<u>125</u>	<u>170</u>	<u>175</u>	<u>17</u>

<u>R9X²</u>	<u>60</u>	<u>125</u>	<u>170</u>	<u>175</u>	<u>17</u>
<u>R10A¹</u>	<u>125</u>	<u>155</u>	<u>210</u>	<u>215</u>	<u>21</u>
<u>R10A²</u>	<u>60</u>	<u>135</u>	<u>190</u>	<u>195</u>	<u>19</u>
<u>R10X</u>	<u>60</u>	<u>85</u>	<u>N/A³</u>	<u>N/A³</u>	<u>N/A</u>
<u>FOR NON-CONTEXTUAL DISTRICTS</u>					
<u>District</u>	<u>Minimum Base Height (in feet)</u>	<u>Maximum Base Height (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #non- qualifying ground floors# (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #qualifying ground floors# (in feet)</u>	<u>Maximum Number of #Stories#</u>
<u>R6²</u>	<u>30</u>	<u>45</u>	<u>55⁵</u>	<u>55⁵</u>	<u>5</u>
<u>R6¹ inside #Manhattan Core#</u>	<u>40</u>	<u>55</u>	<u>65⁵</u>	<u>65⁵</u>	<u>6</u>
<u>R6¹ outside #Manhattan Core#</u>	<u>40</u>	<u>65</u>	<u>70</u>	<u>75</u>	<u>7</u>
<u>R7¹ inside #Manhattan Core# R7²</u>	<u>40</u>	<u>65</u>	<u>75⁵</u>	<u>75⁵</u>	<u>7</u>
<u>R7¹ outside #Manhattan Core#</u>	<u>40</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>8</u>
<u>R8¹ inside #Manhattan Core# R8²</u>	<u>60</u>	<u>95</u>	<u>120</u>	<u>125</u>	<u>12</u>
<u>R8¹ outside #Manhattan Core#</u>	<u>60</u>	<u>95</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R9¹</u>	<u>60</u>	<u>105</u>	<u>150</u>	<u>155</u>	<u>15</u>
<u>R9²</u>	<u>60</u>	<u>105</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R10¹</u>	<u>125</u>	<u>155</u>	<u>210</u>	<u>215</u>	<u>21</u>

R10 ²	60	135	190	195	19
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-
- ¹ For #zoning lots# or portions thereof within 100 feet of a #wide street#
 - ² For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#
 - ³ #Buildings or other structures# may exceed a maximum base height of 85 feet in accordance with Section 23-663 (Tower regulations in R9D and R10X Districts)
 - ⁴ For #buildings or other structures# that front upon an elevated rail line, the maximum base height shall be 25 feet
 - ⁵ For #zoning lots# in #excluded districts#, the maximum height of a #building or other structure# is the same for #developments# or #enlargements# with #qualifying ground floors# or #non-qualifying ground floors#.

(c) Setback requirements

For all #Quality Housing buildings#, a setback shall be provided in accordance with the following regulations:

- (1) At a height not lower than the minimum base height or higher than the maximum base height specified for the applicable district in paragraph (b) of this Section, a setback with a depth of at least 10 feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#.
- (2) The depth of such required setback may be reduced by one foot for every foot that the #street wall# is located beyond the #street line#, but in no event shall a setback of less than five feet in depth be provided, except as otherwise set forth in this Section. To allow #street wall# articulation, where a #street wall# is divided into different segments and located at varying depths from the #street line#, such permitted setback reduction may be applied to each #street wall# portion separately.
- (3) Notwithstanding the provisions of paragraph (c)(2) above, the depth of such setbacks may include the depth of recesses or #outer courts# in the #street wall# of the #building# base, provided that the aggregate width of any such recessed portion of a #street wall# with a setback less than five feet, as applicable, does not exceed 30 percent of the #aggregate width of street wall# at any level.

- (4) These setback provisions are optional for any #building# wall that either is located beyond 50 feet of a #street line#, or oriented so that lines drawn perpendicular to it, in plan, would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be deemed to be the #street line#. Furthermore, dormers provided in accordance with the provisions of Section 23-621 (Permitted obstructions in certain districts) may penetrate a required setback area.
- (5) In R9D Districts, for #buildings or other structures# on #zoning lots# that front upon an elevated rail line, at a height between grade level and 25 feet, a setback with a depth of at least 20 feet shall be provided from the #street line# fronting on such elevated rail line. The depth of such setback may be reduced by one foot for every foot that the depth of the #zoning lot#, measured perpendicular to the elevated rail line, is less than 110 feet, but in no event shall a setback less than 10 feet in depth be provided.

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, except R5D Districts, no portion of any #building# used for permitted non-#residential uses# which is more than 30 feet or more than three #stories#, whichever is less, above the level of a #side yard# or #rear yard#, shall be nearer to a #side lot line# or #rear lot line# bounding such #yard# than a distance equal to the height above yard level of such portion of the #building#.~~

~~The following are permitted to project into any open area required under the provisions of this Section:~~

- (a) ~~parapet walls not more than four feet high; and~~
- (b) ~~chimneys or flues with a total width not exceeding 10 percent of the width of the #building's# walls facing such open area.~~

23-663

Required rear setbacks for tall buildings in other districts-Tower regulations in R9D and R10X Districts

R9D R10X

In the districts indicated, any #Quality Housing building or other structure#, or portions thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 23-651 (Tower-on-a-base), above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to Section 23-621 (Permitted obstructions in certain districts) shall not be counted towards tower coverage. Such tower may exceed a height limit of 85 feet above the #base plane# provided the base of such tower complies with the applicable #street wall# location and height and

setback provisions of Sections 23-661 and 23-662, respectively, and provided that the tower portion complies with the following, as applicable:

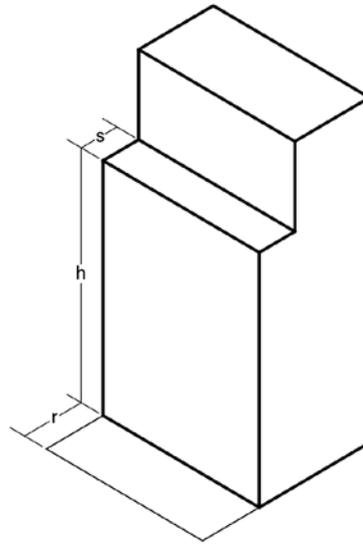
- (a) at all levels, such tower shall be set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except such dimensions may include the depth of any permitted recesses in the #street wall#;
- (b) the minimum coverage of such tower above a height of 85 feet above the #base plane# is at least 33 percent of the #lot area# of the #zoning lot#; however, such minimum coverage requirement shall not apply to the highest 40 feet of such tower;
- (c) in R9D Districts, the highest four #stories#, or as many #stories# as are located entirely above a height of 165 feet, whichever is less, shall have a #lot coverage# of between 50 percent and 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this paragraph (c), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building#, perpendicular to each tower face. Required setback areas may overlap; and
- (d) in R9D Districts, for towers fronting on elevated rail lines, the outermost walls of each #story# located entirely above a height of 85 feet shall be inscribed within a rectangle. The maximum length of any side of such rectangle that is parallel to, or within 45 degrees of being parallel to, such elevated rail line shall be 125 feet, or 75 percent of the frontage of the #zoning lot# along such elevated rail line, whichever is less.

~~R6 R7 R8 R9 R10~~

- ~~(a) In the districts indicated, except as provided in paragraph (b) of this Section, no portion of a #building or other structure# more than 125 feet above yard level shall be nearer to a #rear yard line# than 20 feet. However, this provision shall not apply to any portion of a #building# that qualifies as a tower under the provisions of Section 23-65 (Tower Regulations).~~

~~In the case of a #through lot# on which a #rear yard equivalent# is provided as set forth in paragraph (a) of Section 23-532, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#. If a #rear yard equivalent# is provided as set forth in paragraphs (b) or (c) of Section 23-532, the requirements of this Section shall not apply.~~

[REMOVE IMAGE]



h - Height of wall above rear yard
 r - Depth of required rear yard
 s - Depth of required rear yard setback

REAR SETBACK

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(b) — In the districts indicated, for all #buildings or other structures#, and for #Quality Housing buildings# in other R6 through R10 Districts, no portion of a #building or other structure# that exceeds the applicable maximum base height specified in Section 23-633 (Street wall location and height and setback regulations in certain districts) shall be nearer to a #rear yard line# than 10 feet.

In the case of a #through lot# on which a #rear yard equivalent# is provided as set forth in paragraph (a) of Section 23-532, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#. If a #rear yard equivalent# is provided as set forth in paragraph (b) of Section 23-532, the requirements of this Section shall not apply.

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 purpose 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 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 such #zoning lot# includes a #compensated development# that contains #affordable floor area#; or
- (3) #buildings# on #zoning lots# in #Inclusionary Housing designated areas#, where: 50 percent or more of the #floor area# of the #zoning lot# contains #residential uses#; and 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.

(b) For certain #Quality Housing buildings# in all applicable districts

For #Quality Housing buildings# meeting the criteria of paragraph (a) of this Section, the maximum base and #building# heights and maximum number of #stories# established in Section 23-662 shall be modified by Table 1 below. Separate maximum #building# heights are set forth within such Table for #developments# or #enlargements# with #qualifying ground floors# and for those with #non-qualifying ground floors#.

TABLE 1
MODIFIED MAXIMUM BASE HEIGHT
AND MAXIMUM BUILDING HEIGHT
FOR CERTAIN QUALITY HOUSING BUILDINGS

<u>FOR CONTEXTUAL DISTRICTS</u>				
<u>District</u>	<u>Maximum Base Height (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #non-qualifying ground floors# (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #qualifying ground floors# (in feet)</u>	<u>Maximum Number of #Stories#</u>
<u>R6A</u>	<u>65</u>	<u>80</u>	<u>85</u>	<u>8</u>

<u>R7A</u>	<u>75</u>	<u>100</u>	<u>105</u>	<u>10</u>
<u>R7D</u>	<u>95</u>	<u>120</u>	<u>125</u>	<u>12</u>
<u>R7X</u> ¹	<u>105</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R8A</u>	<u>105</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R8X</u>	<u>105</u>	<u>170</u>	<u>175</u>	<u>17</u>
<u>R9A</u> ²	<u>125</u>	<u>170</u>	<u>175</u>	<u>17</u>
<u>R9A</u> ³	<u>125</u>	<u>160</u>	<u>165</u>	<u>16</u>
<u>R9X</u> ²	<u>145</u>	<u>200</u>	<u>205</u>	<u>20</u>
<u>R9X</u> ³	<u>145</u>	<u>190</u>	<u>195</u>	<u>19</u>
<u>R10A</u> ²	<u>155</u>	<u>230</u>	<u>235</u>	<u>23</u>
<u>R10A</u> ³	<u>155</u>	<u>210</u>	<u>215</u>	<u>21</u>
<u>FOR NON-CONTEXTUAL DISTRICTS</u>				
<u>District</u>	<u>Maximum Base Height (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #non-qualifying ground floors# (in feet)</u>	<u>Maximum Height for #Building or other Structures# with #qualifying ground floors# (in feet)</u>	<u>Maximum Number of #Stories#</u>
<u>R6</u> ⁴	<u>65</u>	<u>80</u>	<u>85</u>	<u>8</u>
<u>R7</u> ⁴	<u>75</u>	<u>100</u>	<u>105</u>	<u>10</u>
<u>R8</u>	<u>105</u>	<u>140</u>	<u>145</u>	<u>14</u>
<u>R9</u> ²	<u>125</u>	<u>170</u>	<u>175</u>	<u>17</u>
<u>R9</u> ³	<u>125</u>	<u>160</u>	<u>165</u>	<u>16</u>

<u>R10²</u>	<u>155</u>	<u>230</u>	<u>235</u>	<u>23</u>
<u>R10³</u>	<u>155</u>	<u>210</u>	<u>215</u>	<u>21</u>

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- ¹ In R7X Districts, the modified base heights, maximum #building# heights and number of #stories# are permitted only for #buildings# on #zoning lots# meeting the criteria of paragraph (a)(1) of this Section
- ² For #zoning lots# or portions thereof within 100 feet of a #wide street#
- ³ For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street#, and for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#
- ⁴ For #buildings# meeting the criteria of paragraph (a)(1) of this Section, and #buildings# meeting the other criteria of paragraph (a) of this Section on #zoning lots# located within 100 feet of a #wide street#

(c) Alternative regulations for certain #Quality Housing buildings# in non-contextual districts

As an alternative to the provisions of paragraph (b) of this Section, for #Quality Housing buildings# containing #affordable independent residences for seniors# in R6 through R8 Districts without a letter suffix, the #street wall# location and height and setback provisions of Sections 23-661 and 23-662 need not apply to #buildings# on #zoning lots# that are located within 150 feet of the following types of transportation infrastructure:

- (1) an elevated rail line;
- (2) an open railroad right of way;
- (3) a limited-access expressway, freeway, parkway, or highway, all of which prohibit direct vehicular access to abutting land; or
- (4) an elevated #street# located on a bridge that prohibits direct vehicular access.

Such 150 foot measurement shall be measured perpendicular from the edge of such infrastructure.

In lieu thereof, the height of a #building or other structure#, or portion thereof, within 10 feet of a #wide street# or 15 feet of a #narrow street#, shall not exceed the maximum base height specified for the applicable zoning district in Table 2 of this Section. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of the #building or other structure# shall not exceed the

maximum #building# height specified for the applicable district in such Table, or the maximum number of #stories#, whichever is less.

TABLE 2
ALTERNATIVE MAXIMUM BASE HEIGHT
AND MAXIMUM BUILDING HEIGHT
FOR CERTAIN QUALITY HOUSING BUILDINGS
IN NON-CONTEXTUAL DISTRICTS

<u>District</u>	<u>Maximum Base Height (in feet)</u>	<u>Maximum Height of #Building or other Structure# (in feet)</u>	<u>Maximum Number of #Stories#</u>
<u>R6</u>	<u>65</u>	<u>115</u>	<u>11</u>
<u>R7</u>	<u>75</u>	<u>135</u>	<u>13</u>
<u>R8</u>	<u>105</u>	<u>215</u>	<u>21</u>

23-665

Additional regulations

R6 R7 R8 R9 R10

In the districts indicated, for all #Quality Housing buildings#, the following additional regulations shall apply:

- (a) Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location requirements of Section 23-661.
- (b) On #through lots# which extend less than 180 feet in maximum depth from #street# to #street#, the #street wall# location requirements of Section 23-661 shall be mandatory along only one #street# frontage.
- (c) The #street wall# location and minimum base height provisions of Sections 23-661 and 23-662, respectively, shall not apply along any #street# frontage of a #zoning lot# occupied by #buildings# whose #street wall# heights or widths will remain unaltered.

- (d) The minimum base height provisions of Section 23-662 shall not apply to #buildings developed# or #enlarged# after February 2, 2011, that do not exceed such minimum base heights, except where such #buildings# are located on #zoning lots# with multiple #buildings#, one or more of which is #developed#, #enlarged# or altered after February 2, 2011, to a height exceeding such minimum base heights.
- (e) The City Planning Commission may, upon application, authorize modifications in the required #street wall# location if the Commission finds that existing #buildings#, or existing open areas serving existing #buildings# to remain on the #zoning lot#, would be adversely affected by the location of the #street walls# in the manner prescribed in Section 23-661.
- (f) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the #street wall# location and minimum base height regulations of Sections 23-661 and 23-662, respectively, or as modified in any applicable Special District, shall be modified as follows:
- (1) The minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of Section 23-661, or as modified in any applicable Special District.
 - (2) The maximum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of this Section, provided that such height not exceed 150 feet and provided such #zoning lot# is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.
 - (3) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of Section 23-661, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.
- (g) In R9D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).
- (h) For the purposes of applying the #street wall# location as well as the height and setback provisions of Sections 23-661 and 23-662, respectively, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet

north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

Regulations Applying in Special Situations

23-67

Special Height and Setback Provisions for Certain Areas ~~Relating to Specified Streets~~

23-671

Special provisions for zoning lots directly adjoining public parks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, a #public park# with an area of between one and fifteen acres shall be considered a #wide street# for the purpose of applying the regulations set forth in Sections 23-63 (Height and Setback in R1 Through R5 Districts Maximum Height of Front Wall and Required Front Setbacks), 23-64 (Basic Height and Setback Requirements) and 23-66 (Height and Setback Requirements for Quality Housing Buildings) to any #building or other structure# on a #zoning lot# adjoining such #public park#. However, the provisions of this Section shall not apply to a #public park# more than 75 percent of which is paved.

23-672

~~Special provisions for certain streets in Community District 6 in the Borough of Brooklyn~~

~~In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.~~

23-672

Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, all #buildings or other structures# located in R10 Districts, except R10A or R10X Districts, utilizing the basic height and setback requirements of Section 23-64 (Basic Height and Setback Requirements) shall also comply with the provisions of this Section.

The front #building# wall of all #buildings# on a #zoning lot# with any frontage on a #wide street#, shall extend along the entire #wide street# frontage of the #zoning lot# without a setback for a height of 125 feet above the #curb level# or the full height of the #building#, whichever is less. Above a height of 125 feet, the front #building# wall may be set back at least 10 feet on a #wide street# or 15 feet on a #narrow street#. Above a height of 150 feet, the front #building# wall shall be set back at least 10 feet. These

mandatory front #building# wall requirements also apply to all #buildings# along all #street lines# of #narrow streets# within 50 feet of their intersection with the #street lines# of #wide streets#. For the next 20 feet along the #street line# of a #narrow street#, the mandatory front #building# wall requirements are optional. The height and setback regulations of the underlying district shall apply along #street lines#, or portions thereof, not subject to the front #building# wall requirements.

Front wall recesses are permitted above the level of the second #story# ceiling or 23 feet above #curb level#, whichever is less, provided that the aggregate width of all recesses at the level of any #story# does not exceed 50 percent of the width of the front wall. The depth of such recess shall not exceed 10 feet. No front wall recesses are permitted within 20 feet of the intersection of two #street lines#.

Front wall openings are permitted below the level of the second #story# ceiling, for entrances only.

The preceding #street wall# location provisions shall not apply along any #street# frontage of a #zoning lot# occupied by existing #buildings# whose #street walls# remain unaffected by alterations or #enlargements# to such existing #buildings#.

However, the provisions of this Section shall not apply to any #building# for which the City Planning Commission has granted a special permit pursuant to Section 74-95 (Modifications of Housing Quality Special Permits) nor shall it apply to any #building# located within the #Special Lincoln Square District# or within the former West Side Urban Renewal Area, excluding frontages along Central Park West or to the #block# bounded by Frederick Douglass Circle, Cathedral Parkway, Manhattan Avenue, West 109th Street and Central Park West. On application, the Commission may grant special authorization for minor modifications of the mandatory front wall provisions of this Section involving an #enlargement#, upon a showing of compelling necessity. Such authorization, however, may in no event include modification of permitted #floor area# regulations.

23-673

Special bulk regulations for certain sites in Community District 4, Borough of Manhattan

Within the boundaries of Community District 4 in the Borough of Manhattan, excluding the #Special Clinton District#, for #developments# or #enlargements# in R8 Districts without a letter suffix, on #zoning lots# larger than 1.5 acres that include #residences# for which #public funding#, as defined in Section 23-911 (General definitions) is committed to be provided, the City Planning Commission may authorize modifications of height and setback regulations, provided the Commission finds that such modifications will facilitate the provision of such #residences#, and such modifications will not unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# on the #zoning lot# or nearby properties, #open space# or #streets#. Prior to issuing a building permit for any #development# or #enlargement# utilizing modifications granted by this authorization, the Department of Buildings shall be furnished with written notice of a commitment from the appropriate funding agency for the provision of such #public funding#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

23-674

Special height and setback regulations for certain sites in Community District 9, Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program. However, the alternate height and setback regulations for certain #Quality Housing buildings# in non-contextual districts, as set forth in paragraph (c) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall not apply to #buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664.

* * *

23-69

Special Height Limitations

* * *

23-692

Height limitations for narrow buildings or enlargements

R7-2 R7D R7X R8 R9 R10

In the districts indicated, portions of #buildings# with #street walls# less than 45 feet in width shall not be permitted above the following heights:

- (a) For #interior lots#, and for #through lots#, which shall be treated as two separate #interior lots# of equal depth for the purposes of determining the height limitations of this Section, a height equal to the width of the #street# on which such #street walls# front or 100 feet, whichever is less;

* * *

- (d) ~~Where such #street walls abut# an existing #building# with #street walls# that exceed the height permitted in paragraphs (a), (b) or (c) of this Section, such new #street walls# may reach the height of the tallest of such #abutting building# walls if they front on a #wide street#, or the lowest of such #abutting building# walls if they front on a #narrow street#, provided such new #street walls# are fully contiguous at every level with such #abutting street walls#.~~

The heights permitted in paragraphs (a), (b) or (c) of this Section may be exceeded if:

- (1) on a #wide street#, such portion of a #building# with a #street wall# less than 45 feet in width #abuts# an existing #building# with a #street wall# that exceeds such permitted heights. Such new #street walls# may reach the height of such #abutting building# or, where there are two #abutting buildings# that exceed such heights, such new #street wall# may reach the height of the tallest of such #abutting buildings#; or
- (2) on a #narrow street#, such #street walls abut# two existing #buildings# with #street walls# that both exceed the heights permitted. Such new #street walls# may reach the height of the lowest of such #abutting buildings#; and
- (3) such new #street walls# shall be fully contiguous at every level with such #abutting street walls#.

In addition, the following rules shall apply:

- (1) The front height and setback regulations and any height limitations of the underlying district shall apply, except that the alternate front setback and tower regulations of Sections ~~23-64~~23-642, 23-65, 24-53, 24-54, 33-44 and 33-45 shall not apply. In the event of a conflict between the underlying regulations and the regulations of this Section, the more restrictive shall apply.

* * *

- (6) #Quality Housing buildings# shall be exempt from the provisions of this Section provided the width of the #street wall# at the maximum base height ~~required by specified in the applicable table in~~ Sections ~~23-66~~23-663 or ~~35-24~~35-65 is at least 45 feet. For such #buildings#, a #street wall# that is less than 45 feet wide may be constructed above such base. For the purposes of this paragraph (6), #abutting buildings# on a single #zoning lot# shall not be considered a single #building#. However, where all the requisite structural framing and all enclosing walls and roofs were completed for an #enlargement#, in accordance with a building permit issued prior to a September 11, 2007, Board of Standards and Appeals (67-07-A) ruling that resulted in the #enlargement# being ineligible for a certificate of occupancy, #abutting buildings# on a single #zoning lot# may be considered a single #building# provided such #zoning lot# is formed prior to August 2, 2011.
- (7) The provisions of this Section shall not apply to #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors).

Special provisions applying adjacent to R1 through R6B Districts

R6 R7 R8 R9 R10

In the districts indicated, the #development# or #enlargement# of a #building#, or portions thereof, within 25 feet of an R1, R2, R3, R4, R5 or R6B District, shall: not exceed a height of 75 feet, or the applicable maximum base height of the district set forth in either Section 23-662 (Maximum height of buildings and setback regulations), or paragraph (b) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) for #buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664, whichever is less.

(a) ~~not exceed a height of 35 feet where such adjoining district is an R1, R2, R3, R4 or R5 District; and~~

(b) ~~comply with the height and setback regulations of an R6B District where such adjoining district is an R6B District.~~

23-70

MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT

23-71

Minimum Distance between Buildings on a Single Zoning Lot

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum distance between the portion of a #building# containing #residences# and any other #building# on the same #zoning lot# shall be as provided in this Section. ~~For the purposes of this Section, #abutting buildings# on a single #zoning lot# may be considered a single #building#.~~

However, these provisions do not apply:

(a) to the extent that such two #buildings# are separated from each other by a #rear yard equivalent# as set forth in Section 23-532 (Required rear yard equivalents) or 23-533 (Required rear yard equivalents for Quality Housing buildings), as applicable; or

(b) to space between a #single-family#, #two-family#, or three-family #residence# and a garage #accessory# thereto.

23-711

Standard minimum distance between buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

The minimum distance between #single-# and #two-family residences# and any other #building#, or portion thereof, on the same #zoning lot# in R1 through R5 Districts shall be set forth in paragraph (a) of this Section. The minimum distance between #buildings# with three or more #dwelling units# and any other #building#, or portion thereof, on the #zoning lot# in R3 through R5 Districts, as well as the minimum distance between all #buildings#, or portions thereof, in R6 through R10 Districts, shall be as set forth in paragraph (b). Additional provisions are set forth in paragraph (c) of this Section.

For the purpose of this Section, #abutting buildings# on a single #zoning lot# may be considered a single #building#. If two or more portions of a #building# are not connected or not #abutting# at a particular level, such separated portions shall comply with the provisions of paragraph (a) or paragraph (b)(1) of this Section, as applicable. In applying the provisions of paragraphs (a) and (b)(1) of this Section, the height of such separated portions shall be measured from the roof of the connecting or #abutting# portion of such #building#, as applicable, instead of from the #base plane# or #curb level#, as applicable.

For the purposes of this Section, wall condition shall be defined as follows:

“wall to wall” is a condition where two walls of #buildings# face each other, and neither wall contains a #legally required window#;

“wall to window” is a condition where two walls of #buildings# face each other, and one wall contains a #legally required window# and the other wall does not contain a #legally required window#;

“window to window” is a condition where two walls of #buildings# face each other, and both walls contain a #legally required window#.

(a) For single- and two-family residences

For #single-# and #two- family residences# in R1 through R5 Districts, ~~In all districts, as indicated,~~ the required minimum distance between the portion of a #building# containing #dwelling units# and any other #building# on the same #zoning lot# shall vary according to the height of such #buildings# and the presence of #legally required windows# in facing #building# walls. Such minimum distance shall be, in feet, as indicated in the ~~following~~ table below, and shall be measured perpendicular to the #building# wall or window, as applicable.

Wall Condition ²	Maximum #Building# Height above #Base Plane# or #Curb Level#, as Applicable (in feet)				
	25	35	40	50	Over 50
#Wall to Wall#	20	25	30	35	40
#Wall to Window#	30	35	40	45	50

<u>#Window to Window#</u>	40	45	50	55	60
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* Wall condition shall be defined as:

"wall to wall" is a condition where two walls of #buildings# face each other, and neither wall contains a #legally required window#;

"wall to window" is a condition where two walls of #buildings# face each other, and one wall contains a #legally required window# and the other wall does not contain a #legally required window#;

"window to window" is a condition where two walls of #buildings# face each other, and both walls contain a #legally required window#.

(b) For #buildings# with three or more #dwelling units# in R3 through R5 Districts and all #buildings# in R6 through R10 Districts

For #buildings# with three or more #dwelling units# in R3 through R5 Districts, and for all #buildings# in R6 through R10 Districts, the provisions of this paragraph (b) shall apply. Where two or more portions of a #building#, including #abutting# portions thereof, are not connected at a particular level above grade, such separated portions shall comply with paragraph (b)(1) of this Section. Where there are multiple #buildings# on a single #zoning lot# that do not connect at any level, such #buildings# shall comply with paragraph (b)(2) of this Section.

(1) For separated portions of a #building#

The required minimum distance between the portion of a #building# containing #dwelling units# and any other portion of the #building#, including #abutting# portions thereof, as applicable, on the same #zoning lot# shall vary according to the height of such #buildings# and the presence of #legally required windows# in facing #building# walls. Such minimum distance shall be as indicated in the table below, and shall be measured perpendicular to the #building# wall or window, as applicable.

	<u>Maximum #Building# Height above Roof of Connecting Portion (in feet)</u>				
<u>Wall Condition</u>	<u>25</u>	<u>35</u>	<u>40</u>	<u>50</u>	<u>Over 50</u>
<u>#Wall to Wall#</u>	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>

<u>#Wall to Window#</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>40</u>	<u>40</u>
<u>#Window to Window#</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>

(2) Two or more #buildings# on a single #zoning lot#

The minimum distance between two or more #buildings# on the same #zoning lot# that are not connected at any level shall be 40 feet, as measured between the closest points of such #buildings#, for portions of #buildings# lower than 125 feet, as measured from the #base plane# or #curb level#, as applicable.

Portions of such #buildings# higher than 125 feet shall be at least 80 feet apart, as measured between the closest points of such #buildings#. However, such minimum distance need not exceed 40 feet if such portions of #buildings# above a height of 125 feet do not exceed, in aggregate, a #lot coverage# of 40 percent or, for lots of less than 20,000 square feet, the percentage set forth in the table below:

AGGREGATED LOT COVERAGE OF PORTIONS OF BUILDINGS ON A SMALL ZONING LOT

<u>Area of #Zoning Lot#</u> <u>(in square feet)</u>	<u>Maximum Percent of</u> <u>#Coverage#</u>
<u>10,500 or less</u>	<u>50</u>
<u>10,501 to 11,500</u>	<u>49</u>
<u>11,501 to 12,500</u>	<u>48</u>
<u>12,501 to 13,500</u>	<u>47</u>
<u>13,501 to 14,500</u>	<u>46</u>
<u>14,501 to 15,500</u>	<u>45</u>
<u>15,501 to 16,500</u>	<u>44</u>
<u>16,501 to 17,500</u>	<u>43</u>
<u>17,501 to 18,500</u>	<u>42</u>

(c) In addition, the following rules shall apply:

~~(a) the minimum distances set forth in this table shall be provided at the closest point between #buildings#;~~

~~(b)~~ (1) any portion of a #building# that qualifies as a #building segment# may be treated as a separate #building# for the purposes of determining the minimum distance required between such #building segment# and another #building# or #building segment#;

~~(c)~~ (2) where #buildings# of different heights face each other, the average of the heights of such #buildings# shall determine the minimum distance required between them;

~~(d)~~ (3) projections having a maximum height of 25 feet above adjoining grade, a maximum depth of five feet, and an aggregate width not exceeding 25 percent of the #building# wall from which they project, may penetrate the minimum spacing requirements. However, such projections shall not be permitted in open spaces provided pursuant to paragraph (b)(2) of this Section;

~~(e) portions of #buildings# above 125 feet that exceed, in aggregate, a #lot coverage# of 40 percent, shall be spaced at least 80 feet apart;~~

~~(f)~~ (4) in R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this paragraph; ~~(f) (c)(4);~~ shall apply to any #zoning lot# with two or more #buildings# where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this paragraph, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street line# do not intersect any other #building# containing #residences# shall be considered a “front building,” and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a “front building” shall be considered a “rear building.” The minimum distances set forth in the table in this Section shall apply, except that a minimum distance of 45 feet shall be provided between any such front and rear #buildings#; and

~~(g)~~ (5) for #buildings# existing on April 30, 2012, the minimum distances set forth in the table in this Section, and any #non-complying# distance greater than eight feet, may be reduced by up to eight inches of exterior wall thickness, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A #non-complying# distance of eight feet or less shall be limited to a total reduction of one inch of wall thickness for each foot

of such existing distance between buildings. However, such projections shall not be permitted in open spaces provided pursuant to paragraph (b)(2) of this Section.

* * *

23-80

COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

23-84

Outer Court Regulations

* * *

23-841

Narrow outer courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) In the districts indicated, ~~In all districts, as indicated,~~ if an #outer court# is less than 30 feet wide, the width of such #outer court# shall be at least one and one-third the depth of such #outer court#.

However, in R3, R4 or R5 Districts, for #single-# and #two-family residences#, three #stories# or less in height, the width of such #outer court# shall be at least equal to the depth of such #outer court#.

R6 R7 R8 R9 R10

(b) In the districts indicated, if an #outer court# is less than 30 feet wide, the width of such #outer court# shall be at least equal to the depth of such #outer court#.

However, the depth of an #outer court# may exceed its width in a small #outer court#, provided that:

- (1) no #legally required windows# shall face onto such small #outer court# or any #outer court recess# thereof;
- (2) such small #outer court# is located above the level of the first #story#;
- (3) the area of such small #outer court# shall not be less than 200 square feet and no dimension shall be less than 10 feet; and

- (4) where the perimeter walls of such small #outer court# exceed a height of 75 feet, as measured from the lowest level of such #outer court#, at least 50 percent of such perimeter walls above a height of 75 feet shall setback 10 feet from the court opening. However, the depth of such required setback may be reduced one foot for every foot the minimum dimension of such court exceeds a width of 10 feet.

23-842

Wide outer courts

R1 R2 R3 R4 R5 ~~R6 R7 R8 R9 R10~~

- (a) In the districts indicated, ~~In all districts, as indicated,~~ if an #outer court# is 30 feet or more in width, the width of such #outer court# must be at least equal to the depth of such #outer court#, except that such width need not exceed 60 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, if an #outer court# is 30 feet or more in width, an #outer court# may extend to any depth.

23-843

Outer court recesses

R1 R2 R3 R4 R5 ~~R6 R7 R8 R9 R10~~

- (a) In the districts indicated, ~~In all districts, as indicated,~~ the width of an #outer court recess# shall be at least twice the depth of the recess, except that such width need not exceed 60 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, the width of an #outer court recess# shall be at least equal to the depth of such #outer court recess#, except that such width need not exceed 30 feet.

23-844

Modification of court and side yard regulations in the area of the former Bellevue South Urban Renewal Plan in the Borough of Manhattan

In the Borough of Manhattan, in the area designated by the former Bellevue South Urban Renewal Plan, for a #development# or #enlargement# on a #zoning lot# that adjoins a #zoning lot# including a #building# containing #residences# with #non-complying courts# along the common #side lot line#, the #court# regulations of Section 23-80 and the open area requirements of paragraph (c) of Section 23-462

(Side yards for all other residential buildings containing residences) may be modified to allow an open area at least eight feet wide to extend along a portion of the #side lot line#.

23-85

Inner Court Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #inner courts# shall be in compliance with the provisions of this Section.

23-851

Minimum dimensions of inner courts

For the purposes of this Section, that portion of an open area not part of an #inner court# and over which, when viewed directly from above, lines perpendicular to a #lot line# may be drawn into such #inner court#, shall be considered part of such #inner court#.

R1 R2 R3 R4 R5 ~~R6 R7 R8 R9 R10~~

- (a) ~~In all the districts, as indicated, the area of an #inner court# shall not be less than 1,200 square feet, and the minimum dimension of such #inner court# shall not be less than 30 feet. For the purposes of this Section, that portion of an open area not part of an #inner court# and over which, when viewed directly from above, lines perpendicular to a #lot line# may be drawn into such #inner court#, shall be considered part of such #inner court#.~~ In R1, R2 and R3 Districts, the area of an #inner court# shall not be less than 200 square feet and the minimum dimension of such #inner court# shall not be less than 12 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, the area of an #inner court# shall not be less than 1,200 square feet, and the minimum dimension of such #inner court# shall not be less than 30 feet.

However, the area and dimensions of an #inner court# may be reduced for a small #inner court#, provided that:

- (1) no #legally required windows# shall face onto such small #inner court# or any #inner court recess# thereof;
- (2) the area of such small #inner court# shall not be less than 200 square feet and no dimension shall be less than 10 feet; and
- (3) where the perimeter walls of such small #inner court# exceed a height of 75 feet, as measured from the lowest level of such #outer court#, at least 50 percent of such perimeter walls above a height of 75 feet shall setback 10 feet from the court opening.

However, the depth of such required setback may be reduced one foot for every foot the minimum dimension of such court exceeds a width of 10 feet.

23-852

Inner court recesses

R1 R2 R3 R4 R5 ~~R6 R7 R8 R9 R10~~

(a) In the districts indicated, In all districts, as indicated, the width of an #inner court recess# shall be at least twice the depth of the recess. However, if the recess opening is 60 feet or more in width, this provision shall not apply.

R6 R7 R8 R9 R10

(b) In the districts indicated, the width of an #inner court recess# shall be at least equal to the depth of the #inner court recess#, except that such width need not exceed 30 feet.

* * *

23-86

Minimum Distance Between Legally Required Windows and Walls or Lot Lines

* * *

23-861

General provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as otherwise provided in Section 23-862 (Minimum distance between legally required windows and lot lines on small corner lots in R9 or R10 Districts) or Section 23-863 (Minimum distance between legally required windows and any wall in an inner court), the minimum distance between a #legally required window# and:

- (a) any wall;
- (b) a #rear lot line#, or vertical projection thereof; or
- (c) a #side lot line#, or vertical projection thereof;

shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to, such window for the full width of the rough window opening; provided, however, that a #legally required window# may open on any #outer court# meeting the requirements of Section 23-84 (Outer Court Regulations), except

for small #outer courts# in R6 through R10 Districts, the provisions for which are set forth in paragraph (b) of Section 23-841 (Narrow outer courts).

However, for shallow #interior lots# in R6 through R10 Districts, the minimum distance between a #legally required window# and a #rear lot line#, or vertical projection thereof, may be reduced to equal the #rear yard# depth required pursuant to the provisions of Section 23-52 (Special Provisions for Shallow Interior Lots). However, in no event shall such minimum distance between a #legally required window# and a #rear lot line#, or vertical projection thereof, be less than 20 feet.

* * *

23-863

Minimum distance between legally required windows and any wall in an inner court

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum horizontal distance between a #legally required window# opening on an #inner court# and any wall opposite such window on the same #zoning lot# shall not be less than 30 feet, ~~nor shall any such wall be nearer to such window than a distance equal to one half the total height of such wall above the sill level of such window. Such minimum distance need not exceed 60 feet.~~ However, such provisions shall not apply to small #inner courts#, the provisions for which are set forth in paragraph (b) of Section 23-851 (Minimum dimensions of inner courts).

Such minimum distance shall be measured in a horizontal plane at the sill level of, and perpendicular to, the #legally required window# for the full width of the rough window opening, between such window and a projection of such wall onto such horizontal plane.

* * *

23-89

Open Area Requirements for Residences

* * *

23-892

In R6 through R10 Districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(a) — In the districts indicated, and for #Quality Housing buildings# in R6 through R10 Districts without a letter suffix, the entire area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised

planting beds that are permanently affixed to the ground pursuant to the provisions of Section 28-23 (Planting Areas), ~~except that such plantings shall not be required at the entrances to and exits from the #building#, within driveways accessing off street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. No #zoning lot# shall be altered in any way that will either create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.~~

~~R6 R7 R8 R9 R10~~

~~(b) — In the districts indicated without a letter suffix, on #zoning lots# containing a #Quality Housing building#, the entire area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the #building# within driveways accessing off street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#.~~

* * *

**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:

* * *

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;

* * *

Compensated zoning lot

A “compensated zoning lot” is a #zoning lot# that contains a #compensated development# and receives an increased #floor area ratio#, pursuant to the provisions of Sections 23-154 and Section 23-90, inclusive.

* * *

Floor area compensation

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

* * *

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 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

* * *

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 paragraph (a) of Section 23-154 (Inclusionary Housing) ~~Section 23-951 (Floor area compensation in R10 Districts other than Inclusionary Housing designated areas)~~ 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.

* * *

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) ~~Section 23-952~~. 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.

* * *

23-95
Compensated Zoning Lots

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

~~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 24-243 (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;

* * *

Article II - Residence District Regulations

Chapter 4

Bulk Regulations for Community Facilities in Residence Districts

24-00

APPLICABILITY, GENERAL PURPOSES AND DEFINITIONS

24-01

Applicability of this Chapter

The #bulk# regulations of this Chapter apply to any #zoning lot# or portion of a #zoning lot# located in any #Residence District# which contains any #community facility building#, or to the #community facility# portion of any #building# located in any #Residence District# which is used for both #residential# and #community facility uses#, except where specifically modified by the provisions of this Chapter.

The #bulk# regulations of Article II, Chapter 3, shall apply to any #zoning lot# or portion of a #zoning lot# in any #Residence District# which contains a #residential building#, or to the #residential# portion of any #building# located in any #Residence District# which is used for both #residential# and #community facility uses#, except where specifically modified by the provisions of this Chapter.

In addition, the #bulk# regulations of this Chapter, or of specified sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

Existing #buildings or other structures# that do not comply with one or more of the applicable #bulk# regulations are #non-complying buildings or other structures# and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying to #large-scale community facility developments# or to #community facility uses# in #large-scale residential developments# are set forth in Article VII, Chapter 8.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

Special regulations applying in the #waterfront area# are set forth in Article VI, Chapter 2.

Special regulations applying in the #flood zone# are set forth in Article VI, Chapter 4.

24-011

Quality Housing Program

Exceptions to the bulk regulations of this Chapter

R1 R2 R3 R4 R5

The applicability of the Quality Housing Program to #community facility buildings# or portions of #buildings# containing #community facility uses# is set forth in this Section, except as modified in Section 24-012 (Exceptions to the bulk provisions of this Chapter).

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #community facility building# or portion thereof shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3. In all other R6, R7, R8, R9 or R10 Districts, if the #residential# portion of a #building# containing a #community facility use# is #developed# or #enlarged# pursuant to the Quality Housing Program, the entire #building# shall comply with the height and setback regulations for #Quality Housing buildings# set forth in Article II, Chapter 3.

Special regulations are set forth for #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations in Section 24-013 (Special provisions for certain community facility uses).

#Quality Housing buildings# shall comply with the additional provisions set forth in Article II, Chapter 8 (The Quality Housing Program). In R5D Districts, certain provisions of Article II, Chapter 8, shall apply as set forth in Section 28-01 (Applicability of this Chapter).

(a) ~~#Buildings# used partly for #community facility uses#~~

~~Except as provided in paragraph (b) of this Section, in R3A, R3X, R3-1, R4A, R4-1, R4B or R5B Districts, the #bulk# regulations of this Chapter shall apply only to a #zoning lot# or portion of a #zoning lot# that contains a #community facility building#, and the #bulk# regulations of Article II, Chapter 3, shall apply to any #zoning lot# or portion of a #zoning lot# that contains any #building# that is used partly for #community facility use# and partly for #residential use#. In such districts, the #bulk# regulations of this Chapter may apply to the #community facility# portion of a #building# that is used partly for #community facility use# and partly for #residential use# only where:~~

- ~~(1) such #community facility use# has received tax exempt status from the New York City Department of Finance, or its successor, pursuant to Section 420 of the New York State Real Property Tax Law; or~~
- ~~(2) such #building# has received an authorization pursuant to Section 24-04 (Modifications of Bulk Regulations in Certain Districts).~~

(b) ~~#Buildings# containing certain #community facility uses# in #lower density growth management areas#~~

- ~~(1) In the districts indicated, in #lower density growth management areas#, the #bulk#~~

regulations of this Chapter shall not apply to any #zoning lot# containing #buildings# used for:

- (i) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals or nursing homes as defined in the New York State Hospital Code; or
 - (ii) child care service as listed under the definition of #school# in Section 12-10 (DEFINITIONS), except where such #zoning lot# contains #buildings# used for houses of worship or, for #zoning lots# that do not contain #buildings# used for houses of worship, where the amount of #floor area# used for child care services is equal to 25 percent or less of the amount of #floor area# permitted for #community facility use# on the #zoning lot#.
- (2) In lieu thereof, the #residential bulk# regulations of Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts), shall apply, except that:
- (i) the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be modified to prohibit parking spaces of any kind within a #front yard#;
 - (ii) in lieu of Sections 23-46 (Minimum Required Side Yards) and 23-66 (Required Side and Rear Setbacks), Sections 24-35 (Minimum Required Side Yards) and 24-55 (Required Side and Rear Setbacks) shall apply; and
 - (iii) for child care services in R1 and R2 Districts, the provisions of paragraph (9) in the definition of #floor area# in Section 12-10, pertaining to #floor area# exclusions for the lowest story of a #residential building#, shall not apply.

24-012

Exceptions to the bulk provisions of this Chapter

Quality Housing Program

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

- (a) #Buildings# used partly for #community facility uses#

Except as provided in paragraph (b) of this Section, in R3A, R3X, R3-1, R4A, R4-1, R4B or R5B Districts, the #bulk# regulations of this Chapter shall apply only to a #zoning lot# or portion of a #zoning lot# that contains a #community facility building#, and the #bulk# regulations of Article II, Chapter 3, shall apply to any #zoning lot# or portion of a #zoning lot# that contains any #building# that is used partly for #community facility use# and partly for #residential use#. In such districts, the #bulk# regulations of this Chapter may apply to the #community facility# portion of a #building# that is used partly for #community facility use# and partly for #residential

use# only where:

- (1) such #community facility use# has received tax-exempt status from the New York City Department of Finance, or its successor, pursuant to Section 420 of the New York State Real Property Tax Law; or
 - (2) such #building# has received an authorization pursuant to Section 24-04 (Modifications of Bulk Regulations in Certain Districts).
- (b) #Buildings# containing certain #community facility uses# in #lower density growth management areas#
- (1) In R1 through R5 Districts in #lower density growth management areas#, the #bulk# regulations of this Chapter shall not apply to any #zoning lot# containing #buildings# used for:
 - (i) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals or #long-term care facilities#; or
 - (ii) child care service as listed under the definition of #school# in Section 12-10 (DEFINITIONS), except where such #zoning lot# contains #buildings# used for houses of worship or, for #zoning lots# that do not contain #buildings# used for houses of worship, but where the amount of #floor area# used for child care services is equal to 25 percent or less of the amount of #floor area# permitted for #community facility use# on the #zoning lot#.
 - (2) In lieu thereof, the #residential bulk# regulations of Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts), shall apply, except that:
 - (i) the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be modified to prohibit parking spaces of any kind within a #front yard#;
 - (ii) in lieu of Sections 23-46 (Minimum Required Side Yards) and 23-632 (Required side and rear setbacks), Sections 24-35 (Minimum Required Side Yards) and 24-55 (Required Side and Rear Setbacks) shall apply; and
 - (iii) for child care services in R1 and R2 Districts, the provisions of paragraph (9) in the definition of #floor area# in Section 12-10, pertaining to #floor area# exclusions for the lowest story of a #residential building#, shall not apply.
- (c) Special provisions for certain #community facility uses#

Special provisions for #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3, are set forth in Section 24-013.

(d) #Quality Housing buildings#

For #Quality Housing buildings#, the provisions of Section 24-011 shall apply, except that:

- (1) for #community facility buildings# in certain districts within Community Districts 7 and 8 in the Borough of Manhattan, special #floor area ratios# are set forth in Section 24-10 (FLOOR AREA AND LOT COVERAGE REGULATIONS);
- (2) for houses of worship in R8A, R8X, R9A, R9X, R10A and R10X Districts as well as for such #uses# in #Quality Housing buildings# in other R8 through R10 Districts, the #street wall# location provisions of Section 23-661 need not apply; and
- (3) All obstructions listed in Section 24-33 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be permitted in required #yards# or #rear yard equivalents# for #community facility buildings# or portions of #buildings# containing #community facility uses#.

~~In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #community facility building# or portion thereof shall comply with the applicable provisions of Article II, Chapter 8. In R5D Districts, certain provisions of Article II, Chapter 8, shall apply as set forth in Section 28-01 (Applicability of this Chapter).~~

~~In other R6, R7, R8, R9 or R10 Districts, any #community facility# portion of a #Quality Housing building# shall comply with the applicable provisions of Article II, Chapter 8.~~

24-013

Special provisions for certain community facility uses

The provisions of this Section shall apply to #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3.

(a) #Buildings# containing #long-term care facilities#

(1) In R1 and R2 Districts

In R1 and R2 Districts, where a #long-term care facility# is permitted pursuant to Section 74-901 (Long-term care facilities in R1 and R2 Districts and certain Commercial

Districts), the #bulk# regulations of this Chapter shall apply. The maximum #floor area ratio# for such #long-term care facilities# shall not exceed the applicable #floor area ratio# of paragraph (a) of Section 24-111 (Maximum floor area ratio for certain community facility uses), except as permitted by the Commission pursuant to Section 74-902 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts).

(2) In R3 through R5 Districts

In R3 through R5 Districts, except R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, the #bulk# regulations of Article II, Chapter 3 applicable to #affordable independent residences for seniors#, inclusive, shall apply to #buildings# containing #long-term care facilities#. However, the Commission may permit the #bulk# regulations of this Chapter to apply pursuant to the special permit in Section 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts).

In R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, the #bulk# regulations of this Chapter shall apply to #community facility buildings#, or the #community facility# portion of a #building# containing #long-term care facilities#, as applicable. The maximum #floor area ratio# for such #long-term care facilities# shall not exceed the applicable #floor area ratio# of paragraph (b) of Section 24-111, except as permitted by the Commission pursuant to Section 74-903.

(3) In R6 through R10 Districts

In R6 through R10 Districts, the #bulk regulations# for #Quality Housing buildings# in Article II, Chapter 3 applicable to #affordable independent residences for seniors#, inclusive, shall apply to #buildings# containing #long-term care facilities#.

In R6 through R10 Districts without letter suffixes, the Commission may permit the #bulk# regulations of this Chapter to apply to such #long-term care facilities# pursuant to the special permit in Section 74-903.

(4) Applicability of #affordable independent residences for seniors bulk# provisions

Where #buildings# containing #long-term care facilities# are required to utilize the #bulk# provisions applicable to #affordable independent residences for seniors#, such #uses# shall be considered #residential# for the purpose of applying such provisions, and the term #dwelling unit# shall include #dwelling units# and #rooming units#, as set forth in the Housing Maintenance Code.

(b) #Buildings# containing philanthropic or non-profit institutions with sleeping accommodations

(1) In R1 and R2 Districts

In R1 and R2 Districts the maximum #floor area ratio# for a #community facility building#, or portion thereof, that contains a philanthropic or non-profit institution with sleeping accommodations, shall not exceed the applicable #floor area ratio# of paragraph (a) of Section 24-111, except as permitted by the Commission pursuant to Section 74-902.

(2) In R3 through R5 Districts and R6 through R10 Districts without a letter suffix

In R3 through R5 Districts, and in R6 through R9 Districts without a letter suffix, the maximum #floor area ratio# for a #community facility building#, or portion thereof, that contains a philanthropic or non-profit institution with sleeping accommodations, shall not exceed the applicable #floor area ratio# of paragraph (b) of Section 24-111, except as permitted by the Commission pursuant to Section 74-903. In addition, for #zoning lots# in R3-2, R4, R5, R6 and R7-1 Districts, except for R4-1, R4A, R4B, R5D and R6B Districts, with #buildings# containing both #residential uses# and philanthropic or non-profit institutions with sleeping accommodations, the provisions of Section 24-162 shall not apply. In lieu thereof, the provisions of Section 24-161 shall apply.

In R10 Districts without a letter suffix, the maximum #floor area ratio# for a #community facility building#, or portion thereof, that contains a philanthropic or non-profit institution with sleeping accommodations shall be as set forth in Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage).

In R6 through R10 Districts without a letter suffix, the height and setback regulations for #Quality Housing buildings# set forth in Article II, Chapter 3, may be applied.

(3) In R6 through R10 Districts with a letter suffix

In R6 through R10 Districts with a letter suffix, the #bulk# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3, inclusive, shall apply.

(c) Applicability of Quality Housing Program elements

For all #buildings# containing #long-term care facilities# that utilize the #bulk# regulations for #affordable independent residences for seniors# in Article II, Chapter 3, and for #buildings# containing philanthropic or non-profit institutions with sleeping accommodations that utilize the #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3 in R6 through R10 Districts with a letter suffix, and the height and setback regulations for #Quality Housing buildings# in Article II, Chapter 3 in R6 through R10 Districts without a letter suffix, the Quality Housing Program, and the associated mandatory and optional program elements, shall apply to such #uses#, as modified by paragraph (d) of Section 28-01 (Applicability of this Chapter).

* * *

24-10

FLOOR AREA AND LOT COVERAGE REGULATIONS

In all districts the #floor area# and #lot coverage# regulations of this Section 24-10, inclusive, shall apply as follows:

For any #zoning lot#, the maximum #floor area ratio# and maximum percent of #lot coverage# for a #community facility use# shall not exceed the #floor area ratio# and #lot coverage# set forth in Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), except as otherwise provided in the following Sections:

<u>Section 24-111</u>	<u>(Maximum floor area ratio for certain community facility uses)</u>
<u>Section 24-112</u>	<u>(Special floor area ratio provisions for certain areas)</u>
<u>Section 24-13</u>	<u>(Floor Area Bonus for Deep Front and Wide Side Yards)</u>
<u>Section 24-14</u>	<u>(Floor Area Bonus for a Public Plaza)</u>
<u>Section 24-15</u>	<u>(Floor Area Bonus for Arcades)</u>
<u>Section 24-16</u>	<u>(Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses)</u>
<u>Section 24-17</u>	<u>(Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations).</u>

The #floor area# and #lot coverage# regulations set forth in Sections 24-11 through 24-17, inclusive, shall not apply to any #building# containing a #community facility use# in R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts. In lieu thereof, any such #building# in these districts shall comply with the #floor area# and #lot coverage# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3, except that in R8B Districts within Community District 8, Borough of Manhattan, the maximum #floor area ratio# shall be 5.10, and in R10A and R10X Districts within Community District 7, Borough of Manhattan, the maximum #floor area ratio# shall not exceed 10.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot# less any shared #floor area#.

24-11

Maximum Floor Area Ratio and Percentage of Lot Coverage

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

~~In all districts, as indicated, In R1 through R5 Districts, and in R6 through R10 Districts without a letter suffix, for any #zoning lot#, the maximum #floor area ratio# and maximum percent of #lot coverage# for a #community facility use# shall not exceed the #floor area ratio# and #lot coverage# set forth in the table in this Section, except as otherwise provided in the following Sections:~~

~~Section 24-13 (Floor Area Bonus for Deep Front and Wide Side Yards)~~

~~Section 24-14 (Floor Area Bonus for a Public Plaza)~~

~~Section 24-15 (Floor Area Bonus for Arcades)~~

~~Section 24-17 (Special Provisions for Zoning Lots Divided by District Boundaries).~~

Any given #lot area# shall be counted only once in determining the #floor area ratio#.

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# in an R9 or R10 District shall not exceed 12.0.

~~In R9A, R9D, R9X, R10A and R10X Districts, the bonus provisions of Sections 24-14 (Floor Area Bonus for a Public Plaza) and 24-15 (Floor Area Bonus for Arcades) shall not apply and the maximum #floor area ratio# shall not exceed that set forth in the following table:~~

MAXIMUM FLOOR AREA AND MAXIMUM LOT COVERAGE
#Lot coverage# (percent of #lot area#)

<u>District</u>	#Floor Area Ratio#	#Corner Lot#	#Interior Lot# or #Through Lot#	<u>District</u>
<u>R1</u>	1.00	60	55	<u>R1</u>
<u>R2</u>	1.00	60	55	<u>R2</u>
<u>R3</u>	1.00	60	55	<u>R3</u>
<u>R4</u>	2.00	60	55	<u>R4</u>
<u>R5 R5A R5B</u>	2.00	60	55	<u>R5 R5A R5B</u>

<u>R5D</u>	2.00	80	60	R5D-R6B
<u>R6</u>	4.80	70	65	R6
	3.00	80	60	R6A
<u>R7-1</u>	4.80	70	65	R7-1
<u>R7-2</u>	6.50	70	65	R7-2
	4.00	80	65	R7A
	3.00	80	65	R7B
	4.20	80	65	R7D
	5.00	80	70	R7X
<u>R8</u>	6.50	75	65	R8
	6.50	80	70	R8A
	4.00	80	70	R8B*
	6.00	80	70	R8X
<u>R9</u>	10.00	75	65	R9
	7.50	80	70	R9A
	9.00	80	70	R9D
	9.00	80	70	R9X
<u>R10</u>	10.00	75	65	R10
	10.00	100	70	R10A-R10X

* ~~In R8B Districts, within the boundaries of Community Board 8 in the Borough of Manhattan, the maximum #floor area ratio# on a #zoning lot# containing #community facility uses# exclusively shall not exceed 5.10~~

However, the #floor area ratios# listed in this table shall not apply to #community facility uses# that are subject to the provisions of Section 24-111 (~~Bulk regulations~~ Maximum floor area ratio for certain community facility uses).

~~Within the boundaries of Community District 7 in the Borough of Manhattan, all #zoning lots# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.~~

In R9 or R10 Districts, the bonus provisions of Sections 24-14 (Floor Area Bonus for a Public Plaza) or 24-15 (Floor Area Bonus for Arcades) shall apply only to a #development# or #enlargement# with 25 percent or less of the total #floor area# of the #building# in #residential use#.

24-111

Maximum floor area ratio for certain community facility uses

The provisions of this Section shall apply to #zoning lots# with #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3.

R1 R2

- (a) In the districts indicated, for any #zoning lot# containing #community facility uses# other than those #uses# for which a permit is required pursuant to Sections 22-21 (By the Board of Standards and Appeals), 73-12 (Community Facility Uses in R1, R2, R3-1, R3A, R3X, R4-1, R4A or R4B ~~R1 or R2~~ Districts) and 73-13 (Open Uses in R1 or R2 Districts), or where #bulk# modification is authorized pursuant to Section 74-901 (Long-term care facilities in R1 and R2 Districts and certain Commercial Districts ~~Bulk modifications for certain community facility uses~~), the maximum #floor area ratio# shall not exceed the #floor area# permitted for #residential uses# by the applicable district regulations. The provisions of this paragraph shall not apply to #buildings# for which plans were filed with the Department of Buildings prior to November 15, 1972, including any subsequent amendments thereof.

R3 R4 R5 R6 R7 R8 R9

- (b) In R3 through R9 districts, the maximum #floor area ratio# on a #zoning lot# for philanthropic or non-profit institutions with sleeping accommodations, and in R3A, R3X, R3-1, R4A, R4B, R4-1, R5A, R5B, and R5D Districts, the maximum #floor area ratio# on a #zoning lot# for #long-term care facilities# shall be as set forth in the table in this Section. Such maximum #floor area ratio# may be modified by special permit of the City Planning Commission pursuant to Section 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts).

~~In the districts indicated, the maximum #floor area ratio# on a #zoning lot# for the following #community facility uses# as listed in Use Group 3:~~

(1) ~~nursing homes, health related facilities or domiciliary care facilities for adults, each of which have secured certification by the appropriate governmental agency;~~

(2) ~~sanitariums; or~~

(3) ~~philanthropic or non profit institutions with sleeping accommodations;~~

~~shall be as set forth in the table in this Section, except where such #floor area ratio# is modified pursuant to Section 74-902 (Bulk modifications for certain community facility uses).~~

~~The provisions of paragraph (b) of this Section are not applicable in R8B Districts in Community Board 8 in the Borough of Manhattan.~~

MAXIMUM FLOOR AREA RATIO FOR
CERTAIN COMMUNITY FACILITY USES

District	Maximum #Floor Area Ratio# Permitted
R3	0.50
R4	0.75
R5 R5A R5B	1.27
R5D-R6B	2.00
R6	2.43
R6A-R7B	3.00
R7	3.44
R7D	4.20
R7X	5.00
R7A-R8B	4.00
R8 R8A	6.02

R8X	6.00
R9	7.52
R9A	7.50
R9D	9.00
R9X	9.00

24-112

Special floor area ratio provisions for certain areas

The #floor area ratio# provisions of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), inclusive, shall be modified for certain areas, as follows: Within the boundaries of Community District 7 in the Borough of Manhattan, all #zoning lots# in R10 Districts shall be limited to a maximum #floor area ratio# of 10.0.

24-113-24-112

Existing public amenities for which floor area bonuses have been received

* * *

24-13

Floor Area Bonus for Deep Front and Wide Side Yards

R3 R4 R5

In the districts indicated, except R5D Districts, the maximum #floor area ratio# set forth in Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) may be increased to the #floor area ratio# set forth in the table in this Section, if #yards# are provided as follows:

* * *

However, the provisions of this Section shall not apply to ~~nursing homes, health-related facilities, domiciliary care facilities for adults, sanitariums and~~ philanthropic or non-profit institutions with sleeping accommodations and #long-term care facilities#.

* * *

24-16

Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, In R1 through R5 Districts, and in R6 through R10 Districts without a letter suffix, the provisions of this Section shall apply to any #zoning lot# containing #community facility# and #residential uses#.

24-161

Maximum floor area ratio for zoning lots containing community facility and residential uses

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R5D R6 ~~R6A R6B~~ R7-2 ~~R7A R7B R7D R7X~~ R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

In #Inclusionary Housing designated areas#, except within Waterfront Access Plan BK-1 and in R6 Districts without a letter suffix in Community District 1, Brooklyn, the maximum #floor area ratio# permitted for #zoning lots# containing #community facility# and #residential uses# shall be the base #floor area ratio# set forth in Section 23-154 (Inclusionary Housing) ~~Section 23-952~~ for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #affordable income housing# pursuant to Section 23-90 (INCLUSIONARY HOUSING).

24-162

Maximum floor area ratios and special floor area limitations for zoning lots containing residential and community facility uses in certain districts

R3-2 R4 R5 R6 R7-1

In the districts indicated, except R4-1, R4A, R4B, R4-1, and R5D, R6A and R6B Districts, the provisions of this Section shall apply to any #zoning lot# containing #community facility# and #residential use#. However, this Section shall not apply to #buildings# containing #residences# and philanthropic or non-profit residences with sleeping accommodations, as set forth in Section 24-013 (Special provisions for certain community facility uses).

24-163

Open space ratio for residential portion

~~R1 R2 R3 R4 R5~~ R6 R7 R8 R9

In the districts indicated, the #zoning lots# containing #residences# shall have a minimum #open space ratio# as required under the provisions of Article II, Chapter 3. For the purposes of this Section:

* * *

24-164

Location of open space for residential portion

R1 R2 R3 R4 R5 R6 R7 R8 R9

(a) — In the districts indicated, the #open space# required for the #residential# portion of the #building# under the provisions of Article II, Chapter 3, may be at a level higher than 23 feet above #curb level#. Such #open space# may be provided at ground floor level or upon the roof of the #community facility# portion of such #building#, provided that the level of any #open space# may not be higher than two and one half feet below the sill level of any #legally required window# opening on such roof area, in the #residential# portion of such #building#. #Open space# located on the roof of a #community facility building# separated by open area from #residential# or #mixed buildings# on the same #zoning lot# may not be at a level higher than 23 feet above #curb level#. For the purposes of this ~~Section paragraph, (a)~~, #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(b) — ~~In the districts indicated, and in other R6, R7, R8, R9 or R10 Districts, the provisions of Section 28-30 (RECREATION SPACE AND PLANTING AREAS) shall apply to #Quality Housing buildings#.~~

* * *

24-20

APPLICABILITY OF DENSITY REGULATIONS TO ZONING LOTS CONTAINING BOTH RESIDENTIAL AND COMMUNITY FACILITY USES

In all districts, the maximum number of #dwelling units# ~~or #rooming units#~~ on a #zoning lot# containing both #community facility# and #residential uses# shall be as set forth in Section 23-24 (Special Provisions for Buildings Containing Multiple Uses). ~~equal the maximum #residential floor area#~~

~~permitted on such #zoning lot# determined in accordance with the provisions set forth in Section 24-16 (Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses) divided by the applicable factor in Section 23-20 (DENSITY REGULATIONS).~~

**24-30
YARD REGULATIONS**

General Provisions

**24-31
Applicability of Yard Regulations**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #yards# shall be provided as set forth in Sections 24-30 (YARD REGULATIONS) and 24-40 (SPECIAL PROVISIONS FOR ZONING LOTS DIVIDED BY DISTRICT BOUNDARIES), inclusive. However, in R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building# shall comply with the #yard# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3.

* * *

For the #residential# portion of a #building# with both #residential# and #community facility uses#, the required #residential rear yard# shall be provided at the floor level of the lowest #story# used for #dwelling units# ~~or #rooming units#~~, where any window of such #dwelling units# ~~or #rooming units#~~ faces onto such #rear yard#.

* * *

**24-33
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Residence Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:

* * *

(b) In any #rear yard# or #rear yard equivalent#:

(1) Balconies, unenclosed, subject to the provisions of Section 24-165;

* * *

(5) Greenhouses, #accessory#, non-commercial, limited to one #story# or 15-14 feet in height above natural grade level, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard# or #rear yard equivalent# on a #zoning lot#;

(6) Parking spaces, off-street, #accessory# to a #community facility use#, provided that the height of an #accessory building#, or portion of a #building# used for such purposes, shall not exceed 15-14 feet above #curb level#. However, such #accessory building# or portion of a #building# shall not be a permitted obstruction in R1, R2, R3-1, R3A, R3X, ~~R3-1~~, R4-1, R4A, or R4B ~~or R4-1~~ Districts;

* * *

24-38

Special Provisions for Through Lots

* * *

24-381

Excepted through lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) — In all districts, as indicated, no #rear yard# regulations shall apply to any #through lots# that extend less than 110 feet in maximum depth from #street# to #street#. However, in R5D Districts, no #rear yard# regulations shall apply to any #zoning lot# that includes a #through lot# portion which is contiguous on one side to two #corner lot# portions, and such #zoning lot# occupies the entire #block# frontage of a #street#.

~~R5D R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(b) — ~~In the districts indicated, for all #buildings# and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, no #rear yard# regulations shall apply to any #zoning lot# that includes a #through lot# portion that is contiguous on one side to two #corner lot# portions, and such #zoning lot# occupies the entire #block# frontage of a #street#.~~

24-382

Required rear yard equivalents

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, on any #through lot# 110 feet or more in maximum depth from #street# to #street#, one of the following #rear yard equivalents# shall be provided:

* * *

However, in ~~R5D, R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A and R10X~~ Districts, and for #Quality Housing buildings# in other R6 through R10 Districts on any #through lot# at least 180 feet in depth from #street# to #street#, a #rear yard equivalent# shall be provided only as set forth in paragraph (a) of this Section.

* * *

24-50

HEIGHT AND SETBACK REGULATIONS

In all districts the height and setback regulations of this Section 24-50, inclusive, shall apply as follows:

Height and setback regulations applicable to R1 through R5 Districts, except R5D districts, are set forth in Section 24-521 (Front setbacks in districts where front yards are required). In R5D Districts, all #buildings or other structures# shall comply with the applicable height and setback requirements set forth in Section 23-60 (HEIGHT AND SETBACK REGULATIONS).

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building# shall comply with the height and setback regulations for #Quality Housing buildings# set forth in Article II, Chapter 3. In R6, R7, R8, R9 or R10 Districts without a letter suffix, if the #residential# portion of a #building# containing a #community facility use# is #developed# or #enlarged# pursuant to the Quality Housing Program, the entire #building# shall comply with the applicable height and setback regulations for #Quality Housing buildings# set forth in Article II, Chapter 3. For other #buildings# in R6 through R10 districts without a letter suffix utilizing the provisions of this Chapter, height and setback regulations are set forth in Sections 24-522 (Front setbacks in districts where front yards are not required), 24-53 (Alternate Front Setbacks) and 24-54 (Tower Regulations), as applicable.

In all districts, supplemental provisions are set forth in Sections 24-55 (Required Side and Rear Setbacks), 24-56 (Special Height and Setback Provisions for Certain Areas), 24-57 (Modifications of Height and Setback Regulations), 24-58 (Special Provisions for Zoning Lots Divided by District Boundaries) and 24-

59 (Special Height Limitations), respectively.

* * *

Basic Regulations

24-52

Maximum Height of Walls and Required Setbacks

* * *

24-521

Front setbacks in districts where front yards are required

R1 R2 R3 R4 R5

In the districts indicated, except R5D Districts, where #front yards# are required, the front wall or any other portion of a #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table:

* * *

24-522

Front setbacks in districts where front yards are not required

R6 R7 R8 R9 R10

(a) In the districts indicated without a letter suffix, for #buildings# other than #Quality Housing buildings#, except for #Quality Housing buildings# and except as set forth in paragraph (b) of this Section, if the front wall or other portion of a #building or other structure# is located at the #street line# or within the #initial setback distance# set forth in the table in this Section, the height of such front wall or other portion of a #building or other structure# shall not exceed the maximum height above #curb level# set forth in the table. Above such specified maximum height and beyond the #initial setback distance#, the #building or other structure# shall not penetrate the #sky exposure plane# set forth in the table:

* * *

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

(b) ~~In the districts indicated, for all #buildings or other structures#, the provisions of this Section, Section 24-53 (Alternate Front Setbacks) and Section 24-54 (Tower Regulations) shall not apply. In lieu thereof, the provisions of Section 23-633 (Street wall location and height and setback~~

~~regulations in certain districts) shall apply.~~

24-523

Special height and setback regulations

~~R5D R8 R10~~

(a) ~~Community District 7, Manhattan~~

~~Within the boundaries of Community District 7 in the Borough of Manhattan, all #buildings# or other structures# located in R10 Districts, except R10A or R10X Districts, shall comply with the requirements of Section 23-634 (Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan).~~

(b) ~~Community District 9, Manhattan~~

~~Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the #residential bulk# regulations of the Quality Housing Program.~~

(c) ~~R5D Districts~~

~~In R5D Districts, all #buildings# or other structures# shall comply with the height and setback requirements set forth in Section 23-60 (HEIGHT AND SETBACK REGULATIONS).~~

24-53

Alternate Front Setbacks

~~R6 R7 R8 R9 R10~~

(a) ~~In the districts indicated without a letter suffix, for #buildings# other than #Quality Housing buildings#, except for #Quality Housing buildings# and except as set forth in paragraph (b) of this Section, if an open area is provided along the full length of the #front lot line# with the minimum depth set forth in the following table, the provisions of Section 24-52 (Maximum Height of Walls and Required Setbacks) shall not apply. The minimum depth of such an open area shall be measured perpendicular to the #front lot line#. However, in such instances, except as otherwise provided in Sections 24-51 (Permitted Obstructions) or 24-54 (Tower Regulations), no #building or other structure# shall penetrate the alternate #sky exposure plane# set forth in the table, and the #sky exposure plane# shall be measured from a point above the #street line#.~~

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

~~(b) In the districts indicated, for all #buildings or other structures#, the provisions of this Section shall not apply.~~

24-54

Tower Regulations

R7-2 R8 R9 R10

(a) In the districts indicated without a letter suffix, for #buildings# other than #Quality Housing buildings#, except for #Quality Housing buildings#, and except as set forth in paragraph (b) of this Section, any portion or portions of #buildings# which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot# or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in this Section, may penetrate an established #sky exposure plane# in accordance with the provisions of this Section. (Such portion of a #building# that penetrates a #sky exposure plane# is hereinafter referred to as a tower.)

* * *

(b) Inapplicability of tower regulations

R7-2 R8 R9 R10

~~(1) In the districts indicated, the provisions of this Section shall not apply to any #development# or #enlargement# located wholly or partly in a #Residence District# that is within 100 feet of a #public park# with an area of one acre or more, or a #street line# opposite such a #public park#.~~

~~R8A R8B R8X R9A R9D R9X R10A R10X~~

~~(2) In the districts indicated, for all #buildings or other structures#, the provisions of this Section shall not apply.~~

* * *

24-55

Required Side and Rear Setbacks

* * *

24-552

Required rear setbacks for tall buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) In all districts, as indicated ~~without a letter suffix, for #buildings# other than #Quality Housing buildings#, except as provided in paragraph (b) of this Section,~~ no portion of a #building# more than 125 feet above yard level shall be nearer to a #rear yard line# than 20 feet. However, this provision shall not apply to any portion of a #building# that qualifies as a tower under the provisions of Section 24-54.

* * *

~~R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X~~

~~(b) In the districts indicated, for all #buildings# and for #Quality Housing buildings# in other R6 through R10 Districts, no portion of a #building# that exceeds the maximum base height specified in the table in Section 23-633 shall be nearer to a #rear yard line# than 10 feet.~~

~~In the case of a #through lot# on which a #rear yard equivalent# is provided as set forth in paragraph (a) of Section 24-382, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#. If a #rear yard equivalent# is provided as set forth in paragraph (b) of Section 24-382, the requirements of this Section shall not apply.~~

Regulations Applying in Special Situations

24-56

Special Height and Setback Provisions for Certain Areas ~~Zoning Lots Directly Adjoining Public Parks~~

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) For Zoning Lots Directly Adjoining Public Parks

In all districts, as indicated, a #public park# with an area of between one and fifteen acres shall be considered a #wide street# for the purpose of applying the regulations set forth in Section 24-52 (Maximum Height of ~~Front~~ Walls and Required ~~Front~~ Setbacks) to any #building or other structure# on a #zoning lot# adjoining such #public park#. However, the provisions of this Section shall not apply to a #public park# more than 75 percent of which is paved.

(b) Community District 7, Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, all #buildings or other structures# located in R10 Districts, shall comply with the requirements of Section 23-672 (Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan).

(c) Community District 9, Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the #residential bulk# regulations of Section 23-674 (Special height and setback regulations for certain sites in Community District 9, Borough of Manhattan).

* * *

24-59

Special Height Limitations

* * *

24-592

Height limitations for narrow buildings or enlargements

R7-2 ~~R7D~~ ~~R7X~~ R8 R9 R10

In the districts indicated, the provisions of Section 23-692 (Height limitations for narrow buildings or enlargements) shall apply to portions of #buildings# with #street walls# less than 45 feet in width.

24-593

Special provisions applying along district boundaries

R6 R7 R8 R9 R10

~~In the districts indicated, the requirements for R6B Districts in Section 23-633 (Street wall location and height and setback regulations in certain districts) shall apply to any portion of a #building# located within 25 feet of the boundary of an R1, R2, R3, R4, R5 or R6B District, if the #building# that contains such portion is:~~

- (a) ~~within an R6A, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X District; or~~

~~(b) within an R6, R7, R8, R9 or R10 District, without a letter suffix, and any portion of the zoning lot# is #developed# or #enlarged# pursuant to the Quality Housing Program.~~

* * *

Article II – Residence District Regulations

Chapter 5

Accessory Off-Street Parking and Loading Regulations

Off-street Parking Regulations

25-00

GENERAL PURPOSES AND DEFINITIONS

* * *

25-02

Applicability

* * *

25-021

Applicability of regulations to non-profit hospital staff dwellings

Except as modified in Sections ~~25-16 (Maximum Spaces for Other than Single Family Detached Residences)~~ and ~~25-212 (Parking requirements applicable to non-profit hospital staff dwellings)~~, the district regulations of this Chapter applicable to ~~#residences#~~ shall apply to ~~#non-profit hospital staff dwellings#~~, and the district regulations of this Chapter applicable to ~~#community facility uses#~~ shall not apply to such ~~#use#~~. In all districts, the regulations of this Chapter applicable to #community facility uses# shall not apply to #non-profit hospital staff dwellings#. In lieu thereof, the regulations applicable to #residences# shall apply, as follows:

- (a) the regulations of an R5 District shall apply to #non-profit hospital staff dwellings# located in R1, R2 and R3 Districts;
- (b) the regulations of an R6 District shall apply to #non-profit hospital staff dwellings# located in R4 and R5 Districts; and
- (c) the regulations of an R10 District shall apply to #non-profit hospital staff dwellings# located in R6 through R10 Districts.

* * *

25-025

Applicability of regulations to Quality Housing

On any #zoning lot# containing #residences# in R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9X, R10A or R10X Districts or their #commercial# equivalents, and on any #zoning lot# in other

districts containing a #Quality Housing building#, all #accessory# off-street parking spaces shall comply with the provisions of Section ~~28-50~~ 28-40 (PARKING FOR QUALITY HOUSING).

* * *

25-027

Applicability of regulations in Community District 14, Queens

In Community District 14 in the Borough of Queens, R6 and R7 Districts shall be subject to the #accessory# off-street parking regulations of an R5 District, except that such requirement shall not apply to any #development# located within an urban renewal area established prior to August 14, 2008, or to #income-restricted housing units# as defined in Section 12-10 (DEFINITIONS).

* * *

25-10

PERMITTED ACCESSORY OFF-STREET PARKING SPACES

* * *

25-16

Maximum Spaces for Other than Single-Family Detached Residences

R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the provisions of this Section shall apply to all #dwelling units# ~~or #rooming units#~~ in #buildings# containing #residences# other than #Quality Housing buildings# and #single-family detached residences#, except as provided in Section 25-17 (Modification of Maximum Spaces for Other than Single-Family Detached Residences).

~~The provisions of this Section applicable to #residences# in the districts set forth in the following table shall apply as set forth in the table to #non-profit hospital staff dwellings#:~~

~~APPLICABILITY OF PROVISIONS TO
NON-PROFIT HOSPITAL STAFF DWELLINGS~~

~~District whose Regulations are Applicable
to #Non-profit Hospital Staff Dwellings#~~

~~District in which #Non-profit
Hospital Staff Dwelling# is Located~~

~~R5~~

~~R1 R2 or R3~~

R6

~~R4 or R5~~

R10

~~R6 R7 R8 R9 or R10~~

25-161

In R3, R4 or R5 Districts

R3 R4 R5

In the districts indicated, not more than two off-street parking spaces shall be provided for each #dwelling unit#, ~~and not more than one off-street parking space shall be provided for each #rooming unit#.~~

* * *

25-20

REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES

25-21

General Provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #accessory# off-street parking spaces, open or enclosed, shall be provided for all #dwelling units# ~~or #rooming units#~~ created after December 15, 1961, in accordance with the provisions of the following Sections and the other applicable provisions of this Chapter, as a condition precedent to the #use# of such #dwelling unit# ~~or #rooming unit#~~:

- Section 25-22 (Requirements Where Individual Parking Facilities Are Provided)
- Section 25-23 (Requirements Where Group Parking Facilities Are Provided)
- Section 25-24 (Modification of Requirements for Small Zoning Lots)
- Section 25-25 (Modification of Requirements for Income-Restricted Housing Units or Affordable Independent Residences for Seniors ~~Public Housing or Housing for Elderly~~)
- Section 25-28 (Special Provisions for Zoning Lots Divided by District Boundaries)

For #dwelling units# or #rooming units# constructed pursuant to the zoning regulations in effect after July 20, 1950, and prior to December 15, 1961, off-street parking spaces #accessory# to such #dwelling units# or #rooming units# cannot be removed if such spaces were required by such zoning regulations, unless such spaces would not be required pursuant to the applicable zoning regulations currently in effect.

~~For the purposes of these Sections, three #rooming units# shall be considered the equivalent of one #dwelling unit#.~~

For the purposes of calculating the number of required parking spaces for any #building# containing #residences#, any fraction of a space 50 percent or greater shall be counted as an additional space.

In the event that the number of #accessory# off-street parking spaces required under the provisions of these Sections exceeds the maximum number of spaces permitted under the provisions of Section 25-16 (Maximum Spaces for Other than Single-Family Detached Residences), the Commissioner of Buildings shall reduce the required number of spaces to the maximum number permitted.

25-211

Application of requirements to conversions and certain enlargements

* * *

R1 R2 R3 R4 R5 R6 R7-1 R7A R7B R7D R7X

- (c) In the districts indicated, the requirements of Section 25-21 (General Provisions) shall not apply to #dwelling units# ~~or #rooming units#~~ created by the change of non-#residential uses# to #residential uses# on #zoning lots# with less than 5,000 square feet of #lot area#.

R7-2 R8 R9 R10

- (d) In the districts indicated, no #accessory# off-street parking is required for the creation of additional #dwelling units# ~~or #rooming units#~~ within existing #buildings#.

~~25-212~~

~~Parking requirements applicable to non-profit hospital staff dwellings~~

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

~~In all districts, as indicated, the provisions of Sections 25-21 to 25-28, inclusive, relating to Required Accessory Off-Street Parking Spaces for Residences, shall apply as set forth in this Section to #non-profit hospital staff dwellings#. The district regulations of Sections 25-21 to 25-28, inclusive, applicable to #non-profit hospital staff dwellings# are determined in accordance with the following table and are the~~

same as the regulations applicable to #residences# in the districts indicated in the table.

District Whose Regulations are Applicable	District
R5	R1 R2 R3
R6	R4 R5
R10	R6 R7 R8 R9 R10

* * *

25-23

Requirements Where Group Parking Facilities Are Provided

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, where #group parking facilities# are provided, for all new #residences#, #accessory# off-street parking spaces shall be provided for at least that percentage of the total number of #residences# set forth in the following table. Such spaces shall be kept available to the residents of the #building#, in accordance with the provisions of Section 25-41 (Purpose of Spaces and Rental to Non-Residents).

**PARKING SPACES REQUIRED WHERE
GROUP PARKING FACILITIES ARE PROVIDED**

Percent of Total #Residences#	District
100*	R1 R2 R3 R4A R4 I
100	R4 R4B R5A
85	R5
70**	R6

66	R5B R5D
60**	R7-1
50**	R6A R6B R7-2 R7A R7B R7D R7X R8B ***
40	R8 R9 R10

<u>District</u>	<u>Percent of Total #Residences#</u>
<u>R1 R2 R3 R4-1 R4A</u>	<u>100¹</u>
<u>R4 R4B R5A</u>	<u>100</u>
<u>R5</u>	<u>85</u>
<u>R6</u>	<u>70²</u>
<u>R5B R5D</u>	<u>66</u>
<u>R7-1</u>	<u>60²</u>
<u>R6A R6B R7-2 R7A R7B R7D R7X R8B³</u>	<u>50²</u>
<u>R8 R9 R10</u>	<u>40</u>

¹ In R1, R2, R3, R4-1 and R4A and ~~R4-1~~ Districts within #lower density growth management areas#, 1.5 #accessory# off-street parking spaces shall be provided for each #dwelling unit#. However, in such districts in the Borough of Staten Island, two #accessory# off-street parking spaces shall be provided for each #single-family residence#, three #accessory# off-street parking spaces shall be provided for each #two-family residence#, and for all other #residences#, #accessory# off-street parking spaces shall be provided for at least 150 percent of the total number of #dwelling units# within such #residences#

² In R6 or R7 Districts for #residences# created pursuant to the Quality Housing Program, #accessory# off-street parking spaces shall be provided for at least 50 percent of the total number of such #residences#

*** 3 In the bBorough of Brooklyn, R8B Districts are subject to the parking requirements applicable in R8 Districts

In a #predominantly built-up area# where #group parking facilities# are provided, #accessory# parking spaces shall be provided for at least that percentage of the total number of #dwelling units# set forth in the following table:

<u>Percent of Total #Residences#</u>	<u>District</u>
66	R4 R5
<u>District</u>	<u>Percent of Total #Residences#</u>
<u>R4 R5</u>	<u>66</u>

25-231

Modification of requirements to facilitate affordable housing

Within the #Transit Zone#, the Board of Standards and Appeals may permit a reduction in the parking requirements set forth in Section 25-23 in accordance with the provisions of Section 73-433 (Reduction of parking spaces to facilitate affordable housing).

25-24

Modification of Requirements for Small Zoning Lots

* * *

25-241

Reduced requirements

R6 R7 R8 R9 R10

In the districts indicated, for #zoning lots# of 10,000 or 15,000 square feet or less, the number of required #accessory# off-street parking spaces is as set forth in the following table:

REDUCED REQUIREMENTS FOR
SMALL ZONING LOTS

Parking Spaces Required as a
Percent of Total #Dwelling
Units#

#Lot Area#		District
10,000 square feet or less	50	R6 R7-1* R7B
	30	R7-1 R7A R7D R7X
10,001 to 15,000 square feet	30	R7-2
	20	R8** R9 R10

Parking Spaces Required as a Percent
of Total #Dwelling Units#

District	#Lot Area#	
<u>R6 R7-1¹ R7B</u>	<u>10,000 square feet or less</u>	<u>50</u>
<u>R7-1 R7A R7D R7X</u>		<u>30</u>
<u>R7-2</u>	<u>10,001 to 15,000 square feet</u>	<u>30</u>
<u>R8² R9 R10</u>		<u>20</u>

¹ Within #lower density growth management areas# in Community District 10, Borough of the Bronx

² In R8B Districts, the parking requirements may not be reduced-

* * *

Residences for Seniors Public, Publicly Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly

The requirements set forth in Section 25-23 (Requirements Where Group Parking Facilities Are Provided) shall be modified for #income-restricted housing units#, as defined in Section 12-10 (DEFINITIONS), and further modified #affordable independent residence for seniors#, in accordance with the provisions of this Section, inclusive. For the purposes of this Section, not more than one #dwelling unit# reserved for occupancy by a superintendent in a #building# otherwise comprised of #income-restricted housing units# shall also be considered an #income-restricted housing unit#.

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

~~In all districts, as indicated, #accessory# off-street parking spaces shall be provided for at least that percentage of the total number of #dwelling units# in each category as set forth in the following table, for:~~

- ~~(a) — all #dwelling units# in publicly assisted housing developments approved by the City Planning Commission which limit maximum tenant income and receive cash and/or interest subsidies under Federal mortgage programs;~~
- ~~(b) — all #dwelling units# in publicly assisted housing developments approved by the City Planning Commission which limit maximum tenant income and receive rent subsidy contracts under Federal rent subsidy programs, other than such developments owned by or constructed for the New York City Housing Authority which have received "plan" and "project" approval prior to June 30, 1975; and #non-profit residences for the elderly# or #dwelling units# for the elderly;~~
- ~~(c) — all #dwelling units# in low rent public housing developments owned by or constructed for the New York City Housing Authority or other public authority and receiving cash subsidies, or #dwelling units# in new housing developments approved by the City Planning Commission that are reserved for low income tenants for a period of not less than 40 years at rentals equivalent to rentals in low rent public housing developments receiving cash subsidies;~~
- ~~(d) — #non-profit residences for the elderly# or #dwelling units# in a publicly assisted or public housing development that are reserved for elderly tenants for a period of not less than 40 years and that comply with the appropriate space requirements for related #accessory# social and welfare facilities set forth in the definition of a #non-profit residence for the elderly# in Section 12-10 (DEFINITIONS); and~~
- ~~(e) — all government assisted #dwelling units# or #rooming units# in developments which receive New York City or New York State assistance to reduce total development cost by \$10,000 or 10 percent, whichever is less, and limit maximum tenant income to the income limits established by the United States Department of Housing and Urban Development for New York City mortgagors assisted under Section 235 of the National Housing Act, as amended.~~

PARKING SPACES REQUIRED FOR PUBLIC, PUBLICLY ASSISTED AND GOVERNMENT

ASSISTED HOUSING DEVELOPMENTS OR
NON-PROFIT RESIDENCES FOR THE ELDERLY

Publicly Assisted Housing	Federal Rent Subsidy Programs	Public Housing Developments or #Dwelling Units# for Low Income Tenants	#Non-profit Residences for the Elderly# or #Dwelling Units# for the Elderly	Gov't Assisted Housing	District
80	65	50.0	***	80	R1-R2
80	65	50.0	35.0	80	R3-R4
70	56	42.5	31.5	70	R5
55	45	35.0	22.5	55	R5D-R6**
39	32	25.0	16.0	35	R6A-R6B R7B
45	38	30.0	20.0	45	R7-1**
30	23	15.0	12.5	25	R7-2-R7A R7D-R7X R8B*
30	21	12.0	10.0	25	R8-R8A-R8X R9-R10

* In the Borough of Brooklyn, R8B Districts are subject to the parking requirements applicable in R8 Districts

** For assisted housing projects in R6 or R7-1 Districts which are #Quality Housing buildings#, the applicable district parking requirements shall be as follows:

District	Applicable District Parking Requirement
----------	---

R6

R6A

R7-1

R7A

*** ~~A #non-profit residence for the elderly# is not a permitted #use# in R1 or R2 Districts. See Section 22-12 (Use Group 2)~~

25-251

Income-restricted housing units

Regulations applicable to #income-restricted housing units#, except where such units are located in an #affordable independent residence for seniors#, are set forth in this Section.

Within the #Transit Zone# no #accessory# off-street parking spaces shall be required for #income-restricted housing units# developed after [date of adoption]. Existing required or permitted accessory off-street parking spaces for #buildings# containing #income-restricted housing units# in receipt of a certificate of occupancy prior to [date of adoption] shall continue to be subject to the applicable zoning district regulations in effect prior to [date of adoption], except that the Board of Standards and Appeals may waive or modify such requirements in accordance with the provisions of Section 73-434 (Reduction of existing parking spaces for income-restricted housing units).

Outside the #Transit Zone#, #accessory# off-street parking spaces shall be provided for at least that percentage of the total number of #income-restricted housing units# as set forth in the following table:

<u>District</u>	<u>Parking requirement per #income-restricted housing unit# (Percent)</u>
<u>R3-2 R4</u>	<u>50.0</u>
<u>R5 R5B</u>	<u>42.5</u>
<u>R5D</u>	<u>35.0</u>
<u>R6 R7B</u>	<u>25.0</u>
<u>R7-1 R7-2 R7A R7D R7X R8B¹</u>	<u>15.0</u>

R8 R8A R8X R9 R10

¹In the Borough of Brooklyn, R8B Districts are subject to the parking requirements applicable in R8 Districts

25-252

Affordable independent residences for seniors

Within the #Transit Zone# no #accessory# off-street parking spaces shall be required for #dwelling units# in an #affordable independent residence for seniors#.

Outside the #Transit Zone#, #accessory# off-street parking spaces shall be provided for at least 10 percent of the total number of #dwelling units# in an #affordable independent residence for seniors# developed after [date of adoption].

Existing required or permitted accessory off-street parking spaces for #dwelling units# in #affordable independent residences for seniors# in receipt of a certificate of occupancy prior to [date of enactment] outside of the #Transit Zone# shall continue to be subject to the applicable zoning district regulations in effect prior to [date of adoption], except that the Board of Standards and Appeals may waive or modify such requirements in accordance with the provisions of Section 73-435 (Reduction of existing parking for affordable independent residences for seniors).

25-26

Waiver of Requirements for Small Number of Spaces

R4B R5B R5D R6 R7 R8 R9 R10

In the districts indicated, the requirements set forth in Section 25-21 (General Provisions) shall be waived if the required number of #accessory# off-street parking spaces resulting from the application of such requirements is no greater than the maximum number as set forth in this Section, ~~except that the requirements shall not be waived for #non-profit residences for the elderly#.~~

However, the following provisions shall apply:

- (a) in R5D Districts, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on June 29, 2006, and on the date of application for a building permit; and
- (b) in R6 and R7 Districts in #lower density growth management areas# in Community District 10 in the Borough of the Bronx, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on March 25, 2003, and on the date of application for a building permit.

25-261

For developments or enlargements

R4B R5B R5D R6 R7 R8 R9 R10

For #developments# in R4B and R5B Districts, and for #developments# and #dwelling units# within #enlarged# portions of #buildings# in R5D, R6, R7, R8 R9 and R10 Districts, the maximum number of #accessory# off-street parking spaces for which requirements are waived is set forth in the following table:

<u>Maximum number of spaces waived</u>	<u>District</u>
4	R4B R5B R5D
5	R6 R7-1 R7B
15	R7-2 R7A R7D R7X R8 R9 R10

<u>District</u>	<u>Maximum number of spaces waived</u>
<u>R4B R5B R5D</u>	<u>1</u>
<u>R6 R7-1 R7B</u>	<u>5</u>
<u>R7-2 R7A R7D R7X R8 R9 R10</u>	<u>15</u>

* * *

25-30

REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR PERMITTED NON-RESIDENTIAL USES

25-31

General Provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

REQUIRED OFF-STREET PARKING SPACES FOR NON-RESIDENTIAL USES

Type of #use#

Parking Spaces Required in Relation
to Specified Unit of Measurement - District

FOR COMMUNITY FACILITY USES:

* * *

Philanthropic or non-profit institutions with sleeping accommodations; ~~#long-term care facilities# all types of nursing homes, health related facilities, domiciliary care facilities or sanitariums~~

None required - R7-2 R7A R7D R7X R8 R9 R10

1 per 10 beds - R1 R2 R3 R4 R5

1 per 20 beds - R6 R7-1 R7B

* * *

25-33

Waiver of Requirements for Spaces below Minimum Number

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except for the #uses# listed in Section 25-331 (Exceptions to application of waiver provisions), the parking requirements set forth in Sections 25-31 (General Provisions) or 25-32 (Special Provisions for a Single Zoning Lot with Uses Subject to Different Parking Requirements) shall not apply to permitted non-#residential uses# if the total number of #accessory# off-street parking spaces required for all such #uses# on the #zoning lot# is less than the number of spaces set forth in the following table:

Number of Spaces	Districts
10	R1 R2 R3 R4 R5

~~25~~ ~~R6 R7-1 R7B~~

40 R7-2 R7A R7D R7X R8 R9 R10

Districts Number of Spaces

R1 R2 R3 R4 R5 10

R6 R7-1 R7B 25

R7-2 R7A R7D R7X R8 R9 R10 40

* * *

25-50

RESTRICTIONS ON LOCATION OF ACCESSORY OFF-STREET PARKING SPACES

* * *

25-52

Off-Site Spaces for Residences

* * *

25-521

Maximum distance from zoning lot

R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, all such spaces shall not be further than the distance set forth in the following table from the nearest boundary of the #zoning lot# occupied by the #residences# to which they are #accessory#.

~~Maximum Distance from Zoning Lot~~

~~District~~

600 feet

R3 R4 R5 R6 R7-1 R7B

1,000 feet

R7-2 R7A R7D R7X R8 R9 R10

District

Maximum Distance from Zoning Lot

R3 R4 R5 R6 R7-1 R7B

600 feet

R7-2 R7A R7D R7X R8 R9 R10

1,000 feet

* * *

25-80

BICYCLE PARKING

* * *

25-81

Required Bicycle Parking Spaces

25-811

Enclosed bicycle parking spaces

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

**REQUIRED BICYCLE PARKING SPACES FOR RESIDENTIAL OR
COMMUNITY FACILITY USES**

Type of #Use#

Bicycle Parking Spaces
Required in Relation to
Specified Unit of Measurement

FOR RESIDENTIAL USES

Use Group 1

None required

Use Group 2

1 per 2 #dwelling units#

#Affordable independent residences for seniors#

1 per 10,000 square feet of #floor area#

~~#Non-profit residences for the elderly# or #dwelling units#~~

~~for the elderly as specified in Section 25-25(d)~~

* * *

25-85

Floor Area Exemption

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

**MAXIMUM BICYCLE PARKING SPACES
EXCLUDED FROM FLOOR AREA**

Type of #Use#

Maximum Bicycle Parking Spaces Excluded
from #Floor Area# in Relation to Specified
Unit of Measurement

FOR RESIDENTIAL USES

#Affordable independent residences for seniors#

1 per 2,000 square feet of #floor area#

~~#Non-profit residences for the elderly# or #dwelling~~

~~units# for the elderly as specified in Section 25-25(d)~~

* * *

Article II - Residence District Regulations

Chapter 8

The Quality Housing Program

28-00

GENERAL PURPOSES

The Quality Housing Program is established to foster the provision of multifamily housing and certain community facilities that:

- (a) are is-compatible with existing neighborhood scale and character;
- (b) provides on-site ~~recreation~~ amenity spaces to meet the needs of its residents ~~its occupants~~; and
- (c) ~~is~~ are designed to promote the security and safety of ~~the~~ its residents.

28-01

Applicability of this Chapter

The Quality Housing Program is a specific set of standards and requirements that, in conjunction with the bulk provisions for Quality Housing buildings set forth in Article II, Chapter 3, and Article III, Chapter 5, as applicable, apply to for buildings containing residences, long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations, or some combination thereof as follows:-

- (a) In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and in the equivalent Commercial Districts listed in Sections 34-111 and 34-112, all such buildings shall comply with the Quality Housing Program standards and requirements as set forth in this Chapter. ~~In R5D Districts, only the requirements set forth in Sections 26-41 (Street Tree Planting), 28-2321 (Refuse Storage and Disposal), 28-33 (Planting Areas) and 28-53 (Location of Accessory Parking) shall apply.~~
- (b) In other R6, R7, R8, R9 or R10 Districts, and in the equivalent Commercial Districts listed in Sections 34-111 and 34-112, ~~residential developments, residential enlargements, where permitted, all developments and enlargements of such buildings electing to use the optional~~ utilizing the Quality Housing bulk regulations in Article II, Chapter 3, shall comply with the Quality Housing Program standards and requirements set forth in this Chapter.
- (c) In R5D Districts, only the requirements set forth in Sections 28-12 (Refuse Storage and Disposal), 28-23 (Planting Areas) and 28-43 (Location of Accessory Parking) shall apply.

- (d) In R6 through R10 Districts, and in the equivalent #Commercial Districts# listed in Sections 34-111 and 34-112, for #developments# and #enlargements# of #community facility buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, or portions of #buildings# containing such #uses#, where such #buildings# utilize the #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3 in R6 through R10 Districts with a letter suffix, or the height and setback regulations for #Quality Housing buildings# in Article II, Chapter 3 in R6 through R10 Districts without a letter suffix, the Quality Housing Program standards and requirements of this Chapter shall apply, except that the provisions of Section 28-12 shall be optional.
- (e) The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments), are not applicable to #Quality Housing buildings#.
- (f) The provisions of this Chapter shall not apply to #dwelling units converted# pursuant to Article I, Chapter 5, unless such #conversions# meet the requirements for #residential developments# of Article II (Residence District Regulations).

28-02

Definitions

Dwelling unit

For the purposes of applying the provisions of this Chapter to philanthropic or non-profit institutions with sleeping accommodations and to #long-term care facilities#, the term #dwelling unit# shall include #dwelling units# and #rooming units#, as set forth in the New York City Housing Maintenance Code.

Vertical circulation core

A “vertical circulation core” is an elevator core (consisting of one or more elevators) or a central stairwell in a non-elevator #building#.

28-03

Quality Housing Program Elements

The Quality Housing Program consists of four components: ~~neighborhood impact~~, #building# interior, recreation space and planting, ~~and~~ safety and security and parking requirements.

~~The neighborhood impact component controls the effect of the #Quality Housing building# on the neighborhood and includes mandatory #bulk# regulations.~~

~~The #building# interior component sets a minimum size of a #dwelling unit#, mandates forth special refuse storage and disposal systems, and encourages laundry facilities and daylight in corridors.~~

~~The recreation and planting component establishes minimum space standards for indoor and outdoor recreation space and requires planting of open areas between the front #building# wall and the #street#.~~

~~The safety and security component encourages fewer #dwelling units# per corridor.~~

~~The parking component screens #accessory# parking spaces from the public realm.~~

~~Each #Quality Housing building# shall comply with the mandatory requirements of this Chapter.~~

28-10

NEIGHBORHOOD IMPACT

28-11

Bulk Regulations

~~The #bulk# regulations for #Quality Housing buildings# are set forth in the provisions applicable to the Quality Housing Program in Article II, Chapter 3; Article II, Chapter 4; Article III, Chapter 4 and Article III, Chapter 5.~~

28-10 28-20

BUILDING INTERIOR

28-11 28-21

Elevated Ground Floor Units

Size of Dwelling Units

~~A #dwelling unit# shall have an area of at least 400 square feet of #floor area#.~~

~~For all #Quality Housing buildings# with entryways at #curb level# that accommodate ramps, stairs, or lifts to #dwelling units# that are elevated above #curb level# on the first #story# of the #building#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the floor level of such #dwelling units# and #curb level#. However, no more than a maximum of 500 square feet may be excluded from the definition of #floor area# for each #building#.~~

~~28-22~~

Windows

All windows in the ~~#residential#~~ portion of a ~~#development#~~ or ~~#enlargement#~~ shall be double glazed.

~~28-12~~ ~~28-23~~

Refuse Storage and Disposal

In R6 through R10 Districts, ~~#developments#~~, with nine or more ~~#dwelling units#~~ or ~~#rooming units#~~ per ~~#vertical circulation core#~~, and ~~#enlargements#~~, ~~#extensions#~~ or ~~#conversions#~~ that result in nine or more ~~#dwelling units#~~ or ~~#rooming units#~~ per ~~#vertical circulation core#~~, shall comply with the provisions of this Section.

* * *

The storage of refuse shall occur entirely within an enclosed area on the ~~#zoning lot#~~ and appropriate locations within the ~~#zoning lot#~~ shall be delineated for this purpose: at least one for ~~#residential uses#~~, ~~#long-term care facilities#~~, and ~~philanthropic or non-profit institutions with sleeping accommodations, as applicable,~~ and at least one for ~~other #community facility#~~ and ~~#commercial uses#~~. ~~#Residential#~~ storage and removal locations shall be provided at the rate of 2.9 cubic feet per ~~#dwelling unit#~~ or ~~1.15 cubic feet per #rooming unit#~~.

A refuse disposal room of not less than ~~twelve~~ 12 square feet with no dimension less than three feet shall be provided on each ~~#story#~~ that has entrances to ~~#dwelling units#~~ or ~~#rooming units#~~. Twelve square feet of ~~floor space allocated to such refuse disposal storage~~ room shall be excluded from the definition of ~~#floor area#~~ per ~~#story#~~.

~~28-13~~ ~~28-24~~

Laundry Facilities

If the ~~#building#~~ provides the following, then that portion of the laundry room which is used to meet these minimum requirements shall be excluded from the definition of ~~#floor area#~~:

- (a) at least one washing machine per 20 ~~#dwelling units#~~ or ~~#rooming units#~~ and at least one dryer per 40 ~~#dwelling units#~~ or ~~#rooming units#~~;
- (b) such machines are located in a room or rooms with an additional three square feet of unobstructed floor space equipped with chairs and tables for folding laundry for each machine provided;
- (c) such rooms have at least one exterior wall with windows, or ceilings with skylights, measuring

not less than 9.5 percent of the total floor space of the rooms; ~~and~~

- (d) ~~such windows meet the applicable requirements of Section 24-60 (COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND LOT LINES)~~ where windows are provided to meet such requirement, they face a #street#, #yard# or #court# that meets the applicable regulations set forth in Article II, Chapter 3; and-
- (e) where skylights are provided to meet such requirement, they are located in a #yard# or #court# that meets the regulations set forth in Article II, Chapter 3, and are unobstructed from their lowest level to the sky, except by permitted obstructions set forth in Section 23-87 (Permitted Obstructions in Courts).

28-14 28-25

Daylight in Corridors

Fifty percent of the square footage of a corridor may be excluded from the definition of #floor area# if a window with a clear, non-tinted, glazed area of at least 20 square feet is provided in such corridor, provided that such window:

- (a) shall be directly visible from at least 50 percent of the corridor or from the #vertical circulation core#. This standard shall be achieved when a visually unobstructed straight line can be drawn between such corridor, elevator or stairwell, and the window; and
- (b) ~~is located at least 20 feet from a wall or a #side# or #rear lot line# measured in a horizontal plane and perpendicular to the rough window opening~~ facing a #street#, #yard# or #court# that meets the applicable regulations set forth in Article II, Chapter 3.

28-20 28-30

RECREATION SPACE AND PLANTING AREAS

28-21 28-31

Required Recreation Space

All #developments# with nine or more #dwelling units#, and #enlargements#, #extensions# or #conversions# that result in ~~with nine or more #dwelling units# or #rooming units#~~, shall provide at least the minimum amount of recreation space as set forth in the table in this Section.

The amount of recreation space required is expressed as a percentage of the total #residential floor area# or #community facility floor area# allocated to #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as applicable, of the #development#, #enlargement#,

#extension# or #conversion#, and may be aggregated in one type, indoors or outdoors.

The floor space of indoor recreation space provided in accordance with the standards set forth in Section ~~28-32~~ 28-22 (Standards for Recreation Space), not exceeding the amount required in the table, shall be excluded from the definition of #floor area#.

Minimum Required Recreation Space (as a percentage of the #residential floor area#)	District
3.3	R6 R7
2.8	R8 R9 R10

District	<u>Minimum Required Recreation Space (as a percentage of the #residential floor area# or applicable #community facility floor area#)</u>
<u>R6 R7</u>	<u>3.3</u>
<u>R8 R9 R10</u>	<u>2.8</u>

28-22 ~~28-32~~

Standards for Recreation Space

- (a) All recreation space shall be accessible to the residents of the #building#. In a mixed use #building#, the recreation space shall be accessible only from the #residential# portion of the #building#, or the #community facility# portion of a #building# allocated to #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as applicable.
- (b) The minimum dimension of any recreation space shall be 15 feet. The minimum size of any outdoor recreation space shall be 225 square feet, and the minimum size of any indoor recreation space shall be 300 square feet.
- (c) Outdoor recreation space shall be open to the sky except that #building# projections, not to exceed seven feet in depth, may cover up to ~~ten~~ 10 percent of the outdoor recreation space, provided that the lowest level of the projection is at least ~~ten~~ 10 feet above the level of the outdoor recreation space.
- (d) Any indoor recreation room located in a #story# shall have at least one exterior wall with

windows, or ceiling with skylights, that measures not less than 9.5 percent of the total floor space of the room and such windows shall meet the applicable requirements of Section 24-60 (COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES). Where windows are provided to meet such requirement, they shall face a #street#, #yard# or #court# that meets the applicable regulations set forth in Article II, Chapter 3. Where skylights are provided to meet such requirement, they shall be located in a #yard# or #court# that meets the applicable regulations set forth in Article II, Chapter 3 and shall be unobstructed from their lowest level to the sky, except for permitted obstructions set forth in Section 23-87 (Permitted Obstructions in Courts).

28-23 28-33

Planting Areas

The area of the #zoning lot# between the #street line# and the #street wall# of the #building# shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, pursuant to the provisions of Section 23-892 (In R6 through R10 Districts).

The area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between non-#residential uses# other than philanthropic or non-profit institutions with sleeping accommodations and #long-term care facilities# and the #street line#. No #zoning lot# shall be altered in any way that will either create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

28-30 28-40

SAFETY AND SECURITY

28-31 28-41

Density per Corridor

If the number of #dwelling units# or #rooming units# served by a #vertical circulation core# and corridor on each #story# does not exceed the number set forth in the following table, 50 percent of the square feet of the corridor serving such #dwelling units# or #rooming units# on such #story# may be excluded from the definition of #floor area#.

#Dwelling units# with entrance doors on more than one corridor (duplex and triplex units), may count each entrance door as a fraction of the total number of doors to such #dwelling unit# when determining the number of #dwelling units# served per corridor.

DENSITY OF
DWELLING UNITS PER CORRIDOR

Number of #Dwelling Units# and #Rooming Units# Served by a Corridor per #Story#	District
11	R6 R7
10	R8
8	R9 R10

<u>District</u>	<u>Number of #Dwelling Units# Served by a Corridor per #Story#</u>
<u>R6 R7</u>	<u>11</u>
<u>R8</u>	<u>10</u>
<u>R9 R10</u>	<u>8</u>

28-40 28-50

PARKING FOR QUALITY HOUSING

Except as modified by the provisions of this Section, #accessory# off-street parking shall be provided as set forth in the applicable underlying district regulations.

28-41 28-51

Screening

All open #accessory# off-street #group parking facilities# shall be screened from #dwelling units#, adjacent #zoning lots# and #streets# in accordance with paragraph (a) of Section 25-66.

28-42 28-52

Special Regulations for Off-Site Accessory Parking

Off-site #accessory# parking spaces may be unenclosed, provided that the #zoning lot# on which such spaces are located does not contain a #residential use#.

28-43 28-53

Location of Accessory Parking

On-site #accessory# off-street parking shall not be permitted between the #street line# and the #street wall# of a #building# or its prolongation.

However, on #through lots# measuring less than 180 feet in depth from #street# to #street#, #accessory# off-street parking may be located between the #street line# and any #street wall# located beyond 50 feet of such #street line#.

Article III - Commercial District Regulations

Chapter 2 Use Regulations

* * *

32-30 USES PERMITTED BY SPECIAL PERMIT

* * *

32-32 By the City Planning Commission

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4, or as otherwise indicated in this Section.

* * *

~~C1 C2 C3 C4 C5 C6~~
~~Domiciliary care facilities for adults~~

* * *

~~C1 C2 C3 C4 C5 C6~~
~~#Long-term care facilities# in C1 and C2 districts mapped within R1 and R2 Districts. Nursing homes and health related facilities in Community Districts in which the conditions set forth in Section 22-42 (Certification of Certain Community Facility Uses) apply.~~

* * *

32-40 SUPPLEMENTARY USE REGULATIONS

* * *

32-42 Location within Buildings

* * *

32-423

Limitation on ground floor location

C4 C5

In the districts indicated, #uses# in the Use Groups listed in the following table and marked with asterisks in the Use Group listing shall be located only as follows and as set forth in the following table:

- (a) on a floor above or below the ground floor; or
- (b) on the ground floor, but not within 50 feet of any #street wall# of the #building# and with no #show window# facing on the #street#.

<u>Use Group in Which Limitation Applies</u>	<u>District</u>
8, 9 or 12	C4
6, 9 or 11	C5

<u>District</u>	<u>#Use# Group in Which Limitation Applies</u>
C4	8, 9 or 12
C5	6, 9 or 11

32-43

Ground Floor Use in Certain Locations

32-431

Ground floor use in C1-8A, C1-9A, C2-7A, C2-8A, C4-6A and C4-7A Districts

C1-8A C1-9A C2-7A C2-8A C4-6A C4-7A

In the districts indicated, and in C1 and C2 Districts mapped within R9A and R10A Districts, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses# except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). ~~or lobby space for #residential use#.~~

Such lobbies shall not occupy more than 20 linear feet of #street wall# frontage on a #wide street# or 30 linear feet on a #narrow street#. Non-#residential use# shall have a depth of at least 15 feet from the #street wall#. Such minimum depth requirement may be reduced, however, to the minimum extent necessary, to accommodate a vertical circulation core, or structural columns associated with upper #stories# of the #building#. No more than 8,000 square feet shall be devoted to Use Group 6B within #stories# that have a floor level within five feet of #curb level#.

The provisions of Section 32-512 (For corner lots) shall not apply.

The provisions of this Section shall not apply within Community Board 7, Borough of Manhattan.

32-432

Ground floor use in Community Board 7, Borough of Manhattan

Within the boundaries of Community Board 7 in the Borough of Manhattan, when a #development#, #enlargement# or change of #use# is located in an R10 equivalent #Commercial District#, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses#, except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). ~~except lobby space.~~

32-433

Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island

C1 C2 C4

In all C1, C2 and C4 Districts in the Borough of Staten Island, ground floor #uses# shall conform with the provisions of this Section.

- (a) Ground floor level #use# requirements

All #uses# on the ground floor of a #building# shall be limited to non-#residential uses# except for Type 1 lobbies, and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). Such non-#residential uses# shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses)

In addition, enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, shall be permitted on the ground floor, provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements).

All ~~uses~~ on the ground floor of a ~~building~~ shall be limited to non ~~residential uses~~ and have a depth of at least 30 feet from the ~~street wall~~ of the ~~building~~, except that:

- (1) ~~residential~~ lobbies, and an associated vertical circulation core, as well as entrances to ~~accessory~~ parking spaces, shall be permitted on the ground floor, provided such lobbies and entrances conform to the frontage requirements of paragraph (b) of this Section;
- (2) ~~enclosed parking spaces, or parking spaces covered by a building~~, including such spaces ~~accessory~~ to ~~residences~~, shall be permitted on the ground floor, provided they are located beyond 30 feet of the ~~street wall~~ of the ~~building~~; and
- (3) ~~where a commercial district is mapped along an entire block front, and a zoning lot includes street frontage along such block front, and also includes street frontage along a block front that is not mapped as a commercial district in its entirety, non residential uses shall be required only within 30 feet of the street wall facing the block front mapped in its entirety as a commercial district.~~

The level of the finished floor of such ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjoining ~~street~~.

(b) ~~Ground floor frontage requirements~~

~~Non residential uses shall extend along the entire width of the ground floor of the building, except as follows:~~

- (1) ~~in C1 and C2 Districts mapped within R1, R2 and R3 Districts, and in C4 Districts, residential lobbies and entrances to accessory parking spaces shall be permitted, provided such lobbies and entrances do not occupy more than 25 percent of the street wall width of the building; and~~
- (2) ~~in C1 and C2 Districts mapped within R4, R5 and R6 Districts, residential lobbies and entrances to accessory parking spaces shall be permitted, provided that:~~
 - (i) ~~for zoning lots with a street frontage of less than 60 feet, such lobbies and entrances do not occupy more than 50 percent of the street wall width along such frontage, or 20 feet, whichever is less. In addition, an entrance to accessory parking spaces shall not exceed a width of 15 feet; and~~
 - (ii) ~~for zoning lots with a street frontage equal to or greater than 60 feet, such lobbies and entrances do not occupy more than 25 percent of the aggregate width of street wall of the building.~~

(b)(e) ~~Non-conforming buildings~~

#Buildings# containing #non-conforming residential uses# on the ground floor shall be permitted to #enlarge# without regard to the #use# regulations of this Section, provided that such #enlargement# complies with the provisions of the #residential yard# regulations set forth in Section 23-40.

32-434

Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts

C4-5D C6-3D

In the districts indicated and in C2 Districts mapped within R7D or R9D Districts, #uses# within #stories# that have a floor level within five feet of #curb level# shall be limited to non-#residential uses# which shall extend along the entire width of the #building#, except for Type 1 lobbies, entrances and exits to #accessory# off-street parking facilities, and entryways to subway stations provided in accordance with the provisions of Section 37-33 (Maximum Width of Certain Uses). ~~and lobbies, entrances to subway stations and #accessory# parking spaces, provided such lobbies and entrances do not occupy, in total, more than 25 percent of the #street wall# width of the #building# or more than 20 linear feet of #street wall# frontage on a #wide street# or 30 linear feet on a #narrow street#, whichever is less.~~ Such non-#residential uses# shall comply with the have a minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses) of 30 feet from the #street wall# of the #building#. ~~In C6-3D Districts, a vertical circulation core shall be permitted within such minimum 30-foot depth.~~

Enclosed parking spaces, or parking spaces within a #building#, including such spaces #accessory# to #residences#, shall be permitted to occupy #stories# that have a floor level within five feet of #curb level# provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements) ~~are located beyond 30 feet of the #street wall# of the #building#.~~ However, loading Loading berths serving any permitted #use# in the #building# may occupy up to 40 feet of such #street# frontage and, if such #building# fronts on both a #wide street# and a #narrow street#, such loading berth shall be located only on a #narrow street#.

~~In C6-3D Districts, each ground floor level #street wall# of a #commercial# or #community facility use# shall be glazed with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk, public access area or #base plane#, whichever is higher. Not less than 50 percent of the area of each such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials. However, where the #street wall# or portion thereof fronts an elevated rail line or is located within 50 feet of a #street wall# that fronts an elevated rail line, the glazing requirement of the area of the ground floor level #street wall# may be reduced from 70 percent to 50 percent, and not less than 35 percent of the area of each such ground floor level #street wall# shall be glazed with transparent materials and up to 15 percent of such area may be glazed with translucent materials. Furthermore, all security gates installed after September 30, 2009, that are swung, drawn or lowered to secure~~

~~#commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.~~

In C4-5D and C6-3D Districts, and in C2 Districts mapped within R7D or R9D Districts, each ground floor level #street wall# in a #building developed# or #enlarged# on the #buildings# developed after October 11, 2012, or portions of #buildings enlarged# on the ground floor level after October 11, 2012, shall comply with the glazing provisions set forth in Section 37-34 (Minimum Transparency Requirements). Section 132-30 (SPECIAL TRANSPARENCY REGULATIONS), inclusive. Such provisions shall apply in such districts to #building# frontages on Fulton Street in the Borough of Brooklyn and to frontages on Webster Avenue in the Borough of the Bronx. However, these provisions shall not apply to #buildings# on #zoning lots# with a width of less than 20 feet, provided such #zoning lot# existed on October 11, 2012.

32-435

Ground floor use in high density Commercial Districts

The regulations of this Section shall apply to any #development# occupied by #predominantly residential use#, constructed after April 21, 1977, located on any #zoning lot# within C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 or C6-8 Districts, or C1 and C2 Districts mapped within R9 or R10 Districts. However, this Section shall not apply within any Special Purpose District nor shall it apply to any #Quality Housing building#, except as otherwise set forth herein.

An application to the Department of Buildings for a permit respecting any #development# shall include a plan and an elevation drawn to a scale of at least one-sixteenth inch to a foot of the new #building# and #buildings# on #contiguous lots# or #contiguous blocks# showing #signs#, other than #advertising signs#, #arcades#, #street wall# articulation, curb cuts, #street# trees, sidewalk paving, central refuse storage area and such other necessary information as may be required by the Commissioner of Buildings.

(a) Definitions

For the purposes of this Section, the following definitions shall be applicable.

Contiguous block

For the purposes of this Section, inclusive, a “contiguous block” is a #block# containing one or more #zoning lots# separated by a #narrow street# from the #block# containing the #development#.

Contiguous lot

For the purposes of this Section, inclusive, a “contiguous lot” is a #zoning lot# which shares a common #side lot line# with the #zoning lot# of the #development#.

Development

For the purposes of this Section, inclusive, in addition to the definition of “development” in Section 12-10 (DEFINITIONS), “development” shall also include an #enlargement# involving an increase in #lot coverage#.

Predominantly residential use

For the purposes of this Section, inclusive, a “predominantly residential use” means a #building# having a #residential floor area# in excess of 50 percent of the total #building floor area#.

(b) Applicability of Article II, Chapter 6

In C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 and C6-8 Districts, or C1 or C2 Districts mapped within R9 or R10 Districts, the regulations of Article II, Chapter 6 (Special Urban Design Guidelines - Streetscape), shall apply to any #development# occupied by #predominantly residential use#, except as modified by the provisions of this Section. The purpose of these modifications is to make the regulations of Article II, Chapter 6, applicable to #Commercial Districts#.

(c) Retail Continuity

For #buildings# with front #building# walls that are at least 50 feet in width and front upon a #wide street#, a minimum of 50 percent of the width of such front #building# wall shall be occupied at the ground floor level by #commercial uses#, as permitted by district regulations.

In C1-8, C1-9, C2-7, C2-8, C4-6 Districts and C1 or C2 Districts mapped within R9 or R10 Districts, #uses# which occupy such 50 percent of the front #building# wall shall be limited to those listed in Use Groups 6A, 6C and 6F, excluding banks and loan offices, except that in C4-6 Districts only, such #uses# may additionally include those listed in Use Groups 8A, 8B and 10A. All #uses# permitted by the underlying district regulations are permitted in the remaining 50 percent of the front #building# wall.

Such requirement of #commercial uses# for a minimum of 50 percent of the front #building# wall may be waived, or additional #uses# permitted, upon certification by the City Planning Commission to the Commissioner of Buildings that an adequate supply of such #uses# already exists at the ground floor level in the surrounding area.

The Commission may require that an application for such certification of additional #uses# for a completed #building#, where #floor area# has been designated for occupancy for such #commercial uses#, establish that a good faith effort has been made to secure tenancy by such #uses#.

(d) Ground floor transparency and articulation

When any #building# wall which is five feet or more in height adjoins a sidewalk, a #public plaza# or an #arcade#, ground floor level transparency shall be provided in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

In addition, any portion of such #building# wall, 50 feet or more in width, which contains no transparent element between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 12 feet in height, shall be covered with ivy or similar planting or contain artwork or be treated so as to provide visual relief. Plants shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches. If artwork is being used, approval by the New York City Design Commission shall be obtained prior to the certificate of occupancy being issued for the #development#.

(e) Sign regulations

In addition to the applicable district regulations in C1-8, C1-9, C2-7, C2-8 and C4-6 Districts and C1 or C2 Districts mapped within R9 or R10 Districts, all #signs#, other than #advertising signs# and window #signs#, shall be located in a horizontal band not higher than three feet, the base of which is located not higher than 17 feet above #curb level#. Where there is a grade change of at least 1.5 feet in 100 along the portion of the #street# upon which the #development# fronts, such signage band may be staggered along such #street#.

When a #building# on a #contiguous lot# or #contiguous block# contains #accessory# business #signs# within a coordinated horizontal band along its #street# frontage, the signage strip along the #development# shall be located at the same elevation as the adjacent band, but in no event higher than 17 feet above #curb level#. Where coordinated horizontal bands exist on two #contiguous lots# or #contiguous blocks# on both sides of the #development#, the signage strip shall be located at the same elevation as one adjacent band, or between the elevations of the two. For the purpose of this Section, the elevation is measured from the #curb level# to the base of the signage strip.

The City Planning Commission may, by certification to the Commissioner of Buildings, allow modifications of the requirements of this Section. Such modifications will be permitted when the Commission finds that such modifications will enhance the design quality of the #street wall#.

* * *

* * *

32-442

Use of railroad or transit air space

C1 C2 C3 C4 C5 C6 C7 C8

* * *

(c) Notwithstanding the above, the #High Line#, as defined in Section 98-01, shall be governed by the provisions of Section ~~98-17~~ 98-16 (Air Space Over a Railroad or Transit ~~Right-of-Way~~ Right-of-way or Yard).

* * *

32-45

Certification of Certain Community Facility Uses

~~C1 C2 C3 C4 C5 C6~~

~~In all districts, as indicated, for any nursing homes and health related facilities or #enlargement#, #extension# or change in #use# thereof, the City Planning Commission shall certify to the Department of Buildings, prior to the filing of any plans by the applicant for a building permit for such #use#, that none of the following conditions applies to the Community District within which such #use#, or #enlargement#, #extension# or change in such #use#, is to be located:~~

- ~~(1) — the ratio between the number of beds for such #uses# in existence, under construction or approved toward construction by the appropriate Federal or State governmental agency, to the population of the Community District compared to such ratio for other Community Districts shows a relative concentration of facilities covered in this Section in the affected district;~~
- ~~(2) — a scarcity of land for general community purposes exists; or~~
- ~~(3) — the incidence of construction of facilities for the last three years warrants review over these facilities because they threaten to disrupt the land use balance in the community.~~

~~If the Commission finds that one or more of the conditions set forth in this Section applies to the Community District within which such #use#, or #enlargement#, #extension# or change in such #use#, is to be located, a special permit pursuant to Section 74-90 shall be required.~~

* * *

Article III - Commercial District Regulations

Chapter 3

Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

33-00

APPLICABILITY, DEFINITIONS AND GENERAL PROVISIONS

33-01

Applicability of this Chapter

The #bulk# regulations of this Chapter apply to #commercial buildings#, #community facility buildings# or #buildings# used partly for #commercial use# and partly for #community facility use#, on any #zoning lot# or portion of a #zoning lot# located in any #Commercial District#, including all #developments# or #enlargements#. As used in this Chapter, the term “any #building#” shall therefore not include a #residential building# or a #mixed building#, the #bulk# regulations for which are set forth in Article III, Chapter 4, and Article III, Chapter 5, respectively. In addition, the #bulk# regulations of this Chapter, or of specified sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

Existing #buildings or other structures# that do not comply with one or more of the applicable #bulk# regulations are #non-complying buildings or other structures# and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying to #large-scale residential developments#, #community facility uses# in #large-scale residential developments# or #large-scale community facility developments# are set forth in Article VII, Chapter 8.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

All C6-1A Districts shall comply with the regulations of C6-1 Districts except as set forth in Sections 33-12, paragraph (c), 33-13, paragraph (b) and 33-15, paragraph (a).

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential floor area#, to #residences# in #buildings# erected prior to December 15, 1961, or January 1, 1977, as applicable, shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion within Existing Buildings), unless such #conversions# meet the requirements for #residential development# of Article II (Residence District Regulations).

Special regulations applying in the #waterfront area# are set forth in Article VI, Chapter 2.

Special regulations applying in the #flood zone# are set forth in Article VI, Chapter 4.

33-011

Quality Housing Program

The applicability of the Quality Housing Program to #commercial buildings#, #community facility buildings# or #buildings# used partly for #commercial use# and partly for #community facility use# is set forth in this Section.

In C1 and C2 Districts mapped within R6 through R10 Districts with a letter suffix, and in C1-6A, C1-7A, C1-8A, C1-8X, C1-9A, C2-6A, C2-7A, C2-7X, C2-8A, C4-2A, C4-3A, C4-4A, C4-4D, C4-4L, C4-5A, C4-5D, C4-5X, C4-6A, C4-7A, C5-1A, C5-2A, C6-2A, C6-3A, C6-3D, C6-3X, C6-4A or C6-4X Districts, all #buildings# shall comply with the applicable height and setback regulations for #Quality Housing buildings# set forth in Article III, Chapter 5. Special regulations are set forth for #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations in Section 33-012 (Special Provisions for Certain Community Facility Uses).

33-012

Special Provisions for Certain Community Facility Uses

The provisions of this Section shall apply to #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3.

(a) #Buildings# containing #long-term care facilities#

(1) #Commercial Districts# with a residential equivalent of an R1 or R2 District

In C1 and C2 Districts mapped within R1 and R2 Districts, where a #long-term care facility# is permitted pursuant to Section 74-901, the #bulk# regulations of this Chapter shall apply. The maximum #floor area ratio# for such #long-term care facilities# shall not exceed the applicable #floor area ratio# of paragraph (b) of Section 33-121 (In districts with bulk governed by Residence District bulk regulations), except as permitted by the Commission pursuant to Section 74-902 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts).

(2) #Commercial Districts# with a residential equivalent of an R3 through R5 District

In C1 or C2 Districts mapped within R3 through R5 Districts, except R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, or in C3 or C4-1 Districts, the #bulk# regulations of Article II, Chapter 3 pertaining to #affordable independent residences for seniors#, inclusive, shall apply to #buildings#, or portions thereof, containing #long-term

care facilities#. However, the Commission may permit the #bulk# regulations of this Chapter to apply pursuant to the special permit in Section 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts).

The #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts) shall be used to determine the applicable residential #bulk# regulations of Article II, Chapter 3.

In C1 or C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, the #bulk# regulations of this Chapter shall apply to #community facility buildings#, or the #community facility# portion of a #building# containing #long term care facilities#, as applicable. The maximum #floor area ratio# for such #long-term care facilities# shall not exceed the applicable #floor area ratio# of paragraph (d) or (e) of Section 33-121, as applicable, except as permitted by the Commission pursuant to Section 74-903.

(3) #Commercial Districts# with a residential equivalent of an R6 through R10 District

In C1 or C2 Districts mapped within R6 through R10 Districts, or in #Commercial Districts# with a residential equivalent of an R6 through R10 District, the applicable #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3, pertaining to #affordable independent residences for seniors#, inclusive, shall apply to #buildings#, or portions thereof, containing #long-term care facilities#. However, the provisions of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) are modified by Section 35-65, and the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) are modified by 35-532 (Modification of permitted obstructions in required yards or rear yard equivalents for certain Inclusionary Housing buildings or affordable independent residences for seniors).

The #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts) shall be used to determine the applicable residential #bulk# regulations of Article II, Chapter 3.

In C1 or C2 Districts mapped within R6 through R10 Districts without a letter suffix, or in #Commercial Districts# with a residential equivalent of an R6 through R10 District without a letter suffix, the Commission may permit the #bulk# regulations of this Chapter to apply to such #long-term care facilities# pursuant to the special permit in Section 74-903.

(4) Applicability of #affordable independent residences for seniors bulk# provisions

Where #buildings# containing #long-term care facilities# are required to utilize the #bulk# provisions applicable to #affordable independent residences for seniors#, such #uses# shall be considered #residential# for the purpose of applying such provisions, and the term #dwelling unit# shall include #dwelling units# and #rooming units#, as set forth in the Housing Maintenance Code.

(b) #Buildings# containing philanthropic or non-profit institutions with sleeping accommodations

(1) #Commercial Districts# with a residential equivalent of an R1 or R2 District

In C1 and C2 Districts mapped within R1 and R2 Districts, the maximum #floor area ratio# for a #building# that contains a philanthropic or non-profit institution with sleeping accommodations shall not exceed the #floor area ratio# set forth in paragraph (b) of Section 33-121, except as permitted by the City Planning Commission pursuant to Section 74-902.

(2) #Commercial Districts# with a residential equivalent of an R3 through R10 District

In C1 or C2 Districts mapped within R3 through R9 Districts, the maximum #floor area ratio# for a #building# that contains a philanthropic or non-profit institution with sleeping accommodations shall not exceed the #floor area ratio# set forth in paragraphs (d) or (e) of Section 33-121, except as permitted by the Commission pursuant to Section 74-903.

In other #Commercial Districts# with a residential equivalent of R3 through R9 Districts the maximum #floor area ratio# for a #building# that contains a philanthropic or non-profit institution with sleeping accommodations shall not exceed the #floor area ratio# set forth in paragraphs (a) and (b) of Section 33-123 (Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts), as applicable, except as permitted by the Commission pursuant to Section 74-903.

In C1 or C2 Districts mapped within R10 Districts or in #Commercial Districts# with a residential equivalent of an R10 District, the maximum #floor area ratio# for a #building# that contains a philanthropic or non-profit institution with sleeping accommodations shall not exceed the #floor area ratio# set forth in the tables of Sections 33-121 or 33-123, as applicable.

In R6 through R10 Districts without a letter suffix, the height and setback regulations for #Quality Housing buildings# set forth in Article II, Chapter 3, may be applied. However, the provisions of Section 23-66 are modified by Section 35-65 (Height and Setback Requirements for Quality Housing Buildings).

(c) Applicability of Quality Housing Program elements

For all #buildings# containing #long-term care facilities# that utilize the #bulk# regulations for #affordable independent residences for seniors# in Article II, Chapter 3, as modified by Section 35-65, and for #buildings# containing philanthropic or non-profit institutions with sleeping accommodations that utilize the height and setback regulations for #Quality Housing buildings# in Section 35-65, the Quality Housing Program, and the associated mandatory and optional program elements, shall apply to such #uses#, as modified by paragraph (d) of Section 28-01 (Applicability of this Chapter).

* * *

**33-10
FLOOR AREA REGULATIONS**

* * *

**33-12
Maximum Floor Area Ratio**

C1 C2 C3 C4C5 C6 C7 C8

In all districts, as indicated, for any #zoning lot#, the maximum #floor area ratio# shall not exceed the #floor area ratio# set forth in this Section, except as otherwise provided in the following Sections:

* * *

Any given lot area shall be counted only once in determining #floor area ratio#.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot# less any shared #floor area#.

Except where authorized by express provisions of this Resolution, the maximum #floor area ratio# shall not exceed the amount set forth in this Section by more than 20 percent.

In addition, the following limitations on maximum permitted #floor area# shall apply:

* * *

**33-121
In districts with bulk governed by Residence District bulk regulations**

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, for a #zoning lot# containing a #commercial# or #community facility use#, the maximum #floor area ratio# is determined by the #Residence District# within which such #Commercial District# is mapped and shall not exceed the maximum #floor area ratio# set forth in the following table:

* * *

In addition, the following provisions shall apply:

* * *

- (b) In C1 and C2 Districts mapped within R1 and R2 Districts, the maximum #floor area ratio# for #community facility uses# on a #zoning lot# containing both #commercial uses# and #community facility uses# is 0.50 unless it is increased pursuant to the special permit provisions of Section ~~74-902, 74-901~~ (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts.)

* * *

- (d) In C1 and C2 Districts mapped within R3, R4, R5, R6, R7, R8 and R9 Districts, for any #zoning lot# containing ~~nursing homes, health related facilities, domiciliary care facilities for adults, sanitariums and~~ philanthropic or non-profit institutions with sleeping accommodations, or in C1 and C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D districts, for any #zoning lot# containing #long-term care facilities#, the total #floor area# for all such #community facility uses# shall not exceed the amount as set forth in paragraph (b) of Section 24-111 (Maximum floor area ratio for certain community facility uses) unless modified pursuant to Section ~~74-902, 74-903~~.

- (e) The maximum #floor area ratio# for any #zoning lot# used partly for #commercial uses# and partly for #long-term care facilities# in C1 and C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, ~~nursing homes, health related facilities, domiciliary care facilities for adults, sanitariums or~~ and philanthropic or non-profit institutions with sleeping accommodations in C1 or C2 Districts mapped within R3 through R9 Districts, shall not exceed the amount permitted for a #zoning lot# containing #commercial uses# as set forth for the applicable #Residence District# within which such #Commercial District# is mapped in Column A. However, for the districts in which the allowable #floor area ratio#, as set forth in paragraph (b) of Section 24-111; or, for #Quality Housing buildings#, as set forth in Section 23-153, exceeds the amount permitted for a #zoning lot# containing #commercial uses#, as set forth in Column A, the provisions of paragraph (b) of Section 24-111 or Section 23-153, as applicable, shall be used to compute the maximum #floor area# permissible for the #zoning lot# unless modified pursuant to Section ~~74-902, 74-903~~.

* * *

33-123

Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C8

In the districts indicated, the maximum #floor area ratio# for a #zoning lot# containing #community facility uses#, or for a #zoning lot# containing both #commercial# and #community facility uses#, shall not exceed the #floor area ratio# set forth in the following table:

* * *

For #zoning lots# containing both #commercial uses# and #community facility uses#, the total #floor area# used for #commercial uses# shall not exceed the amount permitted for #zoning lots# containing only #commercial uses# in Section 33-122.

In addition, the following provisions shall apply:

- (a) In all #Commercial Districts# except ~~C7 and~~ C8 Districts, or districts with a residential equivalent of an R10 District, for any #zoning lot# containing ~~nursing homes, health-related facilities, domiciliary care facilities for adults, sanitariums and~~ philanthropic or non-profit institutions with sleeping accommodations, the total #floor area# used for ~~such the~~ #community facility use# shall not exceed the amount as set forth in paragraph (b) of Section 24-111 (Maximum floor area ratio for certain community facility uses); or, for #Quality Housing buildings#, as set forth in Section 23-153, applying the equivalent #Residential Residence District# (indicated in Section 34-112) for the #Commercial District# in which such #use# is located, unless modified pursuant to Section 74-903 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts) 74-902.
- (b) The maximum #floor area ratio# for any #zoning lot# used partly for #commercial use# and partly for ~~nursing homes, health-related facilities, domiciliary care facilities for adults, sanitariums and~~ philanthropic or non-profit institutions with sleeping accommodations in #Commercial Districts# other than C8 Districts, or #Commercial Districts# with a residential equivalent of an R10 District, shall not exceed the amount permitted for a #zoning lot# containing #commercial uses# by the applicable district regulations. However, for the districts in which the allowable #floor area ratio#, as set forth in paragraph (b) of Section 24-111; or, for #Quality Housing buildings#, as set forth in Section 23-153, exceeds the amount permitted for a #zoning lot# containing #commercial uses#, the provisions of paragraph (b) of Section 24-111 or Section 23-153, as applicable, shall be used to compute the maximum #floor area# permissible for the #zoning lot# unless modified pursuant to Section 74-903 74-902.

* * *

YARD REGULATIONS

* * *

33-23

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Commercial Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

* * *

(b) In any #rear yard# or #rear yard equivalent#:

(1) Balconies, unenclosed, subject to the provisions of Section 24-166+65;

* * *

33-40

HEIGHT AND SETBACK REGULATIONS

Definitions and General Provisions

All #buildings# in #Commercial Districts# shall comply with the height and setback regulations set forth in this Section, inclusive. However, the height and setback regulations of this Section, inclusive, shall not apply in C1 and C2 Districts mapped within R6 through R10 Districts with a letter suffix, and in C1-6A, C1-7A, C1-8A, C1-8X, C1-9A, C2-6A, C2-7A, C2-7X, C2-8A, C4-2A, C4-3A, C4-4A, C4-4D, C4-4L, C4-5A, C4-5D, C4-5X, C4-6A, C4-7A, C5-1A, C5-2A, C6-2A, C6-3A, C6-3D, C6-3X, C6-4A or C6-4X Districts. In lieu thereof, all #buildings# in such districts shall comply with the applicable height and setback regulations for #Quality Housing buildings# set forth in Article III, Chapter 5.

* * *

33-43

Maximum Height of Walls and Required Setbacks

* * *

33-431

In C1 or C2 Districts with bulk governed by surrounding Residence District

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

(a) In the districts indicated, for #buildings other than #Quality Housing buildings#, the maximum height of a front wall and the required front setback of a #building or other structure# shall be determined by the #Residence District# within which such #Commercial District# is mapped and, except as otherwise set forth in this Section, shall be as set forth in the following table:

* * *

~~C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5~~

(b) ~~In the districts indicated, when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R10A or R10X Districts, the height and setback regulations of Sections 33-43 through 33-457, inclusive, shall not apply. In lieu thereof, the provisions of Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) shall apply.~~

33-432

In other Commercial Districts

~~C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C7 C8~~

(a) In the districts indicated, for #buildings other than #Quality Housing buildings#, the maximum height of a front wall and the required front setback of a #building or other structure#, except as otherwise set forth in this Section, shall be as set forth in the following table:

* * *

~~C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-4L
C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X~~

(b) ~~In the districts indicated, the height and setback regulations of Sections 33-43 through 33-457, inclusive, shall not apply. In lieu thereof, the provisions of Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) shall apply.~~

33-433

Special height and setback regulations

(a) Within the boundaries of Community District 7 in the Borough of Manhattan, all #buildings or other structures# located in an R10 equivalent #Commercial Districts# without a letter suffix shall comply with the requirements of Section 23-~~672~~ 634 (Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan).

(b) Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings#

located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to Section 23-674 (Special height and setback regulations for certain sites in Community District 9, Borough of Manhattan)~~the #residential bulk# regulations of the Quality Housing Program.~~

- (c) In C1 or C2 Districts mapped within R5D Districts, all #buildings or other structures# shall comply with the applicable height and setback requirements of Section 23-60.

* * *

33-44

Alternate Front Setbacks

C1 C2 C3 C4 C5 C6 C7 C8

In all districts as indicated, for #buildings other than #Quality Housing buildings#. if an open area is provided along the full length of the #front lot line# with the minimum depth set forth in this Section, the provisions of Section 33-43 (Maximum Height of Walls and Required Setbacks) shall not apply. The minimum depth of such open area shall be measured perpendicular to the #front lot line#. However, in such instances, except as otherwise provided in Sections 33-42 (Permitted Obstructions), 33-45 (Tower Regulations) or 85-04 (Modifications of Bulk Regulations), no #building or other structure# shall penetrate the alternate #sky exposure plane# set forth in this Section, and the #sky exposure plane# shall be measured from a point above the #street line#.

* * *

33-45

Tower Regulations

* * *

33-451

In certain specified Commercial Districts

C4-7 C5-2 C5-3 C5-4 C5-5 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9

* * *

Unenclosed balconies, subject to the provisions of Section 24-~~166~~165 (Balconies in R3 through R10 Districts), are permitted to project into or over open areas not occupied by towers.

* * *

33-49

Special Height and Setback Limitations

* * *

33-493

Special provisions along certain district boundaries

~~C1-6A C1-7A C1-8A C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-4L C4-5A
C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X~~

~~In the districts indicated, and in C1 and C2 Districts mapped within R6A, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, the #development# or #enlargement# of a #building#, or portions thereof, within 25 feet of an R1, R2, R3, R4, R5 or R6B District shall comply with the requirements for R6B Districts in Section 23-633 (Street wall location and height and setback regulations in certain districts).~~

* * *

Article III - Commercial District Regulations

Chapter 4

Bulk Regulations for Residential Buildings in Commercial Districts

34-00

APPLICABILITY AND DEFINITIONS

34-01

Applicability of this Chapter

The #bulk# regulations of this Chapter apply to any #zoning lot# containing only #residential buildings# in any #Commercial District# in which such #buildings# are permitted. Where a #residential building# and one or more #buildings# containing non-#residential uses# are on a single #zoning lot#, the #bulk# regulations of Article III, Chapter 5, shall apply. In addition, the #bulk# regulations of this Chapter or of specified Sections thereof also apply in other provisions of this Resolution where they are incorporated by cross reference.

However, in C3A Districts, the #bulk# regulations of this Chapter shall not apply to any #residential building#. In lieu thereof, the #bulk# regulations for R3A Districts in Article II, Chapter 3 (~~Residential Bulk Regulations for Residential Buildings~~ in Residence Districts), shall apply to #residential buildings#.

In C4-4L Districts, the #bulk# regulations of this Chapter shall not apply to any #residential building#. In lieu thereof, the #bulk# regulations for C4-4L Districts in Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts), shall apply to #residential buildings#.

Existing #buildings or other structures# that do not comply with one or more of the applicable #bulk# regulations are #non-complying buildings or other structures# and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

All C6-1A Districts shall comply with the regulations of C6-1 Districts except as set forth in Section 34-112.

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential floor area# to #residences# in #buildings# erected prior to December 15, 1961, or January 1, 1977, as applicable, shall be subject to the provisions of Article I, Chapter 5 (Residential Conversions within Existing Buildings), unless such #conversions# meet the requirements for new #residential development# of Article II (Residence District Regulations).

Special regulations applying in the #waterfront area# are set forth in Article VI, Chapter 2.

Special regulations applying in the #flood zone# are set forth in Article VI, Chapter 4.

34-011

Quality Housing Program

- (a) In C1 and C2 Districts mapped within R6 through R10 Districts ~~#Residence Districts#~~ with a letter suffix, and in C1-6A, C1-7A, C1-8A, C1-8X, C1-9A, C2-6A, C2-7A, C2-7X, C2-8A, C4-2A, C4-3A, C4-4A, C4-4D, C4-4L, C4-5A, C4-5D, C4-5X, C4-6A, C4-7A, C5-1A, C5-2A, C6-2A, C6-3A, C6-3D, C6-3X, C6-4A or C6-4X Districts, #residential buildings# shall comply with applicable #bulk# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3, except as modified by Section 34-20 (EXCEPTIONS TO APPLICABILITY OF RESIDENCE DISTRICT CONTROLS). In addition, #Quality Housing buildings# shall comply with all of the requirements of Article II, Chapter 8 (Quality Housing Program).
- (b) In C1 and C2 Districts mapped within R6 through R10 Districts without a letter suffix or other #Commercial Districts# with a residential equivalent of an R6 through R10 District without a letter suffix ~~the districts listed in paragraph (a) without a letter suffix, and in C5-2, C5-3, C5-4, C5-5, C6-1, C6-1A, C6-4, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts,~~ the #bulk# regulations applicable to #Quality Housing buildings# set forth in paragraph (a) of this Section may, as an alternative, be applied to a #building# under the same conditions set forth in Sections 23-011 and 34-112. ~~In addition, all #Quality Housing buildings# shall comply with Section 34-233 (Special provisions applying along district boundaries).~~
- (c) In #Commercial Districts#, for #Quality Housing buildings#, the applicable #bulk# regulations of this Chapter may be modified for #zoning lots# with irregular site conditions or site planning constraints by special permit of the Board of Standards and Appeals, pursuant to Section 73-623 (Bulk modifications for Quality Housing buildings on irregular sites).

* * *

34-10

APPLICABILITY OF RESIDENCE DISTRICT BULK REGULATIONS

34-11

General Provisions

* * *

34-112

Residential bulk regulations in other C1 or C2 Districts or in C3, C4, C5 or C6 Districts

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6

In the districts indicated, the applicable #bulk# regulations are the #bulk# regulations for the #Residence Districts# set forth in the following table:

Districts	Applicable #Residence District#
C3	R3-2
C4-1	R5
C4-2 C4-3 C6-1A	R6
C4-2A C4-3A	R6A
C1-6 C2-6 C4-4 C4-5 C6-1	R7- <u>2</u>
C1-6A C2-6A C4-4A C4-5A	R7A
C4-5D	R7D
C4-5X	R7X
C1-7 C4-2F C6-2	R8
C1-7A C4-4D C6-2A	R8A
C1-8 C2-7 C6-3	R9
C1-8A C2-7A C6-3A	R9A
C6-3D	R9D
C1-8X C2-7X C6-3X	R9X
C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9	R10
C1-9A C2-8A C4-6A C4-7A C5-1A C5-2A C6-4A	R10A

* * *

34-20

EXCEPTIONS TO APPLICABILITY OF RESIDENCE DISTRICT CONTROLS

* * *

34-22

Modification of Floor Area and Open Space Regulations

C1 C2 C3 C4 C5 C6

In the districts indicated, the #floor area# and #open space# regulations as set forth in Section 23-10 (OPEN SPACE AND FLOOR AREA REGULATIONS), inclusive, Section 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio) and 23-15 (Maximum Floor Area Ratio in R10 Districts), and made applicable to such districts in Section 34-11 (General Provisions), are modified as set forth in this Section.

* * *

34-225

Floor area increase for Inclusionary Housing in C4-7 Districts within Community District 7, Borough of Manhattan

Notwithstanding the provisions for R10 Districts in Community District 7 in the Borough of Manhattan set forth in Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas), in ~~the~~ C4-7 Districts within Community District 7 in the Borough of Manhattan, the maximum #residential floor area ratio# may be increased pursuant to the inclusionary housing provisions of Sections 23-154 and total #floor area# permitted on a #zoning lot# under the provisions of Section 23-15 (Maximum Floor Area Ratio in R10 Districts) may be increased pursuant to the provisions of Section 23-90 (INCLUSIONARY HOUSING).

* * *

34-23

Modifications of Yard Regulations

* * *

34-233

Special provisions applying along district boundaries

C1 C2 C3 C4 C5 C6

- (a) In the districts indicated, if a #Commercial District# boundary coincides with a #side lot line# of a #zoning lot# in an R1, R2, R3, R4 or R5 District and a #side lot line# of any adjoining #zoning lot# in such #Commercial District#, a #front yard# is required for the portion of any #residential building# on such #zoning lot# in the #Commercial District# within 25 feet of the district boundary. The depth of such #front yard# shall be equal to the required depth of a #front yard# in the adjacent #Residence District#.

* * *

34-24
Modification of Height and Setback Regulations

C1 C2 C3 C4 C5 C6

In the districts indicated, the height and setback regulations set forth in Article II, Chapter 3, and made applicable to such districts in Section 34-11 (General Provisions), are modified as set forth in this Section.

* * *

C4-2F C4-4 C4-5 C4-6 C4-7 C5 C6

- (d) Special provisions for narrow #buildings#

In the districts indicated, the provisions of Section 23-692 (Height limitations for narrow buildings or enlargements) shall apply, subject to the additional rules and exceptions therein, only to #Quality Housing buildings#. However, in such districts, the #street wall# location provisions of paragraph (4) of such Section shall not apply ~~shall not apply to #buildings or other structures# except for #Quality Housing buildings#~~.

C1 C2 C3 C4 C5 C6

- (e) Special provisions applying along district boundaries

The portion of a #Quality Housing building# located within 25 feet of the boundary of an R1, R2, R3, R4, R5 or R6B District shall comply with the provisions of Section 23-693 (Special provisions applying adjacent to R1 through R6B Districts) ~~requirements for R6B Districts in paragraphs (b) and (c) of Section 23-633 (Street wall location and height and setback regulations in certain districts)~~.

C1 C2 C4 C5 C6

(f) For #Quality Housing buildings#

In the districts indicated, for #buildings# utilizing the #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3, the provisions of Section 23-66 (Height and Setback Requirements for Quality Housing buildings) shall be modified by the provisions of Section 35-65.

* * *

Article III - Commercial District Regulations

Chapter 5

Bulk Regulations for Mixed Buildings in Commercial Districts

35-00

APPLICABILITY AND DEFINITIONS

35-01

Applicability of this Chapter

The #bulk# regulations of this Chapter apply to any #mixed building# located on any #zoning lot# or portion of a #zoning lot# in any #Commercial District# in which such #building# is permitted. The #bulk# regulations of this Chapter shall also apply in any #Commercial District# where there are multiple #buildings# on a single #zoning lot# and such #zoning lot# contains a #residential use# and either a #commercial use# or a #community facility use#. In addition, the #bulk# regulations of this Chapter, or of specified Sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross-reference.

However, in C3A Districts, except for #community facility uses# that have received tax-exempt status from the New York City Department of Finance, or its successor, pursuant to Section 420 of the New York State Real Property Tax Law, or its successor, the #bulk# regulations of this Chapter shall not apply, and the #bulk# regulations for R3A Districts of Article II, Chapter 3, shall apply to any #building# that is used partly for #community facility use# and partly for #residential use#.

Existing #buildings or other structures# that do not comply with one or more of the applicable #bulk# regulations are #non-complying buildings or other structures# and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

All C6-1A Districts shall comply with the regulations of C6-1 Districts except as set forth in Section 35-23.

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential floor area# to #residences# in #buildings# erected prior to December 15, 1961, or January 1, 1977, as applicable, shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion within Existing Buildings), unless such #conversions# meet the requirements for #residential development# of Article II (Residence District Regulations).

Special regulations applying in the #waterfront area# are set forth in Article VI, Chapter 2.

Special regulations applying in the #flood zone# are set forth in Article VI, Chapter 4.

35-011

Quality Housing Program

- (a) In C1 and C2 Districts mapped within R6 through R10 Districts with a letter suffix, and in C1-6A, C1-7A, C1-8A, C1-8X, C1-9A, C2-6A, C2-7A, C2-7X, C2-8A, C4-2A, C4-3A, C4-4A, C4-4D, C4-4L, C4-5A, C4-5D, C4-5X, C4-6A, C4-7A, C5-1A, C5-2A, C6-2A, C6-3A, C6-3D, C6-3X, C6-4A or C6-4X Districts, all #buildings# shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter, and the applicable provisions of Article II, Chapter 8 (Quality Housing Program). any #residential# portion of a #building# shall comply with all of the regulations of Article II, Chapter 8 (Quality Housing Program), and the entire #building# shall comply with the provisions of Sections 28-33 (Planting Areas) and 28-50 (PARKING FOR QUALITY HOUSING). In C1 and C2 Districts mapped within R5D Districts, only those regulations of Article II, Chapter 8, as set forth in Section 28-01 (Applicability of this Chapter), shall apply.
- (b) In C1 and C2 Districts mapped within R6 through R10 Districts without a letter suffix and in other #Commercial Districts# with a residential equivalent of an R6 through R10 District without a letter suffix ~~the districts listed in paragraph (a), without a letter suffix, and in C5-2, C5-3, C5-4, C5-5, C6-1, C6-1A, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts,~~ the #bulk# regulations applicable to #Quality Housing buildings# may, as an alternative, be applied ~~to the #residential# portion of a #building#~~ under the same conditions set forth in Sections 23-011, 35-22 and 35-23, provided that:
- (1) the entire #building# complies with the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter in Article III, Chapter 5; and
 - (2) the entire #building# complies with the applicable provisions of Article II, Chapter 8 (Quality Housing Program).
- (c) In C1 through C6 Districts, special regulations are set forth for #buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations in Section 35-012 (Special provisions for certain community facility uses).
- (d) In #Commercial Districts#, for #Quality Housing buildings#, the applicable #bulk# regulations of this Chapter may be modified for #zoning lots# with irregular site conditions or site planning constraints by special permit of the Board of Standards and Appeals, pursuant to Section 73-623 (Bulk modifications for Quality Housing buildings on irregular sites).

35-012

Special provisions for certain community facility uses

The provisions of this Section shall apply to #zoning lots# with #mixed buildings# containing #long-term care facilities#, or philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3.

(a) #Buildings# containing #long-term care facilities#

(1) #Commercial Districts# with a residential equivalent of an R1 or R2 District

In C1 and C2 Districts mapped within R1 and R2 Districts, where a #long-term care facility# is permitted pursuant to Section 74-901 (Long-term care facilities in R1 and R2 Districts and certain Commercial Districts), the #bulk# regulations of this Chapter shall apply. The maximum #floor area ratio# for such #long-term care facilities# shall not exceed the applicable #floor area ratio# of paragraph (b) of Section 33-121 (In districts with bulk governed by Residence District bulk regulations), except as permitted by the City Planning Commission pursuant to Section 74-902 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts).

(2) #Commercial Districts# with a residential equivalent of an R3 through R5 District

In C1 and C2 Districts mapped within R3 through R5 Districts, except R3A, R3X, R3-1, R4A, R4B, R4-1, R5A, R5B and R5D districts, or in C3 or C4-1 Districts, the #bulk# regulations of Article II, Chapter 3 pertaining to #affordable independent residences for seniors#, inclusive, shall apply to #buildings#, or portions thereof, containing #long-term care facilities#. However, the Commission may permit the #bulk# regulations of this Chapter to apply pursuant to the special permit provisions of Section 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts).

The #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts) shall be used to determine the applicable residential #bulk# regulations of Article II, Chapter 3.

In C1 or C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, the applicable #bulk# regulations of this Chapter shall apply to #mixed buildings# containing #long-term care facilities#. The maximum #floor area ratio# for such #long-term care facilities# shall be as set forth for certain #community facility uses# in paragraphs (d) and (e) of Section 33-121, as applicable, except as permitted by the Commission pursuant to Section 74-903.

(3) #Commercial Districts# with a residential equivalent of an R6 through R10 District

In C1 or C2 Districts mapped within R6 through R10 Districts, or in #Commercial Districts# with a residential equivalent of an R6 through R10 District, the applicable #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3, pertaining to #affordable independent residences for seniors#, inclusive, shall apply to #buildings#, or portions thereof, containing #long-term care facilities#. However, the provisions of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) are modified by Section 35-65, and the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) are modified by 35-532 (Modification of permitted obstructions in required yards or rear yard equivalents for certain Inclusionary Housing buildings or affordable independent residences for seniors).

The #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 shall be used to determine the applicable residential #bulk# regulations of Article II, Chapter 3.

In C1 or C2 Districts mapped within R6 through R10 Districts without a letter suffix, or in #Commercial Districts# with a residential equivalent of an R6 through R10 District without a letter suffix, the Commission may permit the #bulk# regulations of this Chapter to apply to such #long-term care facilities# pursuant to the special permit provisions of Section 74-903.

(4) Applicability of #affordable independent residences for seniors bulk# provisions

Where #buildings# containing #long-term care facilities# are required to utilize the #bulk# provisions applicable to #affordable independent residences for seniors#, such #uses# shall be considered #residential# for the purpose of applying such provisions, and the term #dwelling unit# shall include #dwelling units# and #rooming units#, as set forth in the Housing Maintenance Code.

(b) #Buildings# containing philanthropic or non-profit institutions with sleeping accommodations

The maximum #floor area ratio# for the portion of a #mixed building# that contains a philanthropic or non-profit institution with sleeping accommodations shall be as set forth in paragraph (b) of Section 33-012 (Special Provisions for Certain Community Facility Uses).

In addition, for #buildings# in C1 or C2 Districts mapped within R6 and R7-1 Districts, except for R6A and R6B Districts, containing both #residential uses# and philanthropic or non-profit institutions with sleeping accommodations, the provisions of Section 35-311 (Maximum floor area and special provisions for mixed buildings or zoning lots with multiple buildings containing community facility use in certain districts) shall not apply. In lieu thereof, the provisions of Section 35-31 (Maximum Floor Area Ratio) shall apply.

(c) Applicability of Quality Housing Program elements

For all #buildings# containing #long-term care facilities# that utilize the #bulk# regulations for #affordable independent residences for seniors# in Article II, Chapter 3, as modified by Section

35-65 (Height and Setback Requirements for Quality Housing Buildings), and for #buildings# containing philanthropic or non-profit institutions with sleeping accommodations that utilize the height and setback regulations for #Quality Housing buildings# in Section 35-65, the Quality Housing Program, and the associated mandatory and optional program elements, shall apply to such #uses#, as modified by paragraph (d) of Section 28-01 (Applicability of this Chapter).

* * *

35-20

APPLICABILITY OF RESIDENCE DISTRICT BULK REGULATIONS

* * *

35-22

Residential Bulk Regulations in C1 or C2 Districts Whose Bulk is Governed by Surrounding Residence District

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, the #bulk# regulations for the #Residence Districts# within which such #Commercial Districts# are mapped apply to #residential# portions of #buildings#, except:

- (a) when such districts are mapped within R1 or R2 Districts, the #bulk# regulations for R3-2 Districts shall apply; and
- (b) when such districts are mapped within R6, R7, R8, R9 or R10 Districts, the height and setback regulations of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) Sections 23-60 through 23-65, inclusive, shall be modified by the provisions of not apply to #Quality Housing buildings#. In lieu thereof, Section 35-24 35-65 (Height and Setback Requirements for Quality Housing Buildings Special Street Wall Location and Height and Setback Regulations in Certain Districts) for #Quality Housing buildings# shall apply.

35-23

Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6

- (a) In the districts indicated, the #bulk# regulations for #residential# portions of #buildings# are the #bulk# regulations for the #Residence Districts# set forth in the following table. However, for #Quality Housing buildings# the height and setback regulations of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) Sections 23-60 through 23-65, inclusive, shall not apply. In lieu thereof, be modified by the provisions of Section 35-24 35-65 (Height and

Setback Requirements for Quality Housing Buildings Special Street Wall Location and Height and Setback Regulations in Certain Districts) shall apply.

The provisions of Section 23-692 (Height limitations for narrow buildings or enlargements) shall not apply in C4-2F, C4-4, C4-5, C4-6, C4-7, C5 or C6 Districts, except that such provisions shall apply to #Quality Housing buildings#.

In C4-2F, C4-4, C4-5, C4-6, C4-7, C5 or C6 Districts, the provisions of Section 23-692 (Height limitations for narrow buildings or enlargements), shall apply, subject to the additional rules and exceptions therein, only to #Quality Housing buildings#. However, in such districts, the #street wall# location provisions of paragraph (4) of such Section shall not apply.

Furthermore, in C4-2 Districts in the Borough of Staten Island, the #residential# portion of a #mixed building# and #residential buildings# on #zoning lots# subject to the provisions of this Chapter shall be subject to the #bulk# regulations for #Quality Housing buildings#.

<u>Applicable #Residence District#</u>	<u>District#</u>
R3-2	C3
R3A	C3A
R5	C4-1
R6	C4-2 C4-3 C6-1A
R7	C1-6 C2-6 C4-4 C4-5 C6-1
R8	C1-7 C4-2F C6-2
R9	C1-8 C2-7 C6-3
R10	C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9
<u>District</u>	<u>Applicable #Residence District#</u>

<u>C3</u>	<u>R3-2</u>
<u>C3A</u>	<u>R3A</u>
<u>C4-1</u>	<u>R5</u>
<u>C4-2 C4-3 C6-1A</u>	<u>R6</u>
<u>C1-6 C2-6 C4-4 C4-5 C6-1</u>	<u>R7-2</u>
<u>C1-7 C4-2F C6-2</u>	<u>R8</u>
<u>C1-8 C2-7 C6-3</u>	<u>R9</u>
<u>C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5</u> <u>C6-6 C6-7 C6-8 C6-9</u>	<u>R10</u>

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-4L
C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X

- (b) In the districts indicated, the #bulk# regulations for #residential# portions of #buildings# are the #bulk# regulations for the #Residence Districts# set forth in the following table. However, the height and setback regulations of Section 23-66 Sections 23-60 through 23-65, inclusive, shall be modified by the provisions of not apply. In lieu thereof, Section 35-24- 35-65 shall apply.

<u>Applicable</u> <u>#Residence District#</u>	<u>District</u>
<u>R6A</u>	<u>C4-2A C4-3A</u>
<u>R7A</u>	<u>C1-6A C2-6A C4-4A C4-4L C4-5A</u>
<u>R7D</u>	<u>C4-5D</u>
<u>R7X</u>	<u>C4-5X</u>
<u>R8A</u>	<u>C1-7A C4-4D C6-2A</u>

R9A	C1-8A C2-7A C6-3A
R9D	C6-3D
R9X	C1-8X C2-7X C6-3X
R10A	C1-9A C2-8A C4-6A C4-7A C5-1A C5-2A C6-4A
R10X	C6-4X

<u>District</u>	<u>Applicable #Residence District#</u>
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<u>C4-2A C4-3A</u>	<u>R6A</u>
<u>C1-6A C2-6A C4-4A C4-4L C4-5A</u>	<u>R7A</u>
<u>C4-5D</u>	<u>R7D</u>
<u>C4-5X</u>	<u>R7X</u>
<u>C1-7A C4-4D C6-2A</u>	<u>R8A</u>
<u>C1-8A C2-7A C6-3A</u>	<u>R9A</u>
<u>C6-3D</u>	<u>R9D</u>
<u>C1-8X C2-7X C6-3X</u>	<u>R9X</u>
<u>C1-9A C2-8A C4-6A C4-7A C5-1A C5-2A C6-4A</u>	<u>R10A</u>
<u>C6-4X</u>	<u>R10X</u>

35-24

Special Street Wall Location and Height and Setback Regulations in Certain Districts

~~C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-4L
C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X~~

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, for all #buildings or other structures#, and for #Quality Housing buildings# in other #Commercial Districts#, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

(a) — Permitted obstructions

~~C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-4L C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X~~

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other #Commercial Districts#, the provisions of Section 33-42 shall apply to any #building or other structure#. In addition, a dormer may be allowed as a permitted obstruction pursuant to paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

(b) — #Street wall# location

~~C1-6A C2-6A C4-2A C4-3A C4-4A C4-5A C4-5X~~

(1) — In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B or R7X Districts, and for #Quality Housing buildings# in other #Commercial Districts# with a residential equivalent of an R6 or R7 District, at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be located beyond eight feet of the #street line#.

Existing #buildings# may be horizontally #enlarged# without regard to #street wall# location provisions, provided the amount of new #floor area# does not exceed 50 percent of the amount of #floor area# existing on June 29, 1994, and the #enlarged# portion of the #building# does not exceed one #story# or 15 feet in height, whichever is less.

For #zoning lots# bounded by more than one #street line#, these #street wall# location provisions shall be mandatory along only one #street line#.

Where only one #street line# is coincident with the boundary of a #Commercial District# mapped along an entire #block# front, the #street wall# location provisions shall apply along such coincident #street line#. For all other #zoning lots#, the #street wall# location

provisions shall apply along at least one #street line#.

~~C1-7A C1-8A C1-8X C1-9A C2-7A C2-7X C2-8A C4-4D C4-5D~~

(2) — In the districts indicated, and in C1 or C2 Districts when mapped within R7D, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other C1 or C2 Districts with a residential equivalent of an R8, R9 or R10 District, the following #street wall# location provisions shall apply along #wide streets#, and along #narrow streets# within 50 feet of their intersection with a #wide street#.

(i) The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. To allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

In C1 or C2 Districts when mapped within R9D Districts, to allow articulation of #street walls# at the intersection of two #street lines#, up to 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# may be unoccupied by a #building#. However, where one such #street line# fronts an elevated rail line, a minimum of 25 percent and a maximum of 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# shall be unoccupied by a #building#.

(ii) — Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#.

Above a height of 12 feet above the #base plane#, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except to articulate the #street walls# as set forth in paragraph (b)(2)(i) of this Section.

(iii) — Where a continuous sidewalk widening is provided along the entire #block# frontage of a #street#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section.

No ~~street wall~~ location rules shall apply along ~~narrow streets~~ beyond 50 feet of their intersection with a ~~wide street~~.

For the purposes of applying the provisions of paragraph (b) of this Section, where the New York City Administrative Code establishes restrictions on the location of ~~buildings~~ on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern ~~street lines~~ of Eastern Parkway.

~~C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X~~

(3) — In the districts indicated, and for ~~Quality Housing buildings~~ in other ~~C4, C5 or C6 Districts~~ with a residential equivalent of an R8, R9 or R10 District, the ~~street wall~~ location requirements shall be as set forth in paragraph (b)(2), inclusive, of this Section, except that a ~~street wall~~ with a minimum height of 12 feet shall be required on a ~~narrow street line~~ beyond 50 feet of its intersection with a ~~wide street~~, and shall extend along such entire ~~narrow street~~ frontage of the ~~zoning lot~~.

In ~~C6-4X~~ Districts, ~~public plazas~~ are only permitted to front upon a ~~narrow street line~~ beyond 50 feet of its intersection with a ~~wide street line~~. The ~~street wall~~ location provisions of this Section shall not apply along any such ~~street line~~ occupied by a ~~public plaza~~.

In ~~C6-3D~~ Districts, to allow articulation of ~~street walls~~ at the intersection of two ~~street lines~~, up to 50 percent of the area bounded by the two ~~street lines~~ and lines parallel to and 50 feet from such ~~street lines~~ may be unoccupied by a ~~building~~. However, where one such ~~street line~~ fronts an elevated rail line, a minimum of 25 percent and a maximum of 50 percent of the area bounded by the two ~~street lines~~ and lines parallel to and 50 feet from such ~~street lines~~ shall be unoccupied by a ~~building~~.

~~C4-4L~~

(4) — In ~~C4-4L~~ Districts, the ~~street wall~~ location provisions of paragraph (b)(1) of this Section shall apply along any ~~street~~ that does not contain an elevated rail line. For ~~zoning lots~~ bounded by a ~~street~~ containing an elevated rail line, the following regulations shall apply along the frontage facing the elevated rail line.

(i) — A sidewalk widening shall be provided along the entire ~~zoning lot~~ frontage of such ~~street~~ containing an elevated rail line. Such sidewalk widening shall have a depth of five feet, be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk, and be accessible to the public at all times. A line parallel to and five feet from the ~~street line~~ of such ~~street~~ containing an elevated rail line, as measured within the ~~zoning lot~~, shall be considered the ~~street line~~ for the purpose of applying

all regulations of this Section, inclusive.

- (ii) — At least 70 percent of the ~~aggregate width of street walls~~ shall be located at the ~~street line~~ of the ~~street~~ containing the elevated rail line and extend to at least the minimum base height, or the height of the ~~building~~, whichever is less, up to the ~~maximum base height~~.

~~(c) — Setback regulations~~

~~C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D
C4-4L C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A
C6-4X~~

~~In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, for all buildings, and for Quality Housing buildings in other Commercial Districts, setbacks are required for all portions of buildings or other structures that exceed the maximum base height specified in the table in this Section. Such setbacks shall be provided in accordance with the following regulations:~~

- (1) — ~~At a height not lower than the minimum base height or higher than the maximum base height specified in Table A of this Section for buildings in contextual districts, and Table B for buildings in non-contextual districts, a setback with a depth of at least 10 feet shall be provided from any street wall fronting on a wide street, and a setback with a depth of at least 15 feet shall be provided from any street wall fronting on a narrow street, except such dimensions may include the depth of any permitted recesses in the street wall.~~
- (2) — ~~These setback provisions are optional for any building wall that is either located beyond 50 feet of a street line or oriented so that lines drawn perpendicular to it in plan would intersect a street line at an angle of 65 degrees or less. In the case of an irregular street line, the line connecting the most extreme points of intersection shall be deemed to be the street line. Furthermore, dormers provided in accordance with the provisions of paragraph (a) of this Section may penetrate a required setback area.~~
- (3) — ~~In C6-3D Districts, for buildings or other structures on zoning lots that front upon an elevated rail line, at a height not lower than 15 feet or higher than 25 feet, a setback with a depth of at least 20 feet shall be provided from any street wall fronting on such elevated rail line, except that such dimensions may include the depth of any permitted recesses in the street wall and the depth of such setback may be reduced by one foot for every foot that the depth of the zoning lot, measured perpendicular to the elevated rail line, is less than 110 feet, but in no event shall a setback less than 10 feet in depth be provided above the minimum base height.~~

(i) ~~The setback provisions of paragraph (c) of this Section are optional where a #building# wall is within the area bounded by two intersecting #street lines# and lines parallel to and 70 feet from such #street lines#.~~

(ii) ~~Where such #building# is adjacent to a #public park#, such setback may be provided at grade for all portions of #buildings# outside of the area bounded by two intersecting #street lines# and lines parallel to and 70 feet from such #street lines#, provided that any area unoccupied by a #building# shall be improved to Department of Transportation standards for sidewalks, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times.~~

(4) ~~In C4-4L Districts, for #zoning lots# bounded by a #street# containing an elevated rail line, the setback provisions of this paragraph, (c), are modified as follows:~~

(i) ~~a setback with a depth of at least 15 feet from the #street line# of the #street# containing the elevated rail line shall be provided at a height not lower than the minimum base height of either 30 feet or three #stories#, whichever is less, and not higher than the maximum base height of either 65 feet or six #stories#, whichever is less; and~~

(ii) ~~dormers shall not be a permitted obstruction within such setback distance.~~

(d) ~~Maximum #building# height~~

~~No #building or other structure# shall exceed the maximum #building# height specified in Table A of this Section for contextual districts, or Table B for non-contextual districts, except as provided in this paragraph, (d), inclusive.~~

~~C6-3D-C6-4X~~

(1) ~~In the districts indicated, any #building# or #buildings#, or portions thereof, which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 33-454) above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to paragraph (a) of this Section shall not be included in tower #lot coverage#. Such tower or towers may exceed a height limit of 85 feet above the #base plane#, provided:~~

(i) ~~at all levels, such tower is set back from the #street wall# of a base at least 15 feet along a #narrow street#, and at least 10 feet along a #wide street#, except such dimensions may include the depth of any permitted recesses in the #street wall#;~~

(ii) — the base of such tower complies with the #street wall# location provisions of paragraph (b) of this Section, and the setback provisions of paragraph (c) of this Section; and

(iii) — the minimum coverage of such tower above a height of 85 feet above the #base plane# is at least 33 percent of the #lot area# of the #zoning lot#; however, such minimum coverage requirement shall not apply to the highest 40 feet of such tower.

In C6-3D Districts, the highest four #stories#, or as many #stories# as are located entirely above a height of 165 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this paragraph, each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each tower face. Required setback areas may overlap.

In C6-3D Districts, for towers fronting on elevated rail lines, the outermost walls of each #story# located entirely above a height of 85 feet shall be inscribed within a rectangle. The maximum length of any side of such rectangle that is parallel or within 45 degrees of being parallel to such elevated rail line shall be 125 feet, or 75 percent of the frontage of the #zoning lot# along such elevated rail line, whichever is less.

~~C4-4L~~

(2) — In C4-4L Districts, for #zoning lots# bounded by a #street# containing an elevated rail line and within 125 feet of such #street#, the maximum #building# height shall be 100 feet or ten #stories#, whichever is less.

(e) — Additional regulations

~~C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D
C4-4L C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A
C6-4X~~

In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other #Commercial Districts#, the following additional provisions shall

apply:

- (1) Existing ~~#buildings#~~ may be vertically enlarged by up to one ~~#story#~~ or 15 feet without regard to the ~~#street wall#~~ location requirements of paragraph (b) of this Section.
- (2) On ~~#through lots#~~ that extend less than 180 feet in maximum depth from ~~#street#~~ to ~~#street#~~, the ~~#street wall#~~ location requirements of paragraph (b) shall be mandatory along only one ~~#street#~~ frontage. However, in C4-4L Districts, such ~~#street wall#~~ location regulations shall apply along the frontage of any ~~#street#~~ containing an elevated rail line.
- (3) The ~~#street wall#~~ location and minimum base height provisions of paragraph (b) shall not apply along any ~~#street#~~ frontage of a ~~#zoning lot#~~ occupied by ~~#buildings#~~ whose ~~#street wall#~~ heights or widths will remain unaltered.
- (4) The minimum base height provisions of paragraph (b) shall not apply to ~~#buildings~~ developed# or ~~#enlarged#~~ after February 2, 2011, that do not exceed such minimum base heights, except where such ~~#buildings#~~ are located on ~~#zoning lots#~~ with multiple ~~#buildings#~~, one or more of which is ~~#developed#~~, ~~#enlarged#~~ or altered after February 2, 2011, to a height exceeding such minimum base heights.
- (5) The City Planning Commission may, upon application, authorize modifications in the required ~~#street wall#~~ location of a ~~#development#~~ or ~~#enlargement#~~ if the Commission finds that existing ~~#buildings#~~, or existing open areas serving existing ~~#buildings#~~ to remain on the ~~#zoning lot#~~, would be adversely affected by the location of the ~~#street walls#~~ of the ~~#development#~~ or ~~#enlargement#~~ in the manner prescribed in this Section.
- (6) For any ~~#zoning lot#~~ located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height and ~~#street wall#~~ location regulations of this Section, or as modified in any applicable Special District, shall be modified as follows:
 - (i) The minimum base height of a ~~#street wall#~~ may vary between the height of the ~~#street wall#~~ of an adjacent ~~#building#~~ before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of this Section, or as modified in any applicable Special District.
 - (ii) The maximum base height of a ~~#street wall#~~ may vary between the height of the ~~#street wall#~~ of an adjacent ~~#building#~~ before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of this Section, provided that such height not exceed 150 feet and provided that such ~~#zoning lot#~~ is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.

- (ii) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of this Section, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.
- (7) In C6-3D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).
- (8) For the purposes of applying the #street wall# location regulations of paragraph (b), any #building# wall oriented so that lines perpendicular to it would intersect a #street line# at an angle of 65 degrees or less shall not be considered a #street wall#.

TABLE A
HEIGHT AND SETBACK FOR BUILDINGS
OR OTHER STRUCTURES
IN CONTEXTUAL DISTRICTS

District ⁵	Minimum Base Height	Maximum Base Height	Maximum #Building# Height
C1 or C2 mapped in R6B	30	40	50
C1 or C2 mapped in R6A C4-2A C4-3A	40	60	70
C1 or C2 mapped in R7B	40	60	75
C1 or C2 mapped in R7A C1-6A C2-6A C4-4A C4-4L C4-5A	40	65	80
C1 or C2 mapped in R7D C4-5D	60	85	100
C1 or C2 mapped in R7X C4-5X	60	85	125
C1 or C2 mapped in R8B	55	60	75

C1 or C2 mapped in R8A C1-7A-C4-4D-C6-2A	60	85	120
C1 or C2 mapped in R8X	60	85	150
C1 or C2 mapped in R9A ² C1-8A²-C2-7A²-C6-3A²	60	95	135
C1 or C2 mapped in R9A ¹ C1-8A¹-C2-7A¹-C6-3A¹	60	102	145
C1 or C2 mapped in R9D C6-3D	60	85 ⁴	— ³
C1 or C2 mapped in R9X ² C1-8X²-C2-7X²-C6-3X²	60	120	160
C1 or C2 mapped in R9X ¹ C1-8X¹-C2-7X¹-C6-3X¹	105	120	170
C1 or C2 mapped in R10A ² C1-9A²-C2-8A²-C4-6A² C4-7A²-C5-1A²-C5-2A² C6-4A²	60	125	185
C1 or C2 mapped in R10A ¹ C1-9A¹-C2-8A¹-C4-6A¹-C4-7A¹-C5-1A¹-C5-2A¹-C6-4A¹	125	150	210
C1 or C2 mapped in R10X C6-4X	60	85	— ³

¹—— For #zoning lots# or portions thereof within 100 feet of a #wide street#

²—— For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#

³ ~~Buildings~~ may exceed a maximum base height of 85 feet in accordance with paragraph (d) of this Section

⁴ ~~For buildings or other structures that front upon an elevated rail line, the maximum base height shall be 25 feet~~

⁵ ~~Where the New York City Administrative Code establishes restrictions on the location of buildings on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern street lines of Eastern Parkway~~

TABLE B
HEIGHT AND SETBACK FOR BUILDINGS
IN NON-CONTEXTUAL DISTRICTS

District ³	Minimum Base Height	Maximum Base Height	Maximum #Building# Height
C1 or C2 mapped in R6 ² C4-2 ² -C4-3 ²	30	45	55
C1 or C2 mapped in R6 ¹ inside #Manhattan Core# C4-2 ¹ inside #Manhattan Core# C4-3 ¹ inside #Manhattan Core#	40	55	65
C1 or C2 mapped in R6 ¹ outside #Manhattan Core# C4-2 ¹ outside #Manhattan Core# C4-3 ¹ outside #Manhattan Core#	40	60	70
C1 or C2 mapped in R7 ² C1 or C2 mapped in R7 ¹ inside #Manhattan Core# C1-6 ² -C1-6 ¹ inside #Manhattan Core#	40	60	75

C2-6²-C2-6¹ inside #Manhattan Core#			
C4-4²-C4-4¹ inside #Manhattan Core#			
C4-5²-C4-5¹ inside #Manhattan Core#			
C6-1²-C6-1¹ inside #Manhattan Core#			
C1 or C2 mapped in R7¹-outside #Manhattan Core#	40	65	80
C1-6¹-outside #Manhattan Core#			
C2-6¹-outside #Manhattan Core#			
C4-4¹-outside #Manhattan Core#			
C4-5¹-outside #Manhattan Core#			
C6-1¹-outside #Manhattan Core#			
C1 or C2 mapped in R8²	60	80	105
C1-7²-C4-2F²-C6-2²			
C1 or C2 mapped in R8¹	60	85	120
C1-7¹-C4-2F¹-C6-2¹			
C1 or C2 mapped in R9²	60	95	135
C1-8²-C2-7²-C6-3²			
C1 or C2 mapped in R9¹	60	102	145
C1-8¹-C2-7¹-C6-3¹			
C1 or C2 mapped in R10²	60	125	185
C1-9²-C2-8²-C4-6²-C4-7²-C5²-C6-4²-C6-5²-C6-6²-C6-7²-C6-8²-C6-9²			
C1 or C2 mapped in R10¹	125	150	210
C1-9¹-C2-8¹-C4-6¹-C4-7¹-C5¹-C6-4¹-C6-5¹-C6-6¹-C6-7¹			
C6-8¹-C6-9¹			

¹—~~For #zoning lots# or portions thereof within 100 feet of a #wide street#~~

²—~~For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#~~

³—~~Where the New York City Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern~~

~~Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway~~

35-30

APPLICABILITY OF FLOOR AREA AND OPEN SPACE REGULATIONS

35-31

Maximum Floor Area Ratio

C1 C2 C3 C4 C5 C6

In ~~all~~ the districts indicated, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# subject to the provisions of this Chapter.

The maximum #floor area ratio# permitted for a #commercial# or #community facility use# shall be as set forth in Article III, Chapter 3, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

Notwithstanding the provisions for R10 Districts in Community District 7 in the Borough of Manhattan set forth in Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) ~~However,~~ in C4-7 Districts within Community District 7 in the Borough of Manhattan, the such maximum #residential floor area ratio# may be increased pursuant to the provisions of Sections 23-154 and 23-90 (INCLUSIONARY HOUSING).

In #Inclusionary Housing designated areas#, except within Waterfront Access Plan BK-1 and R6 Districts without a letter suffix in Community District 1, Brooklyn, the maximum #floor area ratio# permitted for #zoning lots# containing #residential# and #commercial# or #community facility uses# shall be the base #floor area ratio# set forth in Section 23-154 23-952 for the applicable district.

However, in #Inclusionary Housing designated areas# mapped within C4-7, C5-4, C6-3D and C6-4 Districts, the maximum base #floor area ratio# for #zoning lots# containing #residential# and #commercial# or #community facility uses# shall be either the base #floor area ratio# set forth in Section 23-154 23-952 plus an amount equal to 0.25 times the non-#residential floor area ratio# provided on the #zoning lot#, or the maximum #floor area ratio# for #commercial uses# in such district, whichever is lesser.

The maximum base #floor area ratio# in #Inclusionary Housing designated areas# may be increased to the maximum #floor area ratio# set forth in Section 23-154 23-952 only through the provision of #affordable housing# pursuant to Section 23-90, inclusive.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot# less any shared #floor area#.

A non-#residential use# occupying a portion of a #building# that was in existence on December 15, 1961, may be changed to a #residential use# and the regulations on maximum #floor area ratio# shall not apply to such change of #use#.

35-311

Maximum floor area and special provisions for mixed buildings or zoning lots with multiple buildings containing community facility use in certain districts

C1 C2

In C1 and C2 Districts mapped within R6 Districts without a letter suffix, except R6A and R6B Districts, and in R7-1 Districts, the provisions of this Section shall apply to any #zoning lot# where #residential# and #community facility uses# are located within the same #building#. However, this Section shall not apply to #buildings# containing #residences# and philanthropic or non-profit residences with sleeping accommodations, as set forth in Section 35-012 (Special provisions for certain community facility uses).

* * *

~~35-32~~

Modification of Lot Coverage Regulations

In C4 4L Districts, the maximum #residential lot coverage# provisions of Sections 23-145 (For Quality Housing buildings) and 23-147 (For non-profit residences for the elderly) are modified, as follows:

- (a) ~~for #through lots# with a maximum depth of 180 feet or less, the maximum #residential lot coverage# shall be 80 percent; and~~
- (b) ~~#corner lots# shall not be subject to a maximum #residential lot coverage# where such #corner lots# are:~~
 - (1) ~~5,000 square feet or less in area; or~~
 - (2) ~~7,500 square feet or less in area and bounded by #street lines# that intersect to form an angle of less than 65 degrees, where one such #street# contains an elevated rail line.~~

* * *

35-35

Floor Area Bonus for a Public Plaza or Arcade

C1-8 C1-9 C2-7 C2-8 C4-6 C4-7 C5 C6

In the districts indicated, and in C1 and C2 Districts mapped within R9 or R10 Districts, #floor area# bonus provisions for #public plazas# and #arcades# shall apply as set forth in this Section. Any #floor area# bonus for a #public plaza# or #arcade# permitted under the applicable district regulations for any #residential#, #commercial# or #community facility# portion of a #building# may be applied, provided that any given #public plaza# or #arcade# shall be counted only once in determining a bonus.

* * *

C4-6 C4-7 C5-1 C5-2 C5-4 C6-4 C6-5 C6-8

- (c) In the districts indicated, except C6-4X Districts, if more than 50 percent of the #floor area# on the #zoning lot# is occupied by #residential uses#, then for each square foot of #public plaza# provided in accordance with Section 37-70, inclusive, the total #floor area# permitted on that #zoning lot# under the provision of Section 23-152 (Basic regulations for R10 Districts) ~~23-15 (Maximum Floor Area Ratio in R10 Districts)~~ may be increased by six square feet.

* * *

35-40

APPLICABILITY OF DENSITY REGULATIONS

C1 C2 C3 C4 C5 C6

In the districts indicated, the maximum number of #dwelling units# or ~~#rooming units#~~ on a #zoning lot# shall equal the maximum #residential floor area# permitted for the #zoning lot# determined in accordance with the provisions set forth in Section 35-30 (APPLICABILITY OF FLOOR AREA AND OPEN SPACE REGULATIONS) divided by the applicable factor in Section 23-20 (DENSITY REGULATIONS).

Illustrative Examples

The following examples, although not part of the Zoning Resolution, are included to demonstrate the application of density regulations to #mixed buildings#.

* * *

For a #mixed building# in a C4-6 District #developed# with a #public plaza# where less than 50 percent of the #floor area# on the #zoning lot# is occupied by #residential uses#, the maximum permitted #commercial# FAR is 4.08 (3.4 plus a 20 percent increase for a #public plaza#), the maximum permitted #community facility# FAR is 12.0 (10.0 plus a 20 percent increase for a #public plaza#), and the maximum permitted #residential# FAR is 10.0, provided the total FAR for all #uses# on the #zoning lot# does not exceed 12.0, pursuant to Section 35-30. On a 20,000 square foot #zoning lot developed# with 7.0 FAR of #community facility use# and no #commercial use#, the maximum #residential floor area ratio# permitted on such #zoning lot# is 5.0. The maximum number of #dwelling units# permitted on the #zoning lot# is ~~147~~ ~~126~~ (20,000 x 5 divided by a factor of ~~680~~ ~~790~~, pursuant to Section 23-22).

**35-50
MODIFICATION OF YARD REGULATIONS**

In #mixed buildings# with differing #yard# or #rear yard equivalent# requirements for different #uses#, the applicable #residential yard# and #rear yard equivalent# regulations shall apply at the lowest #story# containing #dwelling units# with windows facing onto such #residential yard# or #rear yard equivalent#, as applicable.

**35-51
Modification of Front Yard Requirements**

C1 C2 C3 C4 C5 C6

In the districts indicated, no #front yard# shall be required, except that the provisions of paragraph (a) of Section 34-233 (Special provisions applying along district boundaries) shall apply to portions of a #zoning lot# within 25 feet of a #Commercial District# boundary which coincides with a #side lot line# of a #zoning lot# in an R1 through R5 District ~~when #residential uses# are located on the first #story# of a #building#.~~

* * *

**35-53
Modification of Rear Yard Requirements**

* * *

35-532

Modification of permitted obstructions in required yards or rear yard equivalents for certain Inclusionary Housing buildings or affordable independent residences for seniors

A portion of a #building# used for #residential uses# other than #dwelling units# in #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall be a permitted obstruction within a #rear yard# or #rear yard equivalent# on #zoning lots# in C1 or C2 Districts mapped within R6 through R10 Districts, other than R6B, R7B or R8B Districts, or in #Commercial Districts# with a residential equivalent of an R6 through R10 District, other than R6B, R7B or R8B Districts, provided that the height of such #building# portion does not exceed one #story#, or 15 feet above the adjoining grade, whichever is less, and provided that such space shall be accessible to all residents of the #building#.

* * *

35-60

MODIFICATION OF HEIGHT AND SETBACK REGULATIONS

35-61

Height and Setback Regulations

Applicability

C1 C2 C3 C4 C5 C6

In the districts indicated, height and setback regulations are modified for #mixed buildings# in 35-60 (MODIFICATION OF HEIGHT AND SETBACK REGULATIONS), inclusive.

Height and setback modifications applicable to C1 or C2 Districts mapped within R1 through R5 Districts, and C3 and C4-1 Districts are set forth in Section 35-62 (Commercial Districts with an R1 through R5 Residential Equivalent).

Height and setback modifications applicable to C1 or C2 Districts mapped within R6 through R10 Districts, and #Commercial Districts# with a residential equivalent of R6 through R10 Districts, are set forth in Sections 35-63 (Basic Height and Setback Modifications), 35-64 (Special Tower Regulations for Mixed Buildings) and 35-65 (Height and Setback Requirements for Quality Housing Buildings), as applicable.

In C1 or C2 Districts mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and in C1-6A, C1-7A, C1-8A, C1-8X, C1-9A, C2-6A, C2-7A, C2-7X, C2-8A, C4-2A, C4-3A, C4-4A, C4-4D, C4-4L, C4-5A, C4-5D, C4-5X, C4-6A, C4-7A, C5-1A, C5-2A, C6-2A, C6-3A, C6-3D, C6-3X, C6-4A or C6-4X Districts, all #buildings# shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in Sections 23-62 (Permitted Obstructions) and 23-

66 (Height and Setback Requirements for Quality Housing Buildings), as modified by Section 35-65. In C1 or C2 Districts mapped in R6 through R10 Districts without a letter suffix, or in other #Commercial Districts# with a residential equivalent of an R6 through R10 District, the #residential# portion of a #building# may be #developed# or #enlarged# pursuant to the basic height and setback requirements of Sections 23-62, 23-64 (Basic Height and Setback Requirements) or 23-65 (Tower Regulations), as modified by Sections 35-63 and 35-64, as applicable, or the entire #building# may be #developed# or #enlarged# pursuant to the #bulk# regulations for #Quality Housing buildings#. All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8, as applicable.

~~In the districts indicated, height and setback regulations are modified as follows:~~

- ~~(a) Except as otherwise provided in Section 35-51 (Modification of Front Yard Requirements), no #front yard# is required for any portion of a #building# in a #Commercial District#. Therefore, in applying the height and setback regulations, a #sky exposure plane# (which in a #Residence District# would be measured from a point above the #front yard line#) may be measured from a point above the #street line#.~~
- ~~(b) In cases where the provisions of Section 34-233, paragraph (a), apply, as set forth in Section 35-51, the #sky exposure plane# is measured from a point above the #front yard line#.~~
- ~~(c) In C1 or C2 Districts mapped within R3 or R4A Districts, the height and setback regulations applicable to R4 Districts, except R4A and R4B Districts, may be applied.~~
- ~~(d) In C1 or C2 Districts mapped within R4, R4B or R4-1 Districts, the height and setback regulations applicable to an R5B District may be applied.~~
- ~~(e) In C3A Districts, the height and setback regulations applicable to R3A Districts shall apply.~~
- ~~(f) In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the provisions of Section 23-64 (Alternate Front Setbacks) shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# occupied by #residential use#.~~

35-62

Maximum Height of Front Wall in Initial Setback Distance Commercial Districts with an R1 through R5 Residential Equivalent

~~C1 C2 C3 C4 C5 C6~~

~~In the districts indicated, except in C1 or C2 Districts mapped within R2A, R2X, R3, R4 or R5 Districts and except in C3A Districts, the maximum height of a front wall within the #initial setback distance# shall be the maximum height of a front wall permitted in the applicable district for a #residential#, #commercial# or #community facility building#, whichever permits the greatest maximum height.~~

In C1 or C2 Districts mapped within R1 through R5 Districts, and C3 and C4-1 Districts, height and setback regulations are modified as follows:

- (a) No #front yard# is required for any portion of a #building# in a #Commercial District#, except as otherwise provided in Section 35-51 (Modification of Front Yard Requirements). Therefore, in applying the height and setback regulations in districts where the height of #buildings or other structures# is governed by #sky exposure planes#, such #sky exposure plane# (which in a #Residence District# would be measured from a point above the #front yard line#) may be measured from a point above the #street line#. The maximum height of a front wall within the #initial setback distance# permitted in the applicable district for a #residential#, #commercial# or #community facility building#, whichever permits the greatest maximum height;
- (b) In cases where the provisions of paragraph (a) of Section 34-233 (Special provisions applying along district boundary lines) apply, as set forth in Section 35-51, the #sky exposure plane# is measured from a point above the #front yard line#;
- (c) In C1 or C2 Districts mapped within R3 or R4A Districts, the height and setback regulations applicable to R4 Districts, except R4A and R4B Districts, may be applied;
- (d) In C1 or C2 Districts mapped within R4, R4B or R4-1 Districts, the height and setback regulations applicable to an R5B District may be applied; and
- (e) In C3A Districts, the height and setback regulations applicable to R3A Districts shall apply.

35-63

Basic Height and Setback Modifications

C1 C2 C4 C5 C6

In C1 or C2 Districts mapped within R6 through R10 Districts without a letter suffix, and in #Commercial Districts# with a residential equivalent of R6 through R10 without a letter suffix, height and setback regulations are modified as follows:

- (a) No #front yard# is required for any portion of a #building# in a #Commercial District#, except as otherwise provided in Section 35-51 (Modification of Front Yard Requirements). Therefore, in applying the height and setback regulations in districts where the height of #buildings or other structures# is governed by #sky exposure planes#, such #sky exposure plane# (which in a #Residence District# would be measured from a point above the #front yard line#) may be measured from a point above the #street line#. The maximum height of a front wall within the #initial setback distance# shall be the maximum height for front walls permitted in the applicable district for a #residential#, #commercial# or #community facility building#, whichever permits the greatest maximum height;

- (b) In cases where the provisions of paragraph (a) of Section 34-233 (Special provisions applying along district boundary lines) apply, as set forth in Section 35-51, the #sky exposure plane# is measured from a point above the #front yard line#; and
- (c) In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the provisions of Section 23-642 (Alternate front setbacks) shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# occupied by #residential use#.

35-63-35-64

Special Tower Regulations for Mixed Buildings

C1 C2 C4 C5 C6

In the districts indicated without a letter suffix, when a #mixed building# is subject to tower regulations, the #residential# tower regulations of paragraphs (a) and (b) or the #commercial# tower regulations of paragraph (c) of this Section shall apply to the entire #building#.

* * *

- (c) In C4-7, C5-2, C5-3, C5-4, C5-5, C6-4, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts, the tower regulations applicable to any #mixed building# shall be the regulations set forth in Section 33-45.

However, in C4-7, C5-2, C5-4, C6-4, C6-5 or C6-8 Districts, when no more than two #stories# of a #mixed building# are occupied by non-#residential uses#, the tower regulations applicable to the #residential# portion of such #mixed building# may be governed by Section 23-652 (Standard tower regulations) or, for towers on small lots, the percentages set forth in Section 23-65 (Tower Regulations).

All #uses# within such #mixed building# shall comply with the provisions of Section 32-42.

~~The tower regulations shall not apply in C1 or C2 Districts mapped within R9A, R9X, R10A or R10X Districts, or in C1 8A, C1 8X, C1 9A, C2 7A, C2 7X, C2 8A, C4 6A, C4 7A, C5 1A, C5 2A, C6 2A, C6 3A, C6 3X, C6 4A or C6 4X Districts.~~

35-65

Height and Setback Requirements for Quality Housing Buildings

C1 C2 C4 C5 C6

In the districts indicated, the #street wall# location provisions of Sections 35-651 and the height and

setback provisions of Section 35-652, shall apply to #Quality Housing buildings#. In certain districts, the heights set forth in Section 35-652 may be increased pursuant to either the provisions of Section 35-653 (Tower regulations) or 35-654 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), as applicable. Additional provisions are set forth in Section 35-655. The height of all #buildings or other structures# shall be measured from the #base plane#.

In all such districts, the permitted obstructions provisions of Section 33-42 shall apply to any #building or other structure#. In addition, a dormer may be allowed as a permitted obstruction pursuant to paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

35-651

Street wall location

In the districts indicated, the #street wall# location provisions of paragraphs (a), (b), (c) or (d) of this Section shall apply to all #Quality Housing buildings#, as applicable.

Any #street wall# may be divided into different segments, and located at varying depths from the #street line#, to allow for #building# recesses, projections, #outer courts# and other forms of articulation, provided that each portion complies with the applicable #street wall# location provisions of paragraphs (a), (b), (c) or (d) of this Section. Recesses, projections and other forms of articulation beyond the #street wall# locations established in paragraphs (a), (b), (c) or (d) are permitted only in accordance with paragraph (e) of this Section.

C1-6A C2-6A C4-2A C4-3A C4-4A C4-5A C4-5X

(a) In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B or R7X Districts, and for #Quality Housing buildings# in other #Commercial Districts# with a residential equivalent of an R6 or R7 District, the following shall apply:

- (1) at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified in Sections 35-652 and 23-662 (Maximum height of buildings and setback regulations), or the height of the #building#, whichever is less. Up to 30 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#;
- (2) Existing #buildings# may be horizontally #enlarged# without regard to #street wall# location provisions, provided the amount of new #floor area# does not exceed 50 percent of the amount of #floor area# existing on June 29, 1994, and the #enlarged# portion of the #building# does not exceed one #story# or 15 feet in height, whichever is less;

- (3) for #zoning lots# bounded by more than one #street line#, these #street wall# location provisions shall be mandatory along only one #street line#; and
- (4) where only one #street line# is coincident with the boundary of a #Commercial District# mapped along an entire #block# front, the #street wall# location provisions shall apply along such coincident #street line#. For all other #zoning lots#, the #street wall# location provisions shall apply along at least one #street line#.

C1-7A C1-8A C1-8X C1-9A C2-7A C2-7X C2-8A C4-4D C4-5D C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3X C6-4A C6-4X

(b) In the districts indicated, and in C1 or C2 Districts when mapped within R7D, R8A, R8B, R8X, R9A, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other C1, C2, C4, C5 or C6 Districts with a residential equivalent of an R8, R9 or R10 District, the following #street wall# location provisions shall apply along #wide streets#, and along #narrow streets# within 50 feet of their intersection with a #wide street#:

- (1) The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Section 35-652 and 23-662, or the height of the #building#, whichever is less. However, to allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection, or, for #corner lots# with an angle of 75 degrees or less, at points 30 feet from their intersection.

In C6-4X Districts, #public plazas# are only permitted to front upon a #narrow street line# beyond 50 feet of its intersection with a #wide street line#. The #street wall# location provisions of this Section shall not apply along any such #street line# occupied by a #public plaza#.

- (2) Above a height of 15 feet above the #base plane#, or the height of the first #story#, whichever is lower, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except to articulate the #street walls# as set forth in paragraph (b)(1) of this Section.
- (3) Where a continuous sidewalk widening is provided on the #zoning lot#, along the entire #block# frontage of a #street#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section.

Along #narrow streets# beyond 50 feet of their intersection with a #wide street#, the #street wall# provisions of paragraph (a) of this Section shall apply.

C4-4L

(c) In C4-4L Districts, the #street wall# location provisions of paragraph (a) of this Section shall apply along any #street# that does not contain an elevated rail line. For #zoning lots# bounded by a #street# containing an elevated rail line, the following regulations shall apply along the frontage facing the elevated rail line.

(1) A sidewalk widening shall be provided along the entire #zoning lot# frontage of such #street# containing an elevated rail line. Such sidewalk widening shall have a depth of five feet, be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk, and be accessible to the public at all times. A line parallel to and five feet from the #street line# of such #street# containing an elevated rail line, as measured within the #zoning lot#, shall be considered the #street line# for the purpose of applying all regulations of Section 35-65, inclusive.

(2) At least 70 percent of the #aggregate width of street walls# shall be located at the #street line# of the #street# containing the elevated rail line and extend to at least the minimum base height, or the height of the #building#, whichever is less, up to the maximum base height.

C6-3D

(d) In the district indicated, and in C1 or C2 Districts when mapped within R9D Districts, for #developments# or #enlargements# on #zoning lots# fronting upon #wide streets#, or fronting upon #narrow streets# that include an elevated rail line, sidewalks, with a minimum depth of 20 feet measured perpendicular to the curb of the #street#, shall be provided along such entire #street# frontages of the #zoning lot#. In locations where the width of the sidewalk within the #street# is less than 20 feet, a sidewalk widening shall be provided on the #zoning lot# so that the combined width of the sidewalk within the #street# and the sidewalk widening equals 20 feet. However, existing #buildings# to remain on the #zoning lot# need not be removed in order to comply with this requirement. All sidewalk widenings shall be improved to Department of Transportation standards for sidewalks, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times. In addition, the provisions of paragraphs (f)(2) through (f)(5) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall apply.

The following #street wall# location provisions shall apply along #wide streets#, and along #narrow streets# within 50 feet of their intersection with a #wide street#.

- (1) The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Section 35-652, or the height of the #building#, whichever is less. To allow articulation of #street walls# at the intersection of two #street lines#, up to 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# may be unoccupied by a #building#. However, where one such #street line# fronts an elevated rail line, a minimum of 25 percent and a maximum of 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# shall be unoccupied by a #building#.
- (2) Above a height of 15 feet above the #base plane#, or the height of the first #story#, whichever is less, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except to articulate the #street walls# as set forth in paragraph (b)(1) of this Section.
- (3) Where a continuous sidewalk widening is provided along the entire #block# frontage of a #street#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section.

Along #narrow streets# beyond 50 feet of their intersection with a #wide street#, the #street wall# provisions of paragraph (a) of this Section shall apply.

C1 C2 C4 C5 C6

- (e) #Street wall# articulation, including, but not limited to, window recesses and structural expression on the #building# facade, shall be permitted to project or recess beyond the #street wall# locations established in paragraphs (a), (b), (c) or (d) of this Section, provided such articulation does not exceed a depth or projection of twelve inches. In addition, to accommodate other forms of #street wall# articulation, such as bay windows, and facade recesses, up to 50 percent of the #aggregate width of street wall#, at any level, may recess or project beyond such #street wall# location provisions of this Section, provided that no such recess or projection exceeds a depth of three feet, as measured perpendicular from the #street wall#, or portion thereof. No projection shall extend beyond the #street line#, except where encroachments into the public right-of-way are permitted by the New York City Administrative Code.

35-652

Maximum height of buildings and setback regulations

C1 C2 C4 C5 C6

In the districts indicated, a #Quality Housing building or other structure# shall not exceed the district height limit, or the maximum number of permitted #stories#, whichever is lower, specified in the Table in Section 23-662 (Maximum height of buildings and setback regulations) for the #Residence District# within which such #Commercial District# is mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts), except as modified in paragraph (b) below or as further provided in this Chapter. Separate maximum #building# heights are set forth in such Table for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662.

A setback is required for all portions of #buildings or other structures# that exceed the maximum base height specified for the applicable residential equivalent in such Table in Section 23-662, and shall be provided in accordance with the regulations set forth in Section 23-662 for the applicable #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent, except as modified in paragraph (a) below.

(a) Setback modifications

(1) In C6-3D Districts, the provisions for R9D Districts set forth in Section 23-662 shall apply, except that:

(i) The setback provisions of paragraph (c) of this Section are optional where a #building# wall is within the area bounded by two intersecting #street lines# and lines parallel to and 70 feet from such #street lines#; and

(ii) Where such #building# is adjacent to a #public park#, such setback may be provided at grade for all portions of #buildings# outside of the area bounded by two intersecting #street lines# and lines parallel to and 70 feet from such #street lines#, provided that any area unoccupied by a #building# shall be improved to Department of Transportation standards for sidewalks, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times.

(2) In C4-4L Districts, for #zoning lots# bounded by a #street# containing an elevated rail line, the following shall apply:

(i) a setback with a depth of at least 15 feet from the #street line# of the #street# containing the elevated rail line shall be provided at a height not lower than the minimum base height of either 25 feet or two #stories#, whichever is lower, and not higher than the maximum base height of either 65 feet or six #stories#, whichever is lower; and

(ii) dormers shall not be a permitted obstruction within such setback distance.

(b) Maximum height modifications

- (1) In C6-3D and C6-4X Districts, the maximum base heights for the applicable residential equivalents may be exceeded in accordance with the tower regulations of Section 35-653.
- (2) In C4-4L Districts, for #zoning lots# bounded by a #street# containing an elevated rail line and within 125 feet of such #street#, the maximum #building# height for a #building# with a #qualifying ground floor# shall be 105 feet or 10 #stories#, whichever is less. For #buildings# with #non-qualifying ground floors#, the maximum height shall be reduced to 100 feet.

35-653

Tower regulations

C6-3D C6-4X

In the districts indicated, any #building or other structure#, or portions thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 23-651 (Tower-on-a-base), above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to Section 23-621 (Permitted obstructions in certain districts) shall not be included in tower coverage. Such tower may exceed a height limit of 85 feet above the #base plane# provided the base of such tower complies with the applicable provisions of Section 35-651 (Street wall location) and the setback provisions of Section 35-652 (Maximum height of buildings and setback regulations), and provided that the tower portion complies with the provisions of paragraphs (a), (b) and (c) of Section 23-663 (Tower regulations).

35-654

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

C1 C2 C4 C5 C6

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 Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors).

For all such #Quality Housing buildings#, the maximum base and #building# heights established in Sections 35-652 and 23-662 (Maximum height of buildings and setback regulations) shall be modified in accordance with the Table in paragraph (b) of Section 23-664 for the #Residence District# within which such #Commercial Districts# are mapped, or the applicable residential equivalent set forth in the tables in

Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts). Separate maximum #building# heights are set forth within such Table for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662.

However, for C4-4L Districts, the maximum #building height# shall be increased to 115 feet for #buildings# with #qualifying ground floors#, or eleven #stories#, whichever is lower for #buildings# with #non-qualifying ground floors#. For #buildings# with #non-qualifying ground floors#, the maximum height shall be reduced to 110 feet.

For such #Quality Housing buildings# containing #affordable independent residences for seniors# in C1 or C2 Districts mapped within R6 through R8 Districts without a letter suffix or in other #Commercial Districts# with a residential equivalent of an R6 though R8 District without a suffix, the #street wall# location and height and setback provisions of 35-651 and 35-652 need not apply to #buildings# on #zoning lots# that are located within 150 feet of the types of transportation infrastructure listed in paragraphs (c)(1) through (c)(4) of Section 23-664. In lieu thereof, the alternative height and setback regulations set forth in paragraph (c) of Section 23-664 shall apply. Such 150 foot measurement shall be measured perpendicular from the edge of such infrastructure.

35-655

Additional regulations

C1 C2 C4 C5 C6

In the districts indicated, for #Quality Housing buildings#, the following additional provisions shall apply:

- (a) Existing #buildings# may be vertically enlarged by up to one #story# or 15 feet without regard to the #street wall# location requirements of Section 35-651.
- (b) On #through lots# that extend less than 180 feet in maximum depth from #street# to #street#, the #street wall# location requirements of Section 35-651 shall be mandatory along only one #street# frontage. However, in C4-4L Districts, such #street wall# location regulations shall apply along the frontage of any #street# containing an elevated rail line.
- (c) The #street wall# location and minimum base height provisions of Sections 35-651 and 35-652, respectively, shall not apply along any #street# frontage of a #zoning lot# occupied by #buildings# whose #street wall# heights or widths will remain unaltered.
- (d) The minimum base height provisions of Section 35-652 shall not apply to #buildings developed# or #enlarged# after February 2, 2011, that do not exceed such minimum base heights, except where such #buildings# are located on #zoning lots# with multiple #buildings#, one or more of which is #developed#, #enlarged# or altered after February 2, 2011, to a height exceeding such

minimum base heights.

- (e) The City Planning Commission may, upon application, authorize modifications in the required #street wall# location of a #development# or #enlargement# if the Commission finds that existing #buildings#, or existing open areas serving existing #buildings# to remain on the #zoning lot#, would be adversely affected by the location of the #street walls# of the #development# or #enlargement# in the manner prescribed in this Section.
- (f) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height and #street wall# location regulations of this Section, or as modified in any applicable Special District, shall be modified as follows:
 - (1) The minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of Section 35-652, or as modified in any applicable Special District.
 - (2) The maximum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of Section 35-652, provided that such height not exceed 150 feet and provided that such #zoning lot# is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.
 - (3) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of Section 35-651, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.
- (g) In C6-3D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).
- (h) For the purposes of applying the #street wall# location regulations of paragraph (b) of this Section, any #building# wall oriented so that lines perpendicular to it would intersect a #street line# at an angle of 65 degrees or less shall not be considered a #street wall#.
- (i) For the purposes of applying the #street wall# location as well as the height and setback provisions of Sections 35-651 and 35-652, respectively, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet

north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

* * *

Article III - Commercial District Regulations

Chapter 6

Accessory Off-Street Parking and Loading Regulations

* * *

36-00

GENERAL PURPOSES AND DEFINITIONS

Off Street Parking Regulations

* * *

36-02

Applicability of District Regulations

* * *

36-021

Applicability of regulations to non-profit hospital staff dwellings

Except as modified in Sections 36-313 (Application of requirements to non-profit hospital staff dwellings in C1 or C2 Districts with bulk governed by surrounding Residence District) or 36-314 (Application of requirements to non-profit hospital staff dwellings in other Commercial Districts), the district regulations applicable to #residences#, as set forth in this Chapter, shall apply to #non-profit hospital staff dwellings#, and the district regulations applicable to #community facility uses#, as set forth in this Chapter, shall not apply to such #use#. Except as modified in Section 36-314, the regulations of this Chapter applicable to #residences# in C4-2 Districts shall apply to #non-profit hospital staff dwellings# in C8 Districts. In all districts, the regulations of this Chapter applicable to #community facility uses# shall not apply to #non-profit hospital staff dwellings#. In lieu thereof, the regulations applicable to #residences# shall apply, as follows:

- (a) the regulations of a C4-1 District shall apply to #non-profit hospital staff dwellings# located in C1 or C2 Districts mapped within R1, R2 and R3 Districts, and to C3 Districts;
- (b) the regulations of a C4-2 District shall apply to #non-profit hospital staff dwellings# located in C1 or C2 Districts mapped within R4 and R5 Districts, and to C4-1 and C8-1 Districts; and
- (c) the regulations of a C4-7 District shall apply to #non-profit hospital staff dwellings# located in C1 or C2 Districts mapped within R6 through R10 Districts, and to C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4-2, C4-3, C4-4, C4-5, C4-6, C4-7, C5, C6, C8-2, C8-3 and C8-4 Districts.

* * *

36-026

Applicability of regulations to Quality Housing

On any #zoning lot# containing a #Quality Housing building#, all #accessory# off-street parking spaces shall comply with the provisions of Section ~~28-50~~ 28-40 (PARKING FOR QUALITY HOUSING), inclusive.

* * *

36-20

REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES

36-21

General Provisions

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, #accessory# off-street parking spaces, open or enclosed, shall be provided in conformity with the requirements set forth in the table in this Section for all #developments# after December 15, 1961, for the #commercial# or #community facility uses# listed in the table. If an #enlargement# results in a net increase in the #floor area# or other applicable unit of measurement specified in the table, the same requirements set forth in the table shall apply to such net increase in the #floor area# or other specified unit of measurement. In addition, all other applicable requirements of this Chapter shall apply as a condition precedent to the #use# of such #development# or #enlargement#.

* * *

REQUIRED OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES

Type of #Use#

Parking Spaces Required in Relation to Specified Unit of Measurement

- Districts

* * *

FOR COMMUNITY FACILITY USES

* * *

Philanthropic or non-profit institutions with sleeping accommodations; #long-term care facilities# ~~all types of nursing homes or sanitariums~~

None required - C1-4 C1-5 C1-6 C1-7 C1-8 C1-9 C2-4 C2-5 C2-6
C2-7 C2-8 C4-4 C4-5 C4-6 C4-7 C5 C6

1 per 10 beds - C1-1 C1-2 C2-1 C2-2 C3 C4-1 C4-2

1 per 20 beds - C1-3 C2-3 C4-2A C4-3

* * *

36-23

Waiver of Requirements for Spaces below Minimum Number

* * *

36-231

In districts with high, medium, or low parking requirements

C1-1 C1-2 C1-3 C2-1 C2-2 C2-3 C3 C4-1 C4-2 C4-3 C7 C8-1 C8-2

In the districts indicated, except for the #uses# listed in Section 36-233 (Exceptions to application of waiver provisions), and except as otherwise provided in Section 36-27 (Waiver for Certain Small Zoning Lots), the parking requirements set forth in Sections 36-21 (General Provisions) or 36-22 (Special Provisions for a Single Zoning Lot with Uses Subject to Different Parking Requirements) shall not apply to #commercial uses# in parking requirement category A, B, B1, C, D, E, or H, or to permitted #community facility uses#, if the total number of #accessory# off-street parking spaces required for all such #uses# on the #zoning lot# is less than the number of spaces set forth in the following table:

Number of Spaces

Districts

10	C1-1 C2-1 C3 C4-1
15	C1-2 C2-2 C4-2 C8-1
25	C1-3 C2-3 C4-2A C4-3 C7 C8-2

<u>Districts</u>	<u>Number of Spaces</u>
<u>C1-1 C2-1 C3 C4-1</u>	<u>10</u>
<u>C1-2 C2-2 C4-2 C8-1</u>	<u>15</u>
<u>C1-3 C2-3 C4-2A C4-3 C7 C8-2</u>	<u>25</u>

* * *

**36-30
REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES WHEN
PERMITTED IN COMMERCIAL DISTRICTS**

**36-31
General Provisions**

C1 C2 C3 C4 C5 C6

In ~~all~~ the districts, as indicated, #accessory# off-street parking spaces, open or enclosed, shall be provided for all #dwelling units# ~~or #rooming units# created~~ constructed after December 15, 1961, in accordance with the provisions of the following Sections and the other applicable provisions of this Chapter, as a condition precedent to the #use# of such #dwelling unit# ~~or #rooming unit#~~:

- Section 36-32 (Requirements Where Individual Parking Facilities Are Provided)
- Section 36-33 (Requirements Where Group Parking Facilities Are Provided)
- Section 36-34 (Modification of Requirements for Small Zoning Lots)

- Section 36-35 (Modification of Requirements for Income-Restricted Housing Units or Affordable Independent Residences for Seniors ~~Public Housing or Non-profit Residences for Elderly~~)
- Section 36-37 (Special Provisions for a Single Zoning Lot with Uses Subject to Different Parking Requirements)
- Section 36-39 (Special Provisions for Zoning Lots Divided by District Boundaries)

For #dwelling units# or #rooming units# constructed pursuant to the zoning regulations in effect after July 20, 1950, and prior to December 15, 1961, off-street parking spaces #accessory# to such #dwelling units# or #rooming units# cannot be removed if such spaces were required by such zoning regulations, unless such spaces would not be required pursuant to the applicable zoning regulations currently in effect.

~~For the purposes of these Sections, three #rooming units# shall be considered the equivalent of one #dwelling unit#.~~

36-311

Application of requirements to conversions in C1 or C2 Districts

C1 C2

- (a) In the districts indicated, where such districts are mapped within R1, R2, R3, R4, R5, R6 or R7 Districts, except R7-2 Districts, the requirements of Section 36-31 (General Provisions) shall not apply to the additional #dwelling units# ~~or #rooming units#~~ created by #conversions# on #zoning lots# with less than 5,000 square feet of #lot area#.
- (b) In the districts indicated, where such districts are mapped within R7-2, R8, R9 or R10 Districts, the requirements of Section 36-31 shall not apply to the additional #dwelling units# ~~or #rooming units#~~ created by #conversions# on #zoning lots# of any size.

36-312

Application of requirements to conversions in C3, C4, C5 and C6 Districts

C3 C4-1 C4-2 C4-3

- (a) In the districts indicated, the requirements of Section 36-31 (General Provisions) shall not apply to the additional #dwelling units# ~~or #rooming units#~~ created by #conversions# on #zoning lots# with less than 5,000 square feet of #lot area#.

C4-4 C4-5 C4-6 C4-7 C5 C6

- (b) In the districts indicated, no ~~accessory~~ off-street parking is required for additional ~~dwelling units or rooming units~~ created by ~~conversion~~ within ~~buildings~~ existing prior to December 15, 1961.

36-313

Application of requirements to non-profit hospital staff dwellings in C1 or C2 Districts with bulk governed by surrounding Residence Districts

~~C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5~~

~~In the districts indicated, the regulations of Sections 36-31 to 36-39, inclusive, relating to Required Accessory Off Street Parking Spaces for Residences When Permitted in Commercial Districts, shall apply as set forth in this Section to non-profit hospital staff dwellings. The district regulations of these Sections applicable to non-profit hospital staff dwellings are determined by the Residence District within which such Commercial Districts are mapped in accordance with the following table, and are the same as the regulations applicable to residences in the districts indicated in the right hand column of the table.~~

**DISTRICT REGULATIONS APPLICABLE TO
NON-PROFIT HOSPITAL STAFF DWELLINGS**

#Residence District# within which C1 or C2 District is Mapped	District Whose Regulations are Applicable
R1 R2 R3	C4-1
R4 R5	C4-2
R6 R7 R8 R9 R10	C4-7

36-314

Application of requirements to non-profit hospital staff dwellings in other Commercial Districts

~~C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C8~~

~~In the districts indicated, the regulations of Section 36-31 to 36-39, inclusive, relating to Required Accessory Off Street Parking Spaces for Residences When Permitted in Commercial Districts, shall apply~~

as set forth in this Section to ~~#non-profit hospital staff dwellings#~~. The district regulations of these Sections applicable to ~~#non-profit hospital staff dwellings#~~ are determined in accordance with the following table, and are the same as the regulations applicable to ~~#residences#~~ in the districts indicated in the table.

Districts	Districts Whose Regulations Are Applicable
C3	C4-1
C4-1-C8-1	C4-2
C1-6-C1-7-C1-8-C1-9-C2-6-C2-7-C2-8-C4-2 C4-3-C4-4-C4-5-C4-6-C4-7-C5-C6-C8-2-C8-3-C8-4	C4-7

* * *

**36-34
Modification of Requirements for Small Zoning Lots**

* * *

**36-341
Reduced requirements in C1 or C2 Districts governed by surrounding Residence District bulk regulations**

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, for #zoning lots# of 10,000 or 15,000 square feet or less, the number of required #accessory# off-street parking spaces is determined by the #Residence District# within which such #Commercial District# is mapped, in accordance with the following table:

**REDUCED REQUIREMENTS FOR
SMALL ZONING LOTS**

Parking Spaces Required as a Percent of Total #Dwelling Units#	District within which C1 or C2 District is Mapped
<hr/>	

#Lot Area#		
10,000 square feet or less	50	R6 R7-1* R7B
	30	R7-1 R7A R7D R7X
10,001 to 15,000 square feet	30	R7-2
	20	R8** R9 R10

<u>District within which C1 or C2 District is Mapped</u>	<u>#Lot Area#</u>	<u>Parking Spaces Required as a Percent of Total #Dwelling Units#</u>
<u>R6 R7-1¹ R7B</u>	<u>10,000 square feet or less</u>	<u>50</u>
<u>R7-1 R7A R7D R7X</u>		<u>30</u>
<u>R7-2</u>	<u>10,001 to 15,000 square feet</u>	<u>30</u>
<u>R8² R9 R10</u>		<u>20</u>

¹ In C1 or C2 Districts mapped within R7-1 Districts within #lower density growth management areas# in Community District 10, Borough of the Bronx

² In R8B Districts, the parking requirements may not be reduced

36-342

Reduced requirements in other C1 or C2 Districts or in C4, C5 or C6 Districts

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4-2 C4-3 C4-4 C4-5 C4-6 C4-7 C5 C6

In the districts indicated, for #zoning lots# of 10,000 or 15,000 square feet or less, the number of required #accessory# off-street parking spaces is as set forth in the following table:

REDUCED REQUIREMENTS FOR SMALL ZONING LOTS

<u>#Lot Area#</u>	<u>Parking Spaces Required as a Percent of Total #Dwelling Units#</u>	<u>District</u>
10,000 square feet or less	50	C4-2 C4-3
10,001 to 15,000 square feet	30	C1-6 C2-6 C4-4 C4-5 C6-1
	20	C1-7 C1-8 C1-9 C2-7 C2-8 C4-6 C4-7 C5 C6-2 C6-3 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9

<u>District</u>	<u>#Lot Area#</u>	<u>Parking Spaces Required as a Percent of Total #Dwelling Units#</u>
<u>C4-2 C4-3</u>	<u>10,000 square feet or less</u>	<u>50</u>
<u>C1-6 C2-6 C4-4 C4-5 C6-1</u>	<u>10,001 to 15,000 square feet</u>	<u>30</u>
<u>C1-7 C1-8 C1-9 C2-7 C2-8 C4-6 C4-7 C5 C6-2 C6-3 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9</u>		<u>20</u>

* * *

36-35

Modification of Requirements for Income-Restricted Housing Units or Affordable Independent Residences for Seniors Public Housing or Non-profit Residences for the Elderly

C1 C2 C3 C4 C5 C6

In the districts indicated, the number of required #accessory# off-street parking spaces is as set forth in

Section 25-25 (~~Modifications~~ Modification of Requirements for Income-Restricted Housing Units or Affordable Independent Residences for Seniors ~~Public, Publicly Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly~~) for the applicable #Residence District#, as determined in accordance with ~~Section~~ Sections 35-22 or 35-23. ~~For the purpose of determining the number of required #accessory# off-street parking spaces for such #residences# in C4-4, C4-5 and C6-1 Districts, the regulations of an R7B District shall apply, except that for assisted housing projects in #Quality Housing buildings# in such districts, the number of required #accessory# off-street parking spaces for such #residences# shall be in accordance with an R7A District. For C1-6 and C2-6 Districts, the number of required #accessory# off-street parking spaces for such #residences# shall be in accordance with an R7-2 District.~~

**36-36
Waiver of Requirements for Small Number of Spaces**

C1 C2 C4-2 C4-3 C4-4 C4-5 C4-6 C4-7 C5 C6

In the districts indicated, the requirements set forth in Section 36-31 (General Provisions) shall be subject to the waiver provisions of this Section, ~~except that the waiver provisions shall not apply to #non-profit residences for the elderly#.~~

* * *

**36-362
In other C1 or C2 Districts or in C4, C5 or C6 Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4-2 C4-3 C4-4 C4-5 C4-6 C4-7 C5 C6

In the districts indicated, the requirements set forth in Section 36-31 (General Provisions) shall be waived if the required number of #accessory# off-street parking spaces resulting from the application of such requirements is no greater than the maximum number as set forth in the following table:

Maximum Number of Spaces Waived	Districts
5	C4-2 C4-3
15	C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4-4 C4-5 C4-6 C4-7 C5 C6

<u>Districts</u>	<u>Maximum Number of Spaces</u> <u>Waived</u>
<u>C4-2 C4-3</u>	<u>5</u>
<u>C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8</u> <u>C4-4 C4-5 C4-6 C4-7 C5 C6</u>	<u>15</u>

* * *

36-40

RESTRICTIONS ON LOCATION AND USE OF ACCESSORY OFF-STREET PARKING SPACES

* * *

36-42

Off-Site Spaces for Residences

* * *

36-421

Maximum distance from zoning lot

C1 C2 C3 C4 C5 C6

In the districts indicated, all such spaces shall not be further than the distance set forth in the following table from the nearest boundary of the #zoning lot# occupied by the #residences# to which they are #accessory#.

<u>Maximum Distance from the #Zoning Lot#</u>	<u>District</u>
600 feet	C1-1 C1-2 C1-3 C2-1 C2-2 C2-3 C3 C4-1 C4-2 C4-3
1,000 feet	C1-4 C1-5 C1-6 C1-7 C1-8 C1-9 C2-4 C2-5 C2-6 C2-7 C2-8 C4-4 C4-5 C4-6 C4-7 C5 C6

<u>District</u>	<u>Maximum Distance from the #Zoning Lot#</u>
<u>C1-1 C1-2 C1-3 C2-1 C2-2 C2-3 C3 C4-1 C4-2 C4-3</u>	<u>600 feet</u>
<u>C1-4 C1-5 C1-6 C1-7 C1-8 C1-9 C2-4 C2-5 C2-6 C2-7 C2-8 C4-4 C4-5 C4-6 C4-7 C5 C6</u>	<u>1,000 feet</u>

* * *

OFF-STREET LOADING REGULATIONS

36-60

GENERAL PURPOSES OFF-STREET LOADING REGULATIONS

* * *

36-70

BICYCLE PARKING

* * *

36-71

Required Bicycle Parking Spaces

36-711

Enclosed bicycle parking spaces

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, enclosed #accessory# bicycle parking spaces shall be provided for at least that amount specified for the applicable #use# set forth in the table in this Section.

For the purposes of calculating the number of required bicycle parking spaces, any fraction of a space 50 percent or greater shall be counted as an additional space. For #residences#, the #accessory# bicycle

parking requirement shall be calculated separately for separate #buildings# or #building segments#.

Where any #building# or #zoning lot# contains two or more #uses# having different bicycle parking requirements as set forth in the table, the bicycle parking requirements for each type of #use# shall apply to the extent of that #use#.

Where an enclosed #accessory group parking facility# is provided, the required number of bicycle parking spaces for the #use# to which such facility is #accessory# shall be the amount set forth for such #use# in the table, or one for every 10 automobile parking spaces that are enclosed within a #building or other structure# or located on the roof of a #building#, whichever will require a greater number of bicycle parking spaces.

**REQUIRED BICYCLE PARKING SPACES
FOR RESIDENTIAL, COMMUNITY FACILITY
OR COMMERCIAL USES**

Type of #Use#	Bicycle Parking Spaces Required in Relation to Specified Unit of Measurement
FOR RESIDENTIAL USES	

Use Group 1	None required
Use Group 2	1 per 2 #dwelling units#
<u>#Affordable Independent Residences for Seniors#</u> #Non profit residences for the elderly# or #dwelling units# for the elderly as specified in Section 36-35(d) _____	1 per 10,000 square feet of #floor area#

* * *

**36-75
Floor Area Exemption**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, space provided for enclosed #accessory# bicycle parking spaces pursuant to the standards of this Section shall be excluded from the calculation of #floor area#, provided that:

- (a) the space excluded from #floor area# does not exceed an amount equal to 15 square feet multiplied by the number of required spaces or, if spaces are waived pursuant to paragraphs (a), (b), (c) or (d) of Section 36-711 (Enclosed bicycle parking spaces), the number that would have been required but for the waiver or, if spaces are not required because the #building# was constructed prior to April 22, 2009, the number that would be required if such #building# were newly-constructed; and
- (b) the #accessory# bicycle parking spaces provided meet the standards for required bicycle parking of Section 36-73 (Restrictions on Operation, Size and Location of Bicycle Parking Spaces).

Notwithstanding the provisions of paragraph (a) of this Section, for the #uses# listed in the table, the amount of space that may be excluded from the calculation of #floor area# shall not exceed an amount equal to 15 square feet multiplied by the number of spaces set forth in the table.

MAXIMUM BICYCLE PARKING SPACES
EXCLUDED FROM FLOOR AREA

Type of #Use#	Maximum Bicycle Parking Spaces Excluded from #Floor Area# in Relation to Specified Unit of Measurement
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FOR RESIDENTIAL USES

<p><u>#Affordable Independent Residences for Seniors#</u> #Non profit residences for the elderly# or #dwelling units# for the elderly as specified in Section 36-35(d)</p>	<p>1 per 2,000 square feet of #floor area#</p>
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* * *

Article III - Commercial District Regulations

Chapter 7

Special Urban Design Regulations

37-00

GENERAL PURPOSES

Special urban design regulations are set forth in this Chapter to improve the quality of the streetscape and to promote a lively and engaging pedestrian experience along commercial streets in various neighborhoods.

The provisions of this Chapter shall apply as follows:

- (a) Section 37-10 sets forth applicability of Article II, Chapter 6 to zoning lots accessed by private roads in C1 or C2 Districts mapped within R3, R4 or R5 Districts;
- (b) Section 37-20, inclusive, sets forth special regulations for lower density growth management area in the Borough of Staten Island;
- (c) Section 37-30, inclusive, sets forth special streetscape provisions that apply in conjunction with provisions specified in the supplemental use provisions of Article III, Chapter 2, special provisions for certain areas in Article VI, or in Special Purpose Districts in Articles VIII through XIII;
- (d) Section 37-40, inclusive, sets forth provisions for relocating or renovating subway stairs in certain areas;
- (e) Section 37-50, inclusive, sets forth requirements for pedestrian circulation spaces that apply in conjunction with provisions specified in certain Special Purpose Districts;
- (f) Section 37-60, inclusive, sets forth provisions for publicly accessible open areas such as plazas, residential plazas and urban plazas created prior to October 17, 2007;
- (g) Section 37-70, inclusive, sets forth provisions for public plazas;
- (h) Section 37-80 sets forth provisions for arcades; and
- (i) Section 37-90, inclusive, sets forth provisions for certain open parking areas, including landscaping.

37-30

SPECIAL GROUND FLOOR LEVEL, STREETScape PROVISIONS FOR CERTAIN AREAS

37-31

Applicability

This Section, inclusive, specifies #ground floor level# requirements that establish consistent minimum depths for certain #uses#, maximum widths for certain #uses#, minimum transparency and parking wrap and screening requirements that apply as required by specific #ground floor level# requirements set forth for certain #Commercial Districts# in the supplemental #use# provisions of Section 32-40, inclusive; for certain #Manufacturing Districts# in Section 42-485 (Streetscape provisions); for #zoning lots# subject to the off-street parking regulations in the #Manhattan Core# in Article I, Chapter 3; for #zoning lots# subject to the special provisions for waterfront areas and FRESH food stores in Article VI, Chapters 2 and 3, respectively; and for #zoning lots# subject to the provisions of certain Special Purpose Districts.

However, the ground floor depth requirements for certain #uses# and minimum transparency requirements of Sections 37-32 and 37-34, respectively, shall not apply to:

- (a) #zoning lots# in #Commercial Districts# with a #lot width# of less than 20 feet, as measured along the #street line#, provided such #zoning lots# existed on [date of adoption] and on the date of application for a building permit; or
- (b) any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4.

The regulations of Sections 37-30 through 37-37, inclusive, shall apply to any #development# occupied by #predominantly residential use#, constructed after April 21, 1977, located on any #zoning lot# within C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 or C6-8 Districts, or C1 and C2 Districts mapped within R9 or R10 Districts. However, Sections 37-30 through 37-37, inclusive, shall not apply within any Special Purpose District nor shall it apply to any #Quality Housing building#, except as otherwise set forth therein.

An application to the Department of Buildings for a permit respecting any #development# shall include a plan and an elevation drawn to a scale of at least one sixteenth inch to a foot of the new #building# and #buildings# on #contiguous lots# or #contiguous blocks# showing #signs#, other than #advertising signs#, #arcades#, #street wall# articulation, curb cuts, #street# trees, sidewalk paving, central refuse storage area and such other necessary information as may be required by the Commissioner of Buildings.

37-311

Definitions

The following definitions shall apply throughout Section 37-30 (SPECIAL GROUND FLOOR LEVEL STREETScape PROVISIONS FOR CERTAIN AREAS), inclusive.

Ground floor level

For the purposes of Section 37-30, inclusive, the “ground floor level” shall refer to a #building’s# lowest #story#.

Primary street frontage

For the purposes of Section 37-30, inclusive, a “primary street frontage” shall be the portion of the #ground floor level street# frontage along:

- (a) a #wide street#;
- (b) a narrow #street# where a #Commercial District# is mapped along an entire #block# frontage; or
- (c) a #narrow street# within 50 feet of a #wide street#.

Secondary street frontage

For the purposes of Section 37-30, inclusive, a “secondary street frontage” shall be a #ground floor level street #frontage#, or portion thereof, subject to the provisions of Section 37-30, inclusive, that is not a #primary street frontage#.

37-32

Ground Floor Depth Requirements for Certain Uses

Definitions

The minimum depth for required ground floor non-#residential uses#, as applicable, shall be as set forth in this Section, except as set forth in Section 37-31 (Applicability).

Required #ground floor level# non-#residential uses# along a #primary street frontage# or a designated retail street specified in a Special Purpose District, as applicable, shall have a minimum depth of 30 feet, as measured perpendicular to the #ground floor level street wall#. However, such minimum depth requirement may be reduced, to the minimum extent necessary, to accommodate vertical circulation cores or structural columns associated with upper #stories# of the #building#.

Contiguous block

For the purposes of Sections 37-30 through 37-37, inclusive, a "contiguous block" is a #block# containing one or more #zoning lots# separated by a #narrow street# from the #block# containing the #development#.

Contiguous lot

For the purposes of Sections 37-30 through 37-37, inclusive, a "contiguous lot" is a #zoning lot# which shares a common #side lot line# with the #zoning lot# of the #development#.

Development

For the purposes of Sections 37-30 through 37-37, inclusive, in addition to the definition of "development" pursuant to Section 12-10 (DEFINITIONS), "development" shall also include an #enlargement# involving an increase in #lot coverage#.

Predominantly residential use

For the purposes of Sections 37-30 through 37-37, inclusive, a "predominantly residential use" means a #building# having a #residential floor area# in excess of 50 percent of the total #building floor area#.

37-33

Maximum Width of Certain Uses

Applicability of Article II

The widths of #residential# lobbies, entrances and exits to #accessory# off-street parking facilities, and entryways to subway stations shall be as set forth in this Section.

(a) Ground floor lobbies

(1) Type 1

Where Type 1 lobby provisions apply, lobbies accessing #uses# not permitted on the #ground floor level# shall be permitted, provided that the width of such lobbies, in total, does not exceed 25 percent of the #street wall# width of the #building# or more than 20 linear feet of #street wall# frontage on a #wide street# or 30 linear feet on a #narrow street#, whichever is less. However, the width of such lobbies need not be less than 10 feet.

(2) Type 2

Where Type 2 lobby provisions apply, lobbies accessing #uses# not permitted on the #ground floor level# shall be permitted, provided that the width of such lobbies, in total, does not exceed 25 percent of the #street wall# width of the #building# or more than 40 linear feet of #street wall#, whichever is less. However, the width of such lobbies need not be less than 20 feet.

(b) Entrances and exits to #accessory# parking facilities

Entrances and exits to #accessory# off-street parking facilities, where permitted on the #ground floor level#, or portion thereof, shall not exceed a #street wall# width equal to the sum of five feet plus the maximum curb cut width for the applicable district. Where no specified maximum curb cut width is set forth for the district, the curb cuts regulations for #buildings# containing #residences# in R6 through R8 Districts with a letter suffix in paragraph (e) of Section 25-631 (Location and width of curb cuts in certain districts) shall be applied.

(c) Entryways to subway stations

Entryways to subway stations may be provided on the #ground floor level# of a #building# without restriction in #street wall# width.

~~In C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 and C6-8 Districts, or C1 or C2 Districts mapped within R9 or R10 Districts, the regulations of Article II, Chapter 6 (Special Urban Design Guidelines—Streetscape), shall apply to any #development# occupied by #predominantly residential use#, except as modified by the provisions of Sections 37-34 to 37-37, inclusive, relating to Modifications to the Applicability of Article II, Chapter 6. The purpose of these modifications is to make the regulations of Article II, Chapter 6, applicable to #Commercial Districts#.~~

37-34

Minimum Transparency Requirements

Modifications to Applicability of Article II, Chapter 6

The #ground floor level street wall# along a #primary street frontage# or a designated retail street set forth in a Special Purpose District, as applicable, shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors, except as set forth in Section 37-31 (Applicability).

Such transparent materials shall occupy at least 50 percent of the surface area of such #ground floor level street wall# between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Transparent materials provided to satisfy such 50

percent requirement shall not begin higher than two feet, 6 inches, above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and shall have a minimum width of two feet. The maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed 10 feet.

However, such transparency requirements shall not apply to portions of the #ground floor level# occupied by: entrances or exits to #accessory# off-street parking facilities and #public parking garages#, where permitted; entryways to required loading berths, where permitted; entryways to subway stations, as applicable; or doors accessing emergency egress stairwells and passageways.

In ~~C1-8, C1-9, C2-7, C2-8, C4-6, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 and C6-8~~ Districts, or ~~C1 or C2~~ Districts mapped within R9 or R10 Districts, the regulations of Article II, Chapter 6, applicable to #developments# occupied by a #predominantly residential use# are modified by the provisions of Sections 37-35 (Retail Continuity), 37-36 (Sign Regulations) and 37-37 (Street Wall Articulation).

37-35

Parking Wrap and Screening Requirements

Retail Continuity

All #accessory# off-street parking spaces on the #ground floor level# of a #building# shall be wrapped by #floor area# in accordance with paragraph (a) or, where applicable, screened in accordance with applicable provisions of paragraph (b) of this Section.

(a) Along primary street frontages

For #ground floor levels#, or portions thereof, fronting along a #primary street frontage# or a designated retail #street# set forth in a Special Purpose District, as applicable, any portion of an #accessory# off-street parking facility that is located above #curb level#, except for permitted entrances and exits, shall be located behind permitted #commercial#, #community facility# or #residential floor area# so that no portion of such facility is visible from adjacent public sidewalks or publicly accessible areas. Such #floor area# shall have a minimum dimension of 30 feet, as measured perpendicular to the #street wall# of the #building#.

(b) Along secondary street frontages

For #ground floor levels#, or portions thereof, fronting along a #secondary street frontage# or 50 feet beyond a designated retail #street# set forth in a Special Purpose District, as applicable, off-street parking facilities, or portions thereof, may either be wrapped by #floor area# in accordance with paragraph (a) of this Section, or be designed in a manner that:

- (1) any non-horizontal parking deck structures are not visible from the exterior of the #building# in elevation view;

- (2) opaque materials are located on the exterior #building# wall between the bottom of the floor of each parking deck and no less than three feet above such deck; and
- (3) a total of at least 50 percent of such exterior #building# wall, or portion thereof, with adjacent parking spaces consists of opaque materials which may include permitted #signs#, graphic or sculptural art, or living plant material.

For #buildings# with front #building# walls that are at least 50 feet in width and front upon a #wide street#, a minimum of 50 percent of the width of such front #building# wall shall be occupied at the ground floor level by #commercial uses#, as permitted by district regulations.

In C1-8, C1-9, C2-7, C2-8, C4-6 Districts, and C1 or C2 Districts mapped within R9 or R10 Districts, #uses# which occupy such 50 percent of the front #building# wall shall be limited to those listed in Use Groups 6A, 6C and 6F, excluding banks and loan offices, except that in C4-6 Districts only, such #uses# may additionally include those listed in Use Groups 8A, 8B and 10A. All #uses# permitted by the underlying district regulations are permitted in the remaining 50 percent of the front #building# wall.

Such requirement of #commercial uses# for a minimum of 50 percent of the front #building# wall may be waived, or additional #uses# permitted, upon certification by the City Planning Commission to the Commissioner of Buildings that an adequate supply of such #uses# already exists at the ground floor level in the surrounding area.

The Commission may require that an application for such certification of additional #uses# for a completed #building#, where #floor area# has been designated for occupancy for such #commercial uses#, establish that a good faith effort has been made to secure tenancy by such #uses#.

37-36

Sign Regulations

In addition to the applicable district regulations in C1-8, C1-9, C2-7, C2-8 and C4-6 Districts, and C1 or C2 Districts mapped within R9 or R10 Districts, all #signs#, other than #advertising signs# and window #signs#, shall be located in a horizontal band not higher than three feet, the base of which is located not higher than 17 feet above #curb level#. Where there is a grade change of at least 1.5 feet in 100 along the portion of the #street# upon which the #development# fronts, such signage band may be staggered along such #street#.

When a #building# on a #contiguous lot# or #contiguous block# contains #accessory# business #signs# within a coordinated horizontal band along its #street# frontage, the signage strip along the #development# shall be located at the same elevation as the adjacent band, but in no event higher than 17 feet above #curb level#. Where coordinated horizontal bands exist on two #contiguous lots# or

~~#contiguous blocks# on both sides of the #development#, the signage strip shall be located at the same elevation as one adjacent band, or between the elevations of the two. For the purpose of this Section, the elevation is measured from the #curb level# to the base of the signage strip.~~

~~The City Planning Commission may, by certification to the Commissioner of Buildings, allow modifications of the requirements of this Section. Such modifications will be permitted when the Commission finds that such modifications will enhance the design quality of the #street wall#.~~

37-37

Street Wall Articulation

~~When any #building# wall which is five feet or more in height adjoins a sidewalk, a #public plaza# or an #arcade#, at least 50 percent of the total surface area of such wall between #curb level# and 12 feet above #curb level# or to the ceiling of the ground floor, whichever is higher, or to the full height of the wall if such wall is less than 12 feet in height, shall be transparent. The lowest point at any point of any transparency that is provided to satisfy the requirements of this Section shall not be higher than four feet above the #curb level#.~~

~~Door or window openings within such walls shall be considered as transparent. Such openings shall have a minimum width of two feet.~~

~~In addition, any portion of such #building# wall, 50 feet or more in width, which contains no transparent element between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 12 feet in height, shall be covered with ivy or similar planting or contain artwork or be treated so as to provide visual relief. Plants shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches. If artwork is being used, approval by the New York City Design Commission shall be obtained prior to the certificate of occupancy being issued for the #development#.~~

37-38

Sidewalk Widening in Certain Districts

C6-3D

~~In the district indicated, and in C1 or C2 Districts mapped within an R9D District, for #developments# or #enlargements# on #zoning lots# fronting upon #wide streets#, or fronting upon #narrow streets# that include an elevated rail line, sidewalks, with a minimum depth of 20 feet measured perpendicular to the curb of the #street#, shall be provided along such entire #street# frontages of the #zoning lot#. In locations where the width of the sidewalk within the #street# is less than 20 feet, a sidewalk widening shall be provided on the #zoning lot# so that the combined width of the sidewalk within the #street# and the sidewalk widening equals 20 feet. However, existing #buildings# to remain on the #zoning lot# need~~

not be removed in order to comply with this requirement. All sidewalk widenings shall be improved to Department of Transportation standards for sidewalks, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times. In addition, the provisions of paragraphs (f)(2) through (f)(5) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall apply.

* * *

37-40

OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR

Where a #development# or an #enlargement# is constructed on a #zoning lot# of 5,000 square feet or more of #lot area# that fronts on a portion of a sidewalk containing a stairway entrance or entrances into a subway station located within the #Special Midtown District# as listed in Section 81-46, the #Special Lower Manhattan District# as listed in Section 91-43, the #Special Downtown Brooklyn District# as listed in Section 101-43, the #Special Long Island City Mixed Use District# as described in Section 117-44, the #Special Union Square District# as listed in Section ~~118-60~~ 118-50 and those stations listed in the following table, the existing entrance or entrances shall be relocated from the #street# onto the #zoning lot#. The new entrance or entrances* shall be provided in accordance with the provisions of this Section.

* * *

37-43

Modification of Requirements for a Relocated or Renovated Subway Stair

The Chairperson of the City Planning Commission may, by certification to the Commissioner of Buildings, allow modifications of the requirements of Sections 37-30 (SPECIAL GROUND FLOOR LEVEL STREETSCAPE PROVISIONS FOR CERTAIN AREAS), inclusive, and 37-41 (Standards for Location, Design and Hours of Public Accessibility) or 37-70 (PUBLIC PLAZAS) if the relocated subway stair cannot be accommodated without modification to these provisions.

* * *

Article IV - Manufacturing District Regulations

Chapter 2 Use Regulations

* * *

42-133 Provisions for dwelling units in certain M1-5 or M1-6 Districts

- (a) In M1-5 and M1-6 Districts, except for M1-6D Districts, located within the rectangle formed by West 23rd Street, Fifth Avenue, West 31st Street, and Eighth Avenue, no new #dwelling units# shall be permitted. However, #dwelling units# which the Chairperson of the City Planning Commission determines were occupied on September 1, 1980, shall be a permitted #use# provided that a complete application to permit such #use# is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than June 21, 1983.

Such #dwelling units# shall comply with the requirements of Sections ~~15-026~~ 15-024 or 15-22, where applicable and with Section 15-23. For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy on September 1, 1980, shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

* * *

42-40 SUPPLEMENTARY USE REGULATIONS AND SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES

* * *

42-462 Use of railroad or transit air space

* * *

- (d) Notwithstanding the above, the #High Line#, as defined in Section 98-01, shall be governed by the provisions of Section ~~98-17~~ 98-16 (Air Space Over a Railroad or Transit Right of Way or Yard).

* * *

42-48 Supplemental Use Regulations in M1-6D Districts

All permitted #uses# in M1-6D Districts, as set forth in Section 42-10 (USES PERMITTED AS-OF-RIGHT), shall comply with the provisions set forth in this Section, inclusive.

* * *

42-485

Streetscape provisions

On ~~#narrow streets#~~, for ~~#zoning lots#~~ with ~~#street#~~ frontage of 50 feet or more, ground floor ~~#uses#~~ limited to Use Groups 6A, 6C, 7B, 8A, 8B, 9A, 10A, 12A and 12B shall ~~have a depth of at least 30 feet from the #street wall# and shall~~ extend along a minimum of 50 percent of the width of the ~~#street#~~ frontage of the ~~#zoning lot#~~. Such ~~#uses#~~ shall extend to a depth in accordance with the provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses). The remainder of the ~~#street#~~ frontage of the ~~#zoning lot#~~ may be occupied by any permitted ~~#uses#~~, lobbies, or entrances to parking spaces, provided that lobbies shall comply with the provisions for Type 2 lobbies set forth in Section 37-33 (Maximum Width of Certain Uses), ~~except that lobbies shall be limited to a total width of 40 feet. No minimum 30 foot depth requirement shall apply where a reduction in such depth is necessary in order to accommodate a #residential# lobby or vertical circulation core.~~

Enclosed parking spaces, or parking spaces covered by a ~~#building#~~, including such spaces ~~#accessory#~~ to ~~#residences#~~, shall be permitted to occupy the ground floor, provided ~~they are located beyond 30 feet of the #street wall#~~ that such spaces are wrapped by #floor area# or screened in accordance with the provisions of Section 37-35 (Parking Wrap Screening Requirements), as applicable.

For any ~~#development#~~ or ~~#enlargement#~~ that includes a ground floor ~~#street wall#~~, each ground floor ~~#street wall#~~ occupied by ~~#uses#~~ listed in Use Groups 1 through 15, not including ~~#dwelling units#~~, shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements), ~~with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparency shall occupy at least 50 percent of the surface area of that portion of the ground floor #street wall# located between a height of two feet and twelve feet, or the height of the ground floor ceiling, whichever is higher, above the level of the adjoining sidewalk. The lowest point of any such required transparency shall not be higher than four feet above the level of the adjoining sidewalk, with the exception of transom windows, and the minimum width of any such required transparency shall be two feet. In addition, the maximum width of a portion of the ground floor level #street wall# without transparency shall not exceed ten feet. However, the transparency requirements of this Section shall not apply to that portion of the ground floor level #street wall# occupied by an entrance to a parking facility.~~

* * *

Article IV - Manufacturing District Regulations

Chapter 3 Bulk Regulations

* * *

43-10 FLOOR AREA REGULATIONS

* * *

43-17 Special Provisions for Joint Living-Work Quarters for Artists in M1-5A and M1-5B Districts

M1-5A M1-5B

In the districts indicated, no #building# containing #joint living-work quarters for artists# shall be #enlarged#.

* * *

However, the minimum size requirement may be replaced by the requirements of Section ~~15-026~~ 15-024 for #joint living-work quarters for artists#:

* * *

43-60 SUPPLEMENTARY REGULATIONS

* * *

43-62 Bulk Regulations in M1-6D Districts

43-621 Floor area regulations in M1-6D Districts

- (a) The maximum #floor area ratio# for #zoning lots# shall be 10.0, and no #floor area# bonuses shall apply, except as modified for #Inclusionary Housing designated areas#, as set forth in paragraph (b) of this Section.
- (b) In #Inclusionary Housing designated areas#

For M1-6D Districts mapped within an #Inclusionary Housing designated area#, the provisions of Sections 23-154 (Inclusionary Housing) and 23-90 (INCLUSIONARY HOUSING) applicable to R10 Districts without a letter suffix shall apply, as modified in this Section:

- (1) for #zoning lots# that do not contain #residences#, the maximum #floor area ratio# shall be 10.0; and
- (2) the maximum base #floor area ratio# for #zoning lots# containing #residences# shall be 9.0 plus an amount equal to 0.25 times the non-#residential floor area ratio# provided on the #zoning lot#, up to 10.0. Such #floor area ratio# may be increased to a maximum of 12.0 only through the provision of #affordable housing#, pursuant to Section 23-90, inclusive.

* * *

43-623

Density in M1-6D Districts

The provisions of 35-40 (APPLICABILITY OF DENSITY REGULATIONS) shall apply. The applicable factor shall be ~~790~~ 680.

43-624

Height and setback in M1-6D Districts

In M1-6D Districts, the height and setback provisions of this Section shall apply to all #buildings#.

(a) Rooftop regulations

(1) Permitted obstructions

The provisions of Section 33-42 shall apply to all #buildings#, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may penetrate a maximum height limit or #sky exposure plane#, provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.

In addition, ~~on #narrow streets#~~, a maximum base height or #sky exposure plane# may be penetrated, as follows:

(i) Structural columns

Structural columns may penetrate a maximum height limit or #sky exposure plane#, provided that such columns are one story or less in height, have a #street wall# no greater than 30 inches in width, and are spaced not less than 15 feet on center.

(ii) Dormers

(a) On any #street# frontage, dormers may be provided in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts). ~~the aggregate width of all dormers at the maximum base height shall not exceed 60 percent of the length of the #street wall# of the highest #story# entirely below the maximum base height. For each foot of height above the maximum base height, the aggregate width of all such dormers shall be decreased by one percent of the #street wall# width of the highest #story# entirely below the maximum base height.~~

(b) ~~The aggregate width of dormers at the maximum base height facing the #rear yard line# or #rear yard equivalent# shall not exceed 60 percent of the length of the wall of the #building# facing a #rear yard line# at the highest #story# entirely below the maximum base height. For each foot of height above the maximum base height, the aggregate width of all such rear dormers shall be decreased by one percent of the width of the #building# wall facing the #rear lot line#, at the level of the highest #story# entirely below the maximum base height.~~

~~Where two rear setbacks are provided as set forth in paragraph (b)(3)(ii) of this Section, the aggregate width of rear dormers, measured separately within each setback, shall not exceed 60 percent of the length of #building# wall facing a #rear yard line# at the highest #story# entirely below each rear setback. For each foot of height that a dormer is above the level of a setback, the aggregate width of dormers within such setback shall be decreased by one percent of the width of the highest #story# entirely below such setback.~~

~~In the case of a #through lot# on which a #rear yard equivalent# is provided, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#.~~

(2) Screening requirements for mechanical equipment

For all #developments# and #enlargements#, and #conversions# of #non-residential

buildings# to #residences#, all mechanical equipment located on any roof of a #building or other structure# shall be fully screened on all sides. However, no such screening requirements shall apply to water tanks.

(b) Height and setback

(1) #Street wall# location

The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in paragraph (b)(2) of this Section. On the ground floor, recesses shall be permitted where required to provide access to the #building#, provided such recesses do not exceed three feet in depth as measured from the #street line#.

Above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#. However, no recesses shall be permitted within 20 feet of an adjacent #building# and within 30 feet of the intersection of two #street lines#.

(2) Base height

(i) Along #wide streets#

On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# of a #building# shall rise without setback to a minimum base height of 125 feet and, and may rise to a maximum base height of 155 feet.

(ii) Along #narrow streets#

On #narrow streets#, beyond 50 feet of their intersection with a #wide street#, the #street wall# of a #building# shall rise without setback to a minimum base height of 85 feet, and may rise to a maximum base height of 135 feet. However, for #buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), the maximum base height may be increased to 155 feet.

As an alternative, the minimum and maximum base heights applicable to a #wide street# may apply along a #narrow street# to a distance of 100 feet from a #wide street#.

(3) Required setbacks and maximum building heights

(i) Along wide streets

~~The provisions of this paragraph, (b)(3)(i), shall apply to~~ For buildings, or portions thereof, located on wide streets and on narrow streets within 100 feet of a wide street. The portion of such building above the maximum base height set forth in paragraph (b)(2)(i) of this Section a height of 150 feet shall be set back from the street wall of the building at least 10 feet along a wide street and at least 15 feet along a narrow street, except such dimensions may include the depth of any permitted recesses in the street wall. The maximum height of such buildings shall be 290 feet. In addition, the gross area of each of ~~either the highest two or three stories~~ of such building shall not exceed 80 percent of the gross area of the story directly below such highest two ~~or three stories~~.

(ii) Along narrow streets

~~The provisions of this paragraph, (b)(3)(ii), shall apply to~~ For all buildings, or portions thereof, located on narrow streets beyond 100 feet of a wide street. No portion of such building or other structure shall penetrate a sky exposure plane which begins at the maximum base height set forth in paragraph (b)(2)(i) of this Section, a height of 125 feet above the narrow street line and rises over the zoning lot with a slope of four feet of vertical distance for every foot of horizontal distance. The maximum height of such buildings, shall be 210 feet.

~~However, any~~ Any portion of such building or other structure that is located beyond 15 feet of the street line may penetrate such sky exposure plane, provided such portion does not exceed a height of 210 feet. However, for buildings on zoning lots meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), such maximum height may be increased, provided that the maximum number of stories does not exceed 23, the maximum height of a building with a non-qualifying ground floor, as defined in Section 23-662 (Maximum height of buildings and setback regulation) does not exceed a height of 230 feet, and the maximum height of a building with a qualifying ground floor, as defined in Section 23-662, does not exceed a height of 235 feet. In addition, the gross area of each of the top two stories of a building may not be greater than 80 percent of the gross area of the story directly below such top two stories.

~~In addition, for buildings containing residences, no portion of such building exceeding a height of 125 feet shall be nearer to a rear yard line~~

~~than ten feet. Alternatively, a pair of setbacks may be provided in accordance with the following:~~

~~(a) — a setback of five feet from the #rear yard line# shall be provided between a height of 85 feet and 125 feet; and~~

~~(b) — a setback of ten feet from the #rear yard line# shall be provided between a height of 125 and 165 feet.~~

~~However the heights of such setbacks shall be vertically equidistant from a height of 125 feet.~~

~~In the case of a #through lot# on which a #rear yard equivalent# is provided, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#.~~

(4) Maximum length of #building# wall

The maximum length of any #story# located entirely above a height of 150 feet shall not exceed 150 feet. Such length shall be measured in plan view by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a level of 150 feet.

43-625

Yard regulations in M1-6D Districts

In M1-6D Districts, the provisions of Section 43-20 (YARD REGULATIONS) shall apply, except that #residential# portions of a #building# shall provide a #rear yard# with a minimum depth of 30 feet at any level not higher than the floor level of the lowest #story# containing #dwelling units# with a #window# opening upon such #rear yard#. On any #through lot# that is 110 feet or more in depth from #street# to #street#, a #rear yard equivalent# shall be provided within 15 feet of the centerline of the #through lot# or #through lot# portion. In the case of a #through lot# on which a #rear yard equivalent# is provided, the requirements of this Section shall apply as if such #rear yard equivalent# were two adjoining #rear yards#. For shallow #zoning lots#, a reduction in the required #rear yard# or #rear yard equivalent# may be applied pursuant to the provisions applicable for an R10 District set forth in Section 23-52 (Special Provisions for Shallow Interior Lots) or 23-534 (Special provisions for shallow through lots), as applicable.

43-626

Courts in M1-6D Districts

#Residential# portions of #buildings# shall be subject to the court provisions applicable in R10 Districts

as set forth in Section 23-80 (COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS), inclusive.

* * *

Article VI - Special Regulations Applicable to Certain Areas

Chapter 2 Special Regulations Applying in the Waterfront Area

62-00 GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to guide development along the City's waterfront and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to maintain and reestablish physical and visual public access to and along the waterfront;
- (b) to promote a greater mix of uses in waterfront developments in order to attract the public and enliven the waterfront;
- (c) to encourage water dependent uses along the City's waterfront;
- (d) to create a desirable relationship between waterfront development and the water's edge, public access areas and adjoining upland communities;
- (e) to preserve historic resources along the City's waterfront; and
- (f) to protect natural resources in environmentally sensitive areas along the shore.

62-10 GENERAL PROVISIONS

* * *

62-13 Applicability of District Regulations

* * *

62-133 Applicability of the Quality Housing Program

* * *

#Developments# that provide a #shore public walkway#, in accordance with the requirements of Section

62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), shall be deemed to have met the requirements for recreation space specified in Section ~~28-20~~ ~~28-30~~ (RECREATION SPACE AND PLANTING AREAS). Also, for the purposes of Section ~~28-23~~ ~~28-33~~ (Planting Areas), the boundary of an #upland connection# located within a private drive shall be considered a #street line#.

* * *

62-135

Applicability of bulk regulations to long-term care facilities

For #buildings# containing #long-term care facilities#, the applicable provisions of 24-013, 33-012 and 35-012 shall apply, except as modified by the #bulk# regulations of Section 62-30 (SPECIAL BULK REGULATIONS), inclusive. For the purposes of applying #floor area ratio# and #lot coverage#, the regulations applicable to #affordable independent residences for seniors# set forth in Section 62-323 (Affordable independent residences for seniors) shall apply.

* * *

62-30

SPECIAL BULK REGULATIONS

* * *

62-32

Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks

62-321

Residential uses in R3, R4 and R5 Districts

The maximum #floor area ratio# and #lot coverage# for #residential buildings# or #residential# portions of #buildings# in R3, R4 and R5 Districts shall be in accordance with the applicable district regulations, except as provided in Section 62-323 (~~Non-profit residences for the elderly~~ Affordable independent residences for seniors in R3, R4, R5, R6 and R7 Districts).

62-322

Residential uses in R1, R2, R6, R7, R8, R9 and R10 Districts

For #residential buildings# or #residential# portions of #buildings# in R1, R2, R6, R7, R8, R9 and R10 Districts, the applicable regulations of Section 23-14 (~~Minimum Required Open Space, Open Space~~

~~Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio Open Space and Floor Area Regulations in R1 through R5 Districts) through or Section 23-15 (Maximum Floor Area Ratio in R10 Districts Open Space and Floor Area Regulations in R6 through R10 Districts), inclusive, shall not apply. In lieu thereof, the maximum #floor area ratio# and #lot coverage# on a #zoning lot# shall be as specified in the following table, except as provided for in Sections ~~23-154~~ 23-952 (Floor area compensation in Inclusionary Housing designated areas Inclusionary Housing), 62-323 (Non-profit residences for the elderly Affordable independent residences for seniors in R3, R4, R5, R6 and R7 Districts) and 62-35 (Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn):~~

MAXIMUM FLOOR AREA RATIO AND MAXIMUM LOT COVERAGE
FOR RESIDENTIAL BUILDINGS
OR RESIDENTIAL PORTIONS OF BUILDINGS

District	Maximum #Floor Area Ratio# ¹	Maximum #Lot Coverage# (in percent)
R1 R2	.50	35
R6B	2.00	60
R6	2.43	65
R6A R7B	3.00	65
R7-1 R7-2	3.44	65
R7A R8B	4.00	70
R7D	4.20	70
R7-3 R7X	5.00	70
R8 R8A R8X	6.02	70
R9 R9A	7.52	70
R9-1 R9X	9.00	70
R10	10.00 ¹	70

¹ In #Inclusionary Housing designated areas#, the #floor area ratio# has been modified, pursuant to Section ~~23-952~~ 23-154 (Floor area compensation in Inclusionary Housing designated areas) or Section 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn), inclusive

² In R10 Districts, the #floor area ratio# may be increased to a maximum of 12.0, pursuant to Section ~~23-954~~ 23-154 (~~Floor area compensation in R10 Districts other than Inclusionary Housing designated areas~~)

62-323

~~Non-profit residences for the elderly~~ Affordable independent residences for seniors in R3, R4, R5, R6 and R7 Districts

In the districts indicated in the following table, the maximum #floor area ratio# for #affordable independent residences for seniors# shall be as set forth in Sections 23-144 and 23-155, as applicable, and the maximum #lot coverage# for #non-profit residences for the elderly# on a #zoning lot# shall be as specified in the following Table:

~~MAXIMUM FLOOR AREA RATIO AND MAXIMUM LOT COVERAGE
FOR NON-PROFIT RESIDENCES FOR THE ELDERLY
AFFORDABLE INDEPENDENT RESIDENCES FOR SENIORS
IN R3, R4, R5, R6 AND R7 DISTRICTS~~

District	Maximum #Floor Area Ratio#	Maximum #Lot Coverage# (in percent)
R3	.95	55
R4	1.29	55
R5	1.95	60
R5D R6B	2.00	60
R6 R6A R7B	3.90	65
R7 R7A R7D R7X	5.01	70
<u>R8 R9 R10</u>		<u>70</u>

Where different maximum percentages of #lot coverage# apply to #residential# and #community facility uses#, the higher #lot coverage# shall be applied to any level containing both such #uses#. Furthermore, the maximum percent of #lot coverage# for #community facility uses# located below the level of #residential uses# need not be lower than the maximum percent of #lot coverage# permitted for such #residential uses#.

* * *

**62-34
Height and Setback Regulations ~~On~~ on Waterfront Blocks**

* * *

**62-341
Developments on land and platforms**

All #developments# on portions of a #zoning lot# landward of the #shoreline# or on #platforms# shall be subject to the height and setback provisions of this Section. However, when the seaward view from all points along the #shoreline# of a #zoning lot# is entirely obstructed by existing elevated roads, bridges or similar structures which are less than 50 feet above mean high water and within 200 feet of the #shoreline#, #developments# shall be exempt from the requirements of this Section. Height and setback regulations for #developments# on #piers# and #floating structures# are set forth in Sections 62-342 and 62-343.

- (a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

* * *

- (3) Measurement of height

The height of all #buildings or other structures# on #waterfront blocks# shall be measured from the #base plane#, except where modified by the provisions of Article VI, Chapter 4. For #buildings# with pitched roofs, maximum #building# height shall be measured to the midpoint of such pitched roof, except for #buildings# subject to Section 23-631 (~~Height and setback Requirements in R1, R2, R3, R4 or through R5 Districts~~ General provisions).

- (4) Permitted obstructions

The obstructions permitted pursuant to Sections 23-62, 24-51, 33-42 or 43-42 and, where applicable, Sections 64-331, 64-332 or 64-432 shall apply. In addition, the following regulations regarding permitted obstructions shall apply:

- (i) Within an #initial setback distance#, a dormer may exceed a maximum base height specified in Table A of this Section or penetrate a required setback area above a maximum base height specified in paragraph (d) Table C of this Section,

provided that such dormer complies with the provisions of paragraph (c)(1) of Section 23-621. ~~on any #street# frontage the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. At any level above the maximum base height, the width of a #street wall# of a dormer shall be decreased by one percent for every foot that such level of dormer exceeds the maximum base height. (See Illustration of Dormer)~~

* * *

(d) Medium and high density contextual districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9X R10A

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4L
C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-4A

In the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the height and setback regulations ~~of Sections 23-60, 24-50 and 35-24 shall not apply. In lieu thereof, the height and setback regulations set forth in this Section shall apply:~~ of Section 23-662 shall apply. For #Commercial Districts#, the applicable #Residence District# within which such #Commercial District# is mapped, or the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts) shall be used in applying such provisions. In addition, in all applicable districts, for #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), the height and setback provisions of paragraph (b) of Section 23-664 shall apply. Separate maximum #building# heights are set forth in Sections 23-662 and 23-664 for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662.

(1) ~~Maximum #building# height~~

~~No #building or other structure# shall exceed the maximum #building# heights specified in Table C of this Section.~~

~~A setback is required for all portions of #buildings or other structures# that exceed the specified maximum base height for the applicable district, and shall be provided in accordance with paragraph (d)(2) of this Section.~~

(2) ~~Setback provisions~~

~~Except for dormers permitted in accordance with paragraph (a)(4)(i) of this Section,~~

setbacks are required for all portions of #buildings or other structures# that exceed the maximum base heights specified in Table C of this Section. Such setbacks shall be provided in accordance with the following provisions:

- (i) — #Building# walls facing a #wide street# shall provide a setback at least ten feet deep from such wall of the #building# at a height not lower than the minimum base height specified in Table C of this Section. #Building# walls facing a #narrow street# shall provide a setback at least 15 feet deep from such wall of the #building# at a height not lower than the minimum base height specified in Table C.
- (ii) — These setback provisions are optional for any #building# wall that is either located beyond 50 feet of a #street line# or oriented so that lines drawn perpendicular to it would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be deemed to be the #street line#.

TABLE C
HEIGHT AND SETBACK FOR ALL BUILDINGS AND OTHER STRUCTURES
IN MEDIUM AND HIGH DENSITY CONTEXTUAL DISTRICTS

District	Minimum Base Height	Maximum Base Height	Maximum Height of #Buildings or other Structures#
R6B C1 or C2 mapped within R6B	30	40	50
R6A C1 or C2 mapped within R6A C4-2A C4-3A	40	60	70
R7B C1 or C2 mapped within R7B	40	60	75
R7A C1 or C2 mapped within R7A C1-6A C2-6A C4-4A C4-4L C4-5A	40	65	80
R7D			

C1 or C2 mapped within R7D C4-5D R7X	60	85	100
C1 or C2 mapped within R7X C4-5X	60	85	125
R8B C1 or C2 mapped within R8B	55	60	75
R8A C1 or C2 mapped within R8A C1-7A-C4-4D-C6-2A	60	85	120
R8X C1 or C2 mapped within R8X	60	85	150
R9A* C1 or C2 mapped within R9A* C1-8A*-C2-7A*-C6-3A*	60	95	135
R9A** C1 or C2 mapped within R9A** C1-8A**-C2-7A**-C6-3A**	60	102	145
R9X* C1 or C2 mapped within R9X* C1-8X*-C2-7X*	60	120	160
R9X** C1 or C2 mapped within R9X** C1-8X**-C2-7X**	105	120	170
R10A* C1 or C2 mapped within R10A* C1-9A*-C2-9A*-C4-6A*-C4-7A*-C5-1A* C5-2A*-C6-4A*	60	125	185
R10A** C1 or C2 mapped within R10A** C1-9A**-C2-8A**-C4-6A**-C4-7A**-C5-1A**-C5-2A**-C6-4A**	125	150	210

~~*——Denotes district mapped on #narrow street#~~

~~**——Denotes district mapped on #wide street#~~

* * *

62-60

DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS

#Waterfront public access areas# required pursuant to Section 62-52 (Applicability of Waterfront Public Access Area Requirements) shall comply with the provisions of this Section, inclusive.

* * *

62-62

Design Requirements for Shore Public Walkways and Supplemental Public Access Areas

The design requirements of this Section shall apply to #shore public walkways# and #supplemental public access areas#, except as modified by Section 62-57 (Requirements for Supplemental Public Access Areas).

* * *

(c) Planting

* * *

(2) Screening buffer

* * *

(iii) No screening buffer shall be required:

- (a) adjacent to a private drive, a #street# or at the entrances to #buildings#;
or
- (b) for a #commercial# or #community facility use# ~~where at least 70 percent of the area of the #building# facade, within a height of 10 feet, located~~ within a distance of 15 feet from the sidewalk or #waterfront public access area#, that is glazed with windows, transoms or glazed

portions of doors in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements). Not less than 50 percent of the entire area of such ~~#commercial#~~ or ~~#community facility use#~~ shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

* * *

62-836

Bulk and parking modifications on waterfront blocks

(a) Bulk modifications on waterfront blocks

In all districts, the City Planning Commission may permit modification of any applicable #yard#, #lot coverage#, height and setback, and distance between #buildings# regulations, for a #development# on a #zoning lot# within a #waterfront block#, excluding any portion on a #pier# or #new platform#, provided the Commission finds that such modifications will not adversely affect access to light and air on surrounding #waterfront public access areas#, #streets# and properties; and

- ~~(a)(1)~~ will result in a better site plan and a better relationship between the #zoning lot# and the adjacent #streets#, surrounding neighborhood, adjacent open areas and #shoreline# than would be possible through strict adherence to the regulations; or
- ~~(b)(2)~~ are necessary to protect unique natural features such as rock outcroppings, significant grade changes or wetlands, or to accommodate existing #buildings# or other structures#.

(b) Reduction or waiver of parking requirements for accessory group parking facilities

For a #development# in the #transit zone#, the City Planning Commission may, in conjunction with an application for a #bulk# modification pursuant to paragraph (a) of this Section, reduce or waive the number of required #accessory residential# off-street parking spaces, including any spaces previously required for an existing #building# on the #zoning lot#, provided that the Commission finds that:

- (1) where the applicant is seeking a reduction of parking spaces required by Section 25-23 (Requirements Where Group Parking Facilities Are Provided), such reduction will facilitate the development of #income-restricted housing units#, as defined in Section 12-10 (DEFINITIONS), in such #large-scale residential development# or #large-scale general development#;

- (2) the anticipated rates of automobile ownership for residents of such #large-scale residential development# or #large-scale general development# are minimal and that such reduction or waiver is warranted;
- (3) such reduction of parking spaces will not have undue adverse impacts on the residents, businesses or #community facilities# in the surrounding area; and
- (4) such reduction of parking spaces will result in a better site plan.

In determining the amount of parking spaces to reduce or waive, the Commission may take into account current automobile ownership patterns for an existing #building# containing #residences# on the #zoning lot#, as applicable.

* * *

Article VI - Special Regulations Applicable to Certain Areas

Chapter 3 Special Regulations Applying to FRESH Food Stores

63-00 GENERAL PURPOSES

The provisions of this Chapter establish special regulations that guide the development of FRESH food stores to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) encourage a healthy lifestyle by facilitating the development of FRESH food stores that sell a healthy selection of food products;
- (b) provide greater incentives for FRESH food stores to locate in neighborhoods underserved by such establishments;
- (c) encourage FRESH food stores to locate in locations that are easily accessible to nearby residents; and
- (d) strengthen the economic base of the City, conserve the value of land and buildings, and protect the City's tax revenues.

* * *

63-20 SPECIAL BULK AND PARKING REGULATIONS

* * *

63-22 Authorization to Modify Maximum Building Height

For #buildings# containing a #FRESH food store#, the City Planning Commission may authorize modifications to Sections ~~35-24~~ 35-65 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) ~~(Height and Setback Requirements for Quality Housing Buildings)~~ and 123-66 (Height and Setback Regulations) to allow the applicable maximum #building# height to be increased by up to 15 feet, provided that the first #story# occupied by a #FRESH food store# has a minimum finished floor to finished ceiling height of 14 feet, and provided that such finished ceiling height is at least 14 feet above the #base plane# or #curb level#, as applicable.

* * *

63-23

Special Transparency Requirements

For all #FRESH food stores#, the ground floor level of the #street wall# fronting upon a principal #street# shall be glazed in accordance the provisions of Section 37-34 (Minimum Transparency Requirements). ~~with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk. No less than 50 percent of the area of such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

Furthermore, for #buildings# with frontage on two or more #streets#, the Chairperson of the City Planning Commission may certify that the glazing requirements of this Section shall only be applicable to the #street wall# fronting upon the principal #street#, as determined by the Chairperson.

In addition, the Chairperson ~~of the City Planning Commission~~ may, by certification, allow a reduction in the glazing requirements of this Section, provided that the Chairperson finds that such #mixed building#, or #mixed use building# as defined in Section 123-11, is a recipient of #public funding# as defined in Section 23-911 (General definitions). ~~Such reduced glazing may occupy no less than 50 percent of the area of such ground floor level #street wall# and shall be glazed with transparent materials.~~

63-24

Security Gates

All security gates installed between the #street wall# and the #street line# after December 9, 2009, that are swung, drawn or lowered to secure #FRESH food store# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#.

~~63-25~~ 63-24

Required Accessory Off-street Parking Spaces in Certain Districts

* * *

Article VI - Special Regulations Applicable to Certain Areas

Chapter 4

Special Regulations Applying in Flood Hazard Areas

64-00

GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to encourage flood-resilient building practices for new and existing buildings and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to facilitate the development and alteration of buildings in flood zones consistent with the latest flood-resistant construction standards of the Federal government and the New York City Building Code;
- (b) to enable buildings to be constructed pursuant to flood-resistant standards with a comparable amount of usable interior space to what is generally permitted within the applicable zoning district;
- (c) to mitigate the effects of elevated and flood-proofed buildings on the streetscape and pedestrian activity;
- (d) to expedite the recovery of neighborhoods that experienced a high concentration of damage to single- and two-family residences from Hurricane Sandy within the Neighborhood Recovery Areas specified in Appendix A of this Chapter; and
- (e) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's tax revenues.

* * *

64-33

Special Height and Setback Regulations

64-331

Permitted obstructions for multi-family buildings in R3-2 and R4 Districts

The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).

In R3-2 and R4 ~~R-4~~ Districts, for all #buildings#, or portions thereof, subject to Section 23-60 (HEIGHT

AND SETBACK REGULATIONS), except #single-# and #two-family residences#, elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, shall be considered permitted obstructions to height and setback regulations, provided that:

* * *

Appendix A
Special Regulations for Neighborhood Recovery

* * *

64-A30
SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012

* * *

64-A31
Special Regulations for Minimum Required Open Space, Maximum Lot Coverage and Maximum Floor Area

* * *

64-A312
Floor area

R2X R3 R4 R4-1 R4A

In the districts indicated, the #floor area ratio# set forth in the ~~table in paragraph (b) of Section 23-141~~ 23-142 (Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts) (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) may be increased by 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.

* * *

64-A32
Special Regulations for Maximum Number of Dwelling Units and Minimum Size of Dwelling Units

64-A321
Maximum number of dwelling units

R1 R2 R3 R4 R5 R6

In the districts indicated, the provisions of Section 23-22 (Maximum Number of Dwelling Units-~~or Rooming Units~~) shall not apply. In lieu thereof, not more than one #single-family detached residence# or, where permitted in the applicable zoning district pursuant to Section 22-12 (Use Group 2), one #two-family detached residence#, may be reconstructed. However, any #two-family detached residence# may only be reconstructed if such #zoning lot# contained two or more #dwelling units# on October 28, 2012, as indicated on the certificate of occupancy or upon approval by the Board of Standards and Appeals pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).

* * *

**64-A36
Special Height and Setback Regulations**

R1 R2 R3 R4 R5 R6

In the districts indicated, the height and setback regulations of the applicable district shall not apply. In lieu thereof, all #buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section 23-631 (~~General provisions Height and setback in R1, R2, R3, R4 and R5 Districts~~), except that the maximum height of a perimeter wall before setback shall be 19 feet, the maximum height of a ridge line shall be 25 feet and all heights shall be measured from the #flood-resistant construction elevation#. In no event shall any #building# exceed two #stories#, except that attic space providing structural headroom of less than eight feet shall not be considered a #story# for the purposes of this Section.

* * *

Article VII - Administration

Chapter 3

Special Permits by the Board of Standards and Appeals

* * *

73-10

SPECIAL PERMIT USES

* * *

73-12

Community Facility Uses in R1, R2, R3-1, R3A, R3X, ~~R3-1~~, R4-1, R4A, or ~~R4B or R4-1~~ Districts

* * *

73-122

College or school student dormitories or fraternity or sorority student houses

The Board of Standards and Appeals may permit college or school student dormitories or fraternity or sorority student houses in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# does not exceed the maximum #floor area ratio# for #residential use# as set forth in Section 23-14 (~~Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio~~ Open Space and Floor Area Regulations in R1 through R5 Districts);

* * *

73-123

Non-commercial clubs

The Board of Standards and Appeals may permit non-commercial clubs, except swimming pool clubs or clubs with swimming pools located less than 500 feet from any #lot line#, in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the character of the surrounding area or its future development as a neighborhood of #single-family residences#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets#;

- (c) that such #use# complies with the minimum required #open space ratio# and maximum #floor area ratio# for #residential use# as set forth in Section 23-14 (~~Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio~~ Open Space and Floor Area Regulations in R1 through R5 Districts);

* * *

73-40

MODIFICATIONS OF USE OR PARKING REGULATIONS

* * *

73-43

~~Reduction of Parking Spaces for Houses of Worship or Places of Assembly~~

The Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required under the provisions of Sections 25-31, 36-21 or 44-21 (General Provisions) ~~for houses of worship or places of assembly~~, in accordance with the applicable provisions of Sections 73-431 through 73-435 and 73-432 for the reduction of parking spaces.

* * *

73-433

Reduction of parking spaces to facilitate affordable housing

In all districts in the #Transit Zone#, the Board of Standards and Appeals may permit a waiver of, or a reduction in, the number of required #accessory# off-street parking spaces for #dwelling units# in a #development# or #enlargement# that includes at least 20 percent of all #dwelling units# as #income-restricted housing units# as defined in Section 12-10 (DEFINITIONS), provided that the Board finds that such waiver or reduction:

- (a) will facilitate such #development# or #enlargement# by improving its financial feasibility;
- (b) will not cause traffic congestion; and
- (c) will not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable.

The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

73-434

Reduction of existing parking spaces for income-restricted housing units

For #zoning lots# within the #Transit Zone# with #buildings# containing #income-restricted housing units# in receipt of a certificate of occupancy prior to [date of adoption], the Board of Standards and Appeals may permit a waiver of, or a reduction in, the number of #accessory# off-street parking spaces required for such #income-restricted housing units# prior to [date of adoption], provided that the Board finds that such waiver or reduction:

- (a) will facilitate an improved site plan;
- (b) will not cause traffic congestion; and
- (c) will not have undue adverse effects on residents, businesses or community facilities in the surrounding area, as applicable.

Factors to be considered by the Board may include, without limitation, the use of the existing parking spaces by residents of the #zoning lot#, the availability of parking in the surrounding area and the proximity of public transportation. The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

73-435

Reduction of existing parking spaces for affordable independent residences for seniors

For #zoning lots# outside the #Transit Zone# with #buildings# containing #affordable independent residences for seniors# in receipt of a certificate of occupancy prior to [date of adoption], the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required for such #affordable independent residences for seniors# prior to [date of adoption], provided that the Board finds that such reduction:

- (a) will facilitate an improved site plan;
- (b) will not cause traffic congestion; and
- (c) will not have undue adverse effects on residents, businesses or community facilities in the surrounding area, as applicable.

Any permitted reduction shall be in compliance with the parking requirement for #affordable independent residences for seniors# developed after [date of adoption], as set forth in Section 25-252.

Factors to be considered by the Board may include, without limitation, the use of the existing parking spaces by residents of the #zoning lot#, the availability of parking in the surrounding area, and the

proximity of public transportation. The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

73-60

MODIFICATIONS OF BULK REGULATIONS

* * *

73-62

Modification of Bulk Regulations for Buildings Containing Residences

* * *

73-623

Bulk modifications for Quality Housing buildings on irregular sites

For #developments# or #enlargements# of #Quality Housing buildings#, the Board of Standards and Appeals may modify certain #bulk# regulations in accordance with paragraph (a), provided that the findings in paragraph (b) of this Section are met.

(a) The Board may modify the following underlying #bulk# regulations for #Quality Housing buildings#, whether individually or in any combination:

- (1) for all #Quality Housing buildings#, the applicable #lot coverage#, #yards#, #courts#, #street wall# location, setback requirements, minimum distance between windows and walls or #lot lines# and sloping #base plane# regulations; or
- (2) for a #Quality Housing building# in which at least 50 percent of its #residential floor area# is #income-restricted housing units#, or at least 50 percent of its total #floor area# is a #long-term care facility# or philanthropic or non-profit institution with sleeping accommodation, the maximum base height, overall building height, and maximum number of #stories# permitted, provided that in no event shall such #building# height or number of #stories# exceed those set forth in paragraph (b) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) for the applicable zoning district.

(b) In granting such special permit for #bulk# modifications, the Board shall find that:

- (1) there are physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or topographical features that create practical difficulties in complying with the #bulk# regulations for #Quality Housing buildings# and would adversely affect the #building# configuration or site plan;

- (2) the practical difficulties of developing on the #zoning lot# have not been created by the owner or by a predecessor in title;
- (3) the proposed modifications will not unduly obstruct access of light and air to adjoining properties or #streets#;
- (4) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with surrounding area; and
- (5) the requested modification is the least amount necessary to relieve such practical difficulties.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

Article VII - Administration

Chapter 4

Special Permits by the City Planning Commission

* * *

74-50

OFF-STREET PARKING ESTABLISHMENTS

* * *

74-53

Accessory Group Parking Facilities for Uses in Large-Scale Residential Developments or Large-Scale Community Facility Developments or Large-Scale General Developments

74-531

Additional parking spaces or roof parking for accessory group parking facilities

The City Planning Commission may permit #group parking facilities accessory# to #uses# in #large-scale residential developments# or #large-scale community facility developments# or #large-scale general developments# with more than the prescribed maximum number of parking spaces set forth in Sections 25-12, 36-12 and 44-12 (Maximum Size of Accessory Group Parking Facilities) or may permit modifications of the applicable provisions of Sections 25-11, 36-11 and 44-11 (General Provisions) so as to permit off-street parking spaces #accessory# to such #uses# to be located on the roof of a #building#.

* * *

74-532

Reduction or waiver of parking requirements for accessory group parking facilities

The City Planning Commission may, in conjunction with an application for a #large-scale residential development# or #large-scale general development# in the #transit zone# seeking a #bulk# modification, reduce or waive the number of required #accessory residential# off-street parking spaces, including any spaces previously required for an existing #building# on the #zoning lot#, provided that the Commission finds that:

- (1) where the applicant is seeking a reduction of parking spaces required by Section 25-23 (Requirements Where Group Parking Facilities Are Provided), such reduction will facilitate the development of #income-restricted housing units#, as defined in Section 12-10 (DEFINITIONS), in such #large-scale residential development# or #large-scale general development#;

- (2) the anticipated rates of automobile ownership for residents of such #large-scale residential development# or #large-scale general development# are minimal and that such reduction or waiver is warranted;
- (3) such reduction of parking spaces will not have undue adverse impacts on the residents, businesses or #community facilities# in the surrounding area; and
- (4) such reduction of parking spaces will result in a better site plan.

In determining the amount of parking spaces to reduce or waive, the Commission may take into account current automobile ownership patterns for an existing #building# containing #residences# on the #zoning lot#, as applicable.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the surrounding area.

* * *

74-63

Bus Stations

* * *

74-634

Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan

The City Planning Commission may grant, by special permit, a #floor area# bonus not to exceed 20 percent of the basic maximum #floor area ratio# permitted by the underlying district regulations, and may waive or modify the provisions of Article III, Chapter 7 (Special Regulations), and the #street wall# continuity provisions of Sections 81-43 (Street Wall Continuity Along Designated Streets), 91-31 (Street Wall Regulations) or 101-41 (Special Street Wall Location Regulations) for #developments# or #enlargements# located on #zoning lots# where major improvements to adjacent subway stations are provided in accordance with the provisions of this Section. For the purposes of this Section, “adjacent” shall mean that upon completion of the improvement, the #zoning lot# will physically adjoin a subway station mezzanine, platform, concourse or connecting passageway. Subway stations where such improvements may be constructed are those stations located within the #Special Midtown District# as listed in Section 81-292 (Subway station improvements), the #Special Lower Manhattan District# as listed in Section 91-43 (Off-Street Relocation or Renovation of a Subway Stair), the #Special Downtown Brooklyn District# as listed in Section 101-211 (Special permit for subway station improvements), the #Special Union Square District# as listed in Section ~~118-60~~ 118-50 and those stations listed in the following table:

* * *

74-70

NON-PROFIT HOSPITAL STAFF DWELLINGS

* * *

74-74

Large-Scale General Development

* * *

74-743

Special provisions for bulk modification

(a) For a #large-scale general development#, the City Planning Commission may permit:

* * *

(4) the maximum #floor area ratio# permitted pursuant to Section 23-142 (~~In R6, R7, R8 or R9 Districts~~ Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements, provided that the #large-scale general development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community Districts 2 or 7 in Manhattan or located within a C4-4 District within the boundaries of Queens Community District 7 and that a minimum of 50 percent of the required #open space# is provided within the #large-scale general development#. Required #open space# for the purposes of this paragraph, (a)(4), shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio#, pursuant to Section 23-142 for the applicable district;

* * *

74-80

TRANSIENT HOTELS

* * *

74-81

Affordable Independent Residences for Seniors ~~Non-profit Residences for the Elderly~~

The related #accessory# social and welfare facilities minimum requirement, as set forth in Section 12-10 (DEFINITIONS – Affordable Independent Residences for Seniors ~~Non-profit Residence for the Elderly~~)

may be reduced or waived in any ~~#affordable independent residence for seniors# #non-profit residence for the elderly#~~ as to which the City Planning Commission makes the following findings:

- (a) the proposed ~~#affordable independent residence for seniors# #non-profit residence for the elderly#~~ is an addition to or ~~#enlargement#~~ or expansion of an existing ~~#affordable independent residence for seniors# #non-profit residence for the elderly#~~ and is located on a ~~#zoning lot#~~ no portion of which is more than 1,500 feet from the existing ~~#affordable independent residence for seniors# #non-profit residence for the elderly#~~;
- (b) both ~~#affordable independent residences for seniors# #non-profit residences for the elderly#~~ will be owned, operated and maintained by the same sponsoring organization;
- (c) the existing ~~#affordable independent residence for seniors# #non-profit residence for the elderly#~~ contains related social and welfare facilities which will be used to adequately and conveniently service tenants of both the existing and proposed ~~#affordable independent residence for seniors# #non-profit residences for the elderly#~~.

The Commission may prescribe appropriate conditions and safeguards to enhance the character and purposes of the project.

* * *

74-90

USE AND BULK MODIFICATIONS FOR CERTAIN COMMUNITY FACILITY USES

~~In all #Residence# and #Commercial Districts# except C7 and C8 Districts, which are in the Community Districts within which, pursuant to Section 22-42 (Certification of Certain Community Facility Uses), nursing homes and health-related facilities are not permitted as of right, the City Planning Commission may permit the #development#, #extension# or #enlargement# or change of #use# involving such nursing homes and health-related facilities where such #uses# are not permitted as of right, provided that the Commission finds:~~

- (a) ~~that the architectural landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography of the surrounding area;~~
- (b) ~~that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made;~~
- (c) ~~that the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic;~~
- (d) ~~that the disadvantages to the community imposed by the concentration of these facilities in the~~

~~Community District are outweighed by the benefits derived from the proposed #use#; and~~

- ~~(e) that in R1 and R2 Districts, such facilities are not proprietary nursing homes, proprietary health-related facilities or proprietary domiciliary care facilities for adults.~~

~~The Commission may prescribe appropriate conditions or safeguards to minimize the adverse effect of any #use# permitted under this Section on the character of the surrounding area.~~

~~Where such #use# is authorized by the Commission, it may be eligible for #bulk# modification, pursuant to the provisions of Sections 74-901 or 74-902.~~

~~Special permits granted by the Commission under Sections 74-901 or 74-902 on or before January 10, 1974, shall not require further approval or action pursuant to this Section or Sections 22-42 or 32-45.~~

~~In the event amendment CP 22490 is not held invalid by the courts, it shall be effective insofar as limiting vested rights is concerned but shall be superseded in all other respects by amendments CP 22490(A) and CP 22566.~~

74-901

Long-term care facilities in R1 and R2 Districts and certain Commercial Districts

The City Planning Commission may permit #long-term care facilities# in R1 and R2 Districts, and in C1 and C2 Districts mapped within such #Residence Districts#, provided that the following findings are made:

- (a) that such #use# is compatible with the character or the future #use# or #development# of the surrounding area;
- (b) that the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

Where such #use# is authorized by the Commission, it may be eligible for #bulk# modification, pursuant to the provisions of Section 74-902 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts).

74-901-74-902

Certain community facility uses in R1 and R2 Districts and certain Commercial Districts

In R1 and R2 Districts, and in C1 and C2 Districts mapped within such #Residence Districts# for any #development#, #extension# or #enlargement# or change of #use# involving any #community facility uses# permitted as-of-right pursuant to the provisions of Sections 22-13 (Use Group 3) or 22-14 (Use Group 4), or #long-term care facilities# for which a special permit has been granted pursuant to Section 74-901, other than domiciliary care facilities for adults or those for which a permit is required by the Board of Standards and Appeals pursuant to Sections 73-12 (Community Facility Uses in R1 or R2 Districts) or 73-13 (Open Uses in R1 or R2 Districts), the City Planning Commission may permit the allowable #community facility floor area ratio# and #lot coverage# of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to all such #uses#, provided that the following findings are made:

- (a) that the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air in and to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area;
- (b) that the architectural and landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography and the surrounding area;
- (c) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
- (d) that the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may request a report from appropriate governmental agencies with respect to #community facility uses# requesting a special permit under this Section.

To minimize traffic congestion in the area, the Commission may require where necessary off-street parking facilities and #accessory# off-street loading berths beyond the amount required by the district regulations.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

74-902-74-903

Certain community facility uses in R3 to R9 Districts and certain Commercial Districts

The City Planning Commission may permit the #community facility floor area ratio# and the #community facility bulk# provisions to apply to a #development#, #extension# or #enlargement#, or change of #use# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as set forth in paragraph (a), provided that the findings in paragraph (b) of this Section

are met.

(a) The Commission may permit:

- (1) In R3 through R9 Districts, and in C1 or C2 Districts mapped within an R3 through R9 District or #Commercial Districts# with an R3 through R9 District residential equivalent, the #community facility floor area ratio# of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to #buildings# containing philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3;
- (2) In R3-1, R3A, R3X, R4-1, R4A, R4B, R5A and R5B Districts, and in C1 or C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A and R5B Districts, the #community facility floor area ratio# of Section 24-11 to apply to #buildings# containing #long-term care facilities#, as listed in Use Group 3;
- (3) In R3 through R5 Districts, except R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, and in C1 or C2 Districts mapped within an R3 through R5 District, except R3-1, R3A, R3X, R4-1, R4A, R4B, R5A, R5B and R5D Districts, the #bulk# regulations of Article II, Chapter 4, Article III, Chapter 3, or Article III, Chapter 5, as applicable, and the #community facility floor area ratio# of Section 24-11, to apply to #buildings# containing #long-term care facilities#; or
- (4) In R6 through R10 Districts without a letter suffix, and in C1 or C2 Districts mapped within an R6 through R10 District without a letter suffix or in #Commercial Districts# with an R6 through R10 District equivalent without a letter suffix, the #bulk# regulations of Article II Chapter 4, Article III, Chapter 3, or Article III, Chapter 5, as applicable, and the #community facility floor area ratio# of Section 24-11, as applicable, to apply to #buildings# containing #long-term care facilities#.

(b) In order to grant such a special permit for #community facility floor area ratio# or #community facility bulk#, as applicable, the Commission shall find that:

- (1) the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area; and
- (2) the #streets# providing access to such-#use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may request a report from appropriate governmental agencies with respect to #community facility uses# requesting a special permit under this Section.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the

character of the surrounding area.

~~In R3, R4, R5, R6, R7, R8 and R9 Districts, and in all #Commercial Districts# except C7 or C8 Districts, the City Planning Commission may permit the allowable #community facility floor area ratio# of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to any #development#, #extension# or #enlargement#, or change of #use# involving nursing homes, health related facilities, sanitariums or philanthropic or non-profit institutions as listed in Use Group 3, each of which have secured certification by the appropriate governmental agency; and in R3, R4, R5, R6 and R7 Districts, and in #Commercial Districts# with the equivalent #residential floor area ratio#, the Commission may permit the allowable #floor area ratio# of Section 23-147 (For non-profit residences for the elderly) to apply to domiciliary homes for adults which have secured certification by the appropriate governmental agency, provided the following findings are made:~~

- ~~(a) — that the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area;~~
- ~~(b) — that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and~~
- ~~(c) — that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.~~

~~The Commission may request a report from appropriate governmental agencies with respect to #community facility uses# requesting a special permit under this Section.~~

~~To minimize traffic congestion in the area, the Commission may require, where necessary, off-street parking facilities and #accessory# off-street loading berths beyond the amount required by the district regulations.~~

~~The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

74-903

Special permits for domiciliary care facilities for adults

~~In all #Residence# and #Commercial Districts#, except C7 and C8 Districts, the City Planning Commission may permit the #development#, #extension# or #enlargement#, or change of #use# involving domiciliary care facilities for adults, provided that the Commission finds:~~

- (a) ~~that there is a program for residents including a maintenance and security plan for the facility;~~
- (b) ~~that there is a plan designating #open space# recreation areas for the use of the residents of the facility;~~
- (c) ~~that the architectural landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography of the surrounding area;~~
- (d) ~~that the proposed facilities will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made;~~
- (e) ~~that the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic; and~~
- (f) ~~that in R1 and R2 Districts, such facilities are not proprietary domiciliary care facilities for adults.~~

~~The Commission may prescribe appropriate conditions or safeguards to minimize the adverse effect of any #use# permitted under this Section on the character of the surrounding area.~~

~~Where such #use# is authorized by the Commission, it may be eligible for #bulk# modification, pursuant to the provisions of Section 74-902 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts).~~

74-91 Modification of Public Plazas

In all districts, the City Planning Commission may permit modification of the provisions of Section 37-70 (PUBLIC PLAZAS) affecting the eligibility of #public plazas# for bonus #floor area#, provided that such modification shall not include any modification of Sections 23-15 (~~Maximum Floor Area Ratio in R10 Districts~~ Open Space and Floor Area Regulations in R6 through R10 Districts), 24-14 or 33-13 (Floor Area Bonus for a Public Plaza).

Any modification shall be conditioned upon the Commission finding that the usefulness and attractiveness of the #public plaza# will be assured by the proposed layout and design and that such modification will result in a superior urban design relationship with surrounding #buildings# and open areas.

The Commission may prescribe appropriate conditions and controls to enhance the relationship of such #public plazas# to surrounding #buildings# and open areas.

* * *

Article VII - Administration

Chapter 7

Special Provisions for Zoning Lots Divided by District Boundaries

77-00

GENERAL PROVISIONS

77-01

Applicability of This Chapter

Whenever any #zoning lot# is located in two or more districts in which different #uses# are permitted, or in which different #use#, #bulk#, #accessory# off-street parking and loading, or other regulations apply, the provisions of this Chapter shall apply.

* * *

77-20

BULK REGULATIONS

* * *

77-28

Height and Setback Regulations

* * *

In R2X, R3, R4 or R5 Districts, for #residential# portions of #buildings#, each portion of the #zoning lot# shall be governed by the height and setback regulations specified for the district in which it is located, as set forth in Article II, Chapter 3.

For the purposes of defining a #building# envelope pursuant to paragraph (b) of Section 23-631 (General provisions Height and setback in R1, R2, R3, R4 and R5 Districts), apex points may be located on a zoning district boundary which divides a #building#.

Furthermore, if any portion of a #zoning lot# is located in an R2X, R3, R4, R4-1 or R4A ~~or R4-1~~ District, the height and setback regulations specified for such district may apply to the entire #zoning lot# provided that such district comprises more than 50 percent of such #zoning lot#, and the greatest distance from the mapped district boundary to any #lot line# of such #zoning lot# in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.

* * *

Article VIII - Special Purpose Districts

Chapter 1

Special Midtown District

81-00

GENERAL PURPOSES

The “Special Midtown District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to strengthen the business core of Midtown Manhattan by improving the working and living environments;
- (b) to stabilize development in Midtown Manhattan and provide direction and incentives for further growth where appropriate;
- (c) to control the impact of buildings on the access of light and air to the streets and avenues of Midtown;
- (d) to link future Midtown growth and development to improved pedestrian circulation, improved pedestrian access to rapid transit facilities, and avoidance of conflicts with vehicular traffic;
- (e) to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the quality that makes Midtown vital;
- (f) to continue the historic pattern of relatively low building bulk in midblock locations compared to avenue frontages;
- (g) to improve the quality of new development in Midtown by fostering the provision of specified public amenities in appropriate locations;
- (h) to preserve, protect and enhance the character of the Theater Subdistrict as the location of the world's foremost concentration of legitimate theaters and an area of diverse uses of a primarily entertainment and entertainment-related nature;
- (i) to strengthen and enhance the character of the Eighth Avenue Corridor and its relationship with the rest of the Theater Subdistrict and with the Special Clinton District;
- (j) to create and provide a transition between the Theater Subdistrict and the lower-scale Clinton community to the west;

- (k) to preserve, protect and enhance the scale and character of Times Square, the heart of New York City's entertainment district, and the Core of the Theater Subdistrict, which are characterized by a unique combination of building scale, large illuminated signs and entertainment and entertainment-related uses;
- (l) to preserve, protect and enhance the character of Fifth Avenue as the showcase of New York and national retail shopping;
- (m) to preserve the midblock area north of the Museum of Modern Art for its special contribution to the historic continuity, function and ambience of Midtown;
- (n) to protect and strengthen the economic vitality and competitiveness of the Grand Central Subdistrict by facilitating the development of exceptional and sustainable buildings within the Vanderbilt Corridor and enabling improvements to the pedestrian and mass transit circulation network;
- (o) to ensure that development within the Vanderbilt Corridor occurs on sites that meet sound site planning criteria and therefore can accommodate additional density as appropriate;
- (p) to protect and enhance the role of Grand Central Terminal as a major transportation hub within the City, to expand and enhance the pedestrian and mass transit circulation network connecting Grand Central Terminal to surrounding development, to minimize pedestrian congestion and to protect the surrounding area's special character;
- (q) to expand the retail, entertainment and commercial character of the area around Pennsylvania Station and to enhance its role as a major transportation hub in the city;
- (r) to provide freedom of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms without the need for special development permissions or "negotiated zoning"; and
- (s) to promote the most desirable use of land and building development in accordance with the District Plan for Midtown and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

81-06

Applicability of Article VII Provisions

81-061

Applicability of Chapter 3 of Article VII

Within the #Special Midtown District#, the following provisions regarding special permits by the Board of Standards and Appeals for #non-complying buildings# shall not be applicable:

- Section 73-621 (~~Enlargement, change of use, or Extension within~~ ~~or Conversion of~~
Buildings ~~C~~ontaining ~~R~~esidential ~~U~~ses)
- Section 73-63 (Enlargement of Non-Residential Buildings)
- Section 73-64 (Modifications for Community Facility Uses)

* * *

81-067

Modification of provisions for minimum base height and street wall location in Historic Districts

Within the Special Midtown District, for any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, any applicable provisions relating to minimum base height and #street wall# location requirements as modified in Sections 81-43 (Street Wall Continuity Along Designated Streets), 81-621 (Special street wall requirements) pertaining to the Grand Central Subdistrict, 81-75 (Special Street Wall and Setback Requirements) pertaining to the Theater Subdistrict, 81-83 (Special Street Wall Requirements) pertaining to the Fifth Avenue Subdistrict, and 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT) pertaining to mandatory #street walls# may be modified pursuant to ~~Sections 23-633 (Street wall location and height and setback regulations in certain districts) and 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts)~~ Sections 23-66 and 35-65 (Height and Setback Requirements for Quality Housing Buildings).

* * *

81-20

BULK REGULATIONS

* * *

81-23

Floor Area Bonus for Public Plazas

* * *

81-231

Existing plazas or other public amenities

- (a) Elimination or reduction in size of existing #publicly accessible open area# or other public

amenities

No existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, shall be eliminated or reduced in size, except by special permit of the City Planning Commission, pursuant to Section ~~74-763~~ 74-761 (Elimination or reduction in size of ~~existing~~ bonused public amenities).

* * *

81-60

SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT

* * *

81-63

Transfer of Development Rights from Landmark Sites

* * *

81-634

Transfer of development rights by certification

Within the Grand Central Subdistrict, the City Planning Commission may allow by certification:

* * *

- (b) in conjunction with such transfer of development rights, modification of the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements), as follows:

For any “receiving lot,” whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, or #dwelling units# ~~or #rooming units#~~ permitted by the applicable district regulations which allow a greater #floor area ratio# may be located on a portion of such “receiving lot” within a district which allows a lesser #floor area ratio#, provided that the amount of such #floor area#, or #dwelling units# ~~or #rooming units#~~ to be located on the side of the district boundary permitting the lesser #floor area ratio# shall not exceed 20 percent of the basic maximum #floor area ratio# or number of #dwelling units# ~~or #rooming units#~~ of the district in which such #bulk# is to be located.

81-635

Transfer of development rights by special permit

* * *

(a) The Commission may permit:

* * *

(2) modifications of the provisions of Sections 77-02 (Zoning Lots ~~Not~~ not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area#, or #dwelling units# ~~or #rooming units#~~ permitted by the district regulations which allow a greater #floor area ratio# may be located within a district that allows a lesser #floor area ratio#;

* * *

81-70

SPECIAL REGULATIONS FOR THEATER SUBDISTRICT

* * *

81-74

Special Incentives and Controls in the Theater Subdistrict

* * *

81-746

Additional provisions for zoning lots divided by district or subdistrict core boundaries

* * *

(b) Notwithstanding any other provisions of this Resolution, for any #zoning lot# which is divided by a boundary of the Theater Subdistrict Core as defined in Section 81-71 (General Provisions) and for which the basic maximum #floor area ratio# as set forth in Section 81-211 is the same for both the portion within and the portion outside of the Theater Subdistrict Core, the applicable underlying #bulk# regulations shall be modified, as follows:

(1) #floor area#, including bonus #floor area#, or #dwelling units# ~~or #rooming units#~~, permitted by the applicable district regulations on that portion of the #zoning lot# within the Theater Subdistrict Core may be located on the portion of the #zoning lot# outside the Core, provided that the number of such #rooms#, if any, to be located outside of the Core shall not exceed the number permitted by the applicable district regulations; and

(2) #floor area#, including bonus #floor area#, or #dwelling units# ~~or #rooming units#~~,

permitted by the applicable district regulations on that portion of the #zoning lot# outside of the Theater Subdistrict Core shall not be located on the portion of the #zoning lot# within the Core.

- (c) Notwithstanding any other provisions of this Resolution, for any #zoning lot# located wholly within the Theater Subdistrict and outside of the Theater Subdistrict Core that is divided by a boundary of the Eighth Avenue Corridor as defined in Section 81-71 and for which the basic maximum #floor area ratio# as set forth in Section 81-211 is the same for both the portion within and the portion outside of the Eighth Avenue Corridor, #floor area#, including bonus #floor area#, or #dwelling units# or #rooming units#, permitted by the applicable district regulations may be located on either side of the Eighth Avenue Corridor boundary.

* * *

Article VIII - Special Purpose Districts

Chapter 2

Special Lincoln Square District

82-00

GENERAL PURPOSES

The "Special Lincoln Square District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to preserve, protect and promote the character of the #Special Lincoln Square District# area as the location of a unique cultural and architectural complex - an attraction which helps the City of New York to achieve preeminent status as a center for the performing arts, and thus conserve its status as an office headquarters center and a cosmopolitan residential community;
- (b) to improve circulation patterns in the area in order to avoid congestion arising from the movements of large numbers of people; improvement of subway stations and public access thereto; including convenient transportation to, from and within the district; and provision of arcades, open spaces, and subsurface concourses;
- (c) to help attract a useful cluster of shops, restaurants and related amusement activities which will complement and enhance the area as presently existing;
- (d) to provide an incentive for possible development of the area in a manner consistent with the foregoing objectives which are an integral element of the Comprehensive Plan of the City of New York;
- (e) to encourage a desirable urban design relationship of each building to its neighbors and to Broadway as the principal street; and
- (f) to promote the most desirable use of land in this area and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues.

* * *

82-10

MANDATORY DISTRICT IMPROVEMENTS

* * *

82-12

Mandatory Off-Street Relocation of a Subway Stair

Where a #development# is constructed on a #zoning lot# that fronts on a sidewalk containing a stairway entrance into the West 59th Street (Columbus Circle) or the West 66th Street subway station and such #zoning lot# contains 5,000 square feet or more of #lot area#, the existing entrance shall be relocated from the #street# onto the #zoning lot# in accordance with the provisions of Sections ~~37-42 (Standards for Relocation, Design and Hours of Public Accessibility)~~ 37-41 (Standards for Location, Design and Hours of Public Accessibility) and ~~37-43 (Administrative Procedure for a Subway Stair Relocation)~~ 37-42 (Administrative Procedure for a Subway Stair Relocation or Renovation).

* * *

82-20

SPECIAL USE AND SIGN REGULATIONS

* * *

82-23

Street Wall Transparency

When the front #building# wall or #street wall# of any #building developed# after February 9, 1994, is located on Broadway, Columbus Avenue or Amsterdam Avenue, ~~at least 50 percent of the total surface area of the #street wall# between #curb level# and 12 feet above #curb level#, or to the ceiling of the first #story#, whichever is higher, shall be transparent. Such transparency shall begin not higher than 2 feet, 6 inches above #curb level#.~~ glazing shall be provided in accordance with the transparency requirements set forth in Section 37-34 (Minimum Transparency Requirements).

* * *

82-30

SPECIAL BULK REGULATIONS

* * *

82-36

Special Tower Coverage and Setback Regulations

The requirements set forth in Sections 33-45 (Tower Regulations) or ~~35-63~~ 35-64 (Special Tower Regulations for Mixed Buildings) for any #building#, or portion thereof, that qualifies as a "tower" shall be modified as follows:

* * *

(c) In Subdistrict A, the provisions of paragraph (a) of Section ~~35-63~~ 35-64, as modified by paragraphs (a) and (b) of this Section, shall apply to any #mixed building#.

* * *

82-60

EXISTING PUBLICLY ACCESSIBLE OPEN AREAS OR OTHER PUBLIC AMENITIES

No existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized shall be eliminated or reduced in size, except by special permit of the City Planning Commission, pursuant to Section ~~74-763~~ 74-761 (Elimination or reduction in size of ~~existing~~ bonused public amenities).

* * *

Article VIII - Special Purpose Districts

Chapter 3 Special Limited Commercial District

83-00 GENERAL PURPOSES

The "Special Limited Commercial District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to preserve, protect, and enhance the character of Historic Districts as the location of many of the city's most valued cultural assets;
- (b) to improve circulation patterns in the areas in order to avoid congestion arising from the movements of large numbers of people;
- (c) to help attract a useful cluster of shops, restaurants, cultural attractions and related activities which will complement and enhance the areas as presently existing; and
- (d) to promote the most desirable use of land in these areas and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues.

* * *

83-03 Use Group "LC"

Use Group "LC" comprises #residential uses# listed in Use Groups 1 and 2, and a group of specially related #uses# selected from Use Groups 3, 4, 5, 6, 8 and 9 to provide for the special needs, comfort, convenience, enjoyment, education and recreation of the residents of the surrounding communities and of the many visitors who are attracted to its activities.

* * *

B. Community Facilities

* * *

Philanthropic or non-profit institutions with or without sleeping accommodations, including ~~nursing homes or sanitariums~~ #long-term care facilities#, provided that the number of persons

employed in central office functions shall not exceed 50, and the amount of #floor area# used for central office purposes shall not exceed 25 percent of the total #floor area# or 25,000 square feet, whichever is greater

Proprietary hospitals and related facilities, except animal hospitals

Proprietary ~~nursing homes or sanitariums~~ #long-term care facilities#

* * *

Article VIII - Special Purpose Districts

Chapter 4

Special Battery Park City District

84-00

GENERAL PURPOSES

The "Special Battery Park City District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include among others, the following specific purposes:

- (a) to strengthen the business core of Lower Manhattan by improving the working environment;
- (b) to provide major additional space for expansion of office uses and their ancillary facilities;
- (c) to broaden the regional choice of residence by introducing new housing in the vicinity of the major employment center of Lower Manhattan;
- (d) to achieve a harmonious visual and functional relationship with adjacent areas;
- (e) to create an environment which will be lively and attractive and provide daily amenities and services for the use and enjoyment of the working population and the new residents;
- (f) to take maximum advantage of the beauty of the Hudson River waterfront, thereby best serving the downtown business community, the new residential population and providing regional recreation as well; and
- (g) to promote the most desirable use of land and direction of building development in the Lower Manhattan area.

* * *

84-10

ZONE A GENERAL DISTRICT REGULATIONS

* * *

84-11

General Provisions

Except as expressly modified by the provisions of this Chapter, the regulations applying to an R10

District shall apply in subzones A-1, A-2, A-3, A-5 and A-6 of the #Special Battery Park City District#.

Notwithstanding any other provision of this Resolution, #developments# and #enlargements# may only be constructed in subzone A-4 in accordance with certifications given by the City Planning Commission. #Residential open space# in subzone A-4 shall be subject to the provisions of Sections 12-10 (DEFINITIONS) and 23-12 (Permitted Obstructions in Open Space). For every #dwelling unit# there shall be a minimum of 55.0 square feet of #open space#, ~~and for every #rooming unit# there shall be a minimum of 44.0 square feet of #open space#.~~ All other provisions of this Chapter with respect to Zone A shall not apply to #developments# or #enlargements# in subzone A-4 unless otherwise indicated.

84-12
Use Regulations

In the areas indicated as permitted #commercial# locations in Appendices 2.3 and 3.3, the #use# regulations applying in a C2 District shall apply, except as provided in Sections 84-031 (Special permit uses), 84-032 (Uses not permitted), 84-121 (Uses along Esplanade) and this Section.

In the case of a #mixed building# containing #residential# and #commercial uses# ~~non #residential uses#~~, #residential uses# are permitted on the same #story# as a #commercial use# ~~non #residential use#~~, provided no access exists between such #uses# at any level containing #residences# and provided any #commercial uses# ~~non #residential uses#~~ are not located over any #residences#. However, such #commercial use# ~~non #residential uses#~~ may be located over #residences# by authorization of the City Planning Commission upon finding that sufficient separation of #residences# from #commercial uses# ~~non #residential uses#~~ exists within the #building#.

* * *

84-13
Bulk Regulations

* * *

The provisions of Sections ~~23-533~~ 23-532 (Required rear yard equivalents) and 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), and Article VII, Chapter 8 (Special Regulations Applying to Large Scale Residential Developments) and Chapter 9 (Special Regulations Applying to Large-Scale Community Facility Development), are not applicable.

The provisions of Section 23-70 (MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT) may be modified by the Battery Park City Authority. Prior to the granting of any such modification, the Authority shall make the following findings:

* * *

Article VIII - Special Purpose Districts

Chapter 5

Special United Nations Development District

85-00

GENERAL PURPOSES

The "Special United Nations Development District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to preserve, protect and promote the character of the Special United Nations Development District adjacent to the headquarters of the United Nations, an attraction which helps the City of New York to maintain its preeminent status as a center for international organizations, as an office headquarters center and a cosmopolitan residential community;
- (b) to facilitate the continued growth of the programs and activities of the United Nations and to help assure the retention of the United Nations headquarters in the City of New York;
- (c) to encourage the provision of suitable office facilities for the United Nations, missions of member nations of the United Nations, and for non-governmental organizations related to the United Nations, in an attractive environment within a reasonable distance of the United Nations;
- (d) to encourage the provision of housing suitable for personnel of delegations and members of the United Nations staff within a reasonable distance of the United Nations;
- (e) to encourage the provision of hotel accommodations in the immediate vicinity of the United Nations suitable for visiting heads of state and other dignitaries attending the United Nations;
- (f) to encourage the provision of community facilities, meeting rooms, and other facilities suitable for United Nations related uses and purposes;
- (g) to alleviate vehicular and pedestrian traffic congestion in the vicinity of the United Nations;
- (h) to promote coordinated redevelopment of the area contiguous to the United Nations in a manner consistent with the foregoing objectives which are an integral element of the comprehensive plan of the City of New York;
- (i) to provide freedom of architectural design in accommodating facilities for the United Nations and supporting activities within multi-use structures which produce more attractive and economic development; and

- (j) to promote the most desirable use of land in this area in accordance with a well-considered plan to promote the special character of the district and its peculiar suitability for uses related to the United Nations and thus to conserve the value of land and buildings, and thereby protect the ~~city's~~ City's tax revenues.

* * *

85-04 Modifications of Bulk Regulations

* * *

In no event shall the maximum #floor area ratio# for the #Special United Nations Development District#, taken as a whole, exceed 15.0. The #floor area ratio# of a #residential building# or the #residential# portion of a #mixed building# shall not exceed the maximum #floor area ratio# set forth in Sections 34-112, ~~23-15~~ 23-152, and 35-31 ~~and 35-32~~.

* * *

For a #residential building# or the #residential# portions of any mixed-#use building# located on the north side of 44th Street within the #Special United Nations Development District#, the provisions of Sections ~~23-533~~ 23-532 (Required rear yard equivalents) and ~~Section~~ 23-711 (Standard minimum distance between buildings) shall not apply. Notwithstanding anything in this Resolution to the contrary, the minimum distance between a #residential# portion of a #building# and any other #building# on the same #zoning lot# within the #Special United Nations Development District# shall be not less than 28 feet.

For any #building# containing #residences# within the #Special United Nations Development District#, the applicable density requirements may be modified, but in no event shall there be less than 395 square feet of #residential floor area# per #dwelling unit# ~~or 300 square feet of #residential floor area# per #rooming unit#~~.

* * *

Article VIII - Special Purpose Districts

Chapter 6

Special Forest Hills District

86-00

GENERAL PURPOSES

The “Special Forest Hills District” established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity of Forest Hills. The general goals include, among others, the following specific purposes:

- (a) ensure that the form of new buildings is compatible with and relates to the built character of the Forest Hills neighborhood;
- (b) preserve, protect and promote the special character of Austin Street as a regional shopping destination;
- (c) create a graduated transition from the lower-scale character of Austin Street to the higher-scale character of Queens Boulevard;
- (d) support a broad and vibrant mix of commercial and residential uses throughout the Special District;
- (e) enhance the pedestrian setting of Austin Street through appropriate ground floor uses and structural requirements;
- (f) promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City’s revenue.

* * *

86-10

SPECIAL USE REGULATIONS

86-11

Ground Floor Uses Along Designated Streets

Along the portions of Austin Street and 71st Avenue specified on the map in the Appendix to this Chapter as Retail Continuity Streets, #uses# within #stories# that have a floor level within five feet of #curb level#, and within 30 feet of the #street wall#, shall be limited to #commercial# or #community facility uses# permitted by the underlying district and the provisions of Section 86-12 (Modification of Uses ~~on~~ Along Austin Street) and shall extend to a minimum depth in accordance with the provisions set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

~~The~~ Such ground floor #street# frontage of a #development# or #enlargement# constructed after March 24, 2009, shall be allocated exclusively to such #uses#, except for Type 2 lobby space, entryways or entrances to subway stations and #accessory# parking spaces provided in accordance with applicable provisions of Section 37-33 (Maximum Width of Certain Uses). ~~In no event shall the length of #street# frontage occupied by lobby space exceed, in total, 40 feet or 25 percent of the #building's# total #street# frontage, whichever is less.~~

* * *

86-13

Location of Uses in Mixed Buildings

The provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit #dwelling units# ~~or #rooming units#~~ on the same #story# as a #commercial use# ~~non #residential use#~~ provided no access exists between such #uses# at any level containing #dwelling units# ~~or #rooming units#~~ and provided any #commercial uses# ~~non #residential uses#~~ are not located directly over any #dwelling units# ~~or #rooming units#~~.

Such #commercial uses# ~~non #residential uses#~~, however, may be located over #dwelling units# ~~or #rooming units#~~ by authorization of the City Planning Commission upon a finding that there is sufficient separation of #residential uses# from #commercial uses# non #residential uses# within the #building#.

86-14

Transparency Requirements

For #developments# or #enlargements# constructed after March 24, 2009, the ground floor #street wall# bounding any #commercial# or #community facility use#, other than a #school#, shall be glazed in accordance with the transparency requirements set forth in Section 37-34 (Minimum Transparency Requirements) ~~with transparent materials which may include #show windows#, glazed transoms or glazed portions of doors.~~

For such #community facility uses#, the glazed area shall occupy at least 50 percent of the area of each such ground floor #street wall# measured to a height of 10 feet above the level of the adjoining sidewalk or public access area.

For #commercial uses#, such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall# measured to a height of 10 feet above the level of the adjoining sidewalk or public access area. ~~Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

86-15

Security Gates

For all ~~#commercial# or #community facility uses#~~ located on the ground floor, any security gates installed after March 24, 2009, that are swung, drawn or lowered to secure ~~#commercial# or #community facility#~~ premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the ~~#street#~~ or any publicly accessible area, except that this provision shall not apply to entrances or exits to parking garages.

* * *

**86-20
SPECIAL BULK REGULATIONS**

* * *

**86-23
Height and Setback Regulations**

~~#Buildings or other structures#~~ within the Special District shall comply with the height and setback regulations of Section ~~35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts)~~ 35-65 (Height and Setback Requirements for Quality Housing Buildings), except as modified by this Section.

* * *

**86-40
SPECIAL OFF-STREET PARKING AND LOADING REGULATIONS**

* * *

**86-43
Modification of Parking Requirement Waivers**

The waiver provisions of Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations), inclusive, shall be modified within the ~~#Special Forest Hills District#~~, as follows:

- (a) For any ~~#development# or #enlargement#~~ containing ~~#residences#~~, the waiver modification provisions set forth in Section 36-362 (~~For developments or enlargements in~~ In other C1 or C2 Districts or in C4, C5 or C6 Districts), inclusive, shall not apply. In lieu thereof, the total number of ~~#accessory#~~ off-street parking spaces required in Section 36-30 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES WHEN PERMITTED IN COMMERCIAL DISTRICTS), inclusive, shall be waived if the number of spaces for all ~~#uses#~~ on the ~~#zoning lot#~~, required by the applicable regulations of Section 36-30, inclusive, is five spaces or fewer.

* * *

Article VIII - Special Purpose Districts

Chapter 7

Special Harlem River Waterfront District

87-00

GENERAL PURPOSES

The "Special Harlem River Waterfront District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) maintain and reestablish physical and visual public access to and along the waterfront;
- (b) create a lively and attractive built environment that will provide amenities and services for the use and enjoyment of area residents, workers and visitors;
- (c) promote the pedestrian orientation of ground floor uses in appropriate locations, and thus safeguard a traditional quality of higher density areas of the City;
- (d) encourage well-designed development that complements the built character of the neighborhood;
- (e) take advantage of the Harlem River waterfront and provide an open space network comprised of parks, public open space and public access areas;
- (f) provide flexibility of architectural design within limits established to assure adequate access of light and air to streets and public access areas, and thus encourage more attractive and economic building forms; and
- (g) promote the most desirable use of land and building development in accordance with the District Plan for the Harlem River waterfront.

* * *

87-10

SPECIAL USE REGULATIONS

* * *

87-12

Location of Commercial Space

The provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit ~~residential uses~~ on the same ~~story~~ as a ~~commercial use~~ ~~non residential use~~, provided no access exists between such ~~uses~~ at any level containing ~~residences~~ and provided any ~~commercial uses~~ ~~non residential uses~~ are not located directly over any ~~residential use~~. However, such ~~commercial uses~~ ~~non residential uses~~ may be located over a ~~residential use~~ by authorization of the City Planning Commission upon a finding that sufficient separation of ~~residential uses~~ from ~~commercial uses~~ ~~non residential uses~~ exists within the ~~building~~.

87-13

Streetscape Regulations

(a) Ground floor ~~use~~

All ~~ground floor uses~~ facing a ~~shore public walkway~~, ~~mapped parkland~~ or an ~~upland connection~~ shall comply with the minimum depth requirements of 37-32 (Ground Floor Depth Requirements for Certain Uses). For the purposes of applying such provisions, ~~shore public walkways~~, ~~mapped parkland~~ or an ~~upland connection~~ shall be considered designated retail ~~streets~~. ~~have a depth of at least 25 feet from building walls facing a shore public walkway, mapped parkland or an upland connection~~. Lobbies and entrances shall comply with the provisions for Type 1 lobbies set forth in Section 37-33 (Maximum Width of Certain Uses) ~~may not occupy more than 20 feet or 25 percent of such building wall width, whichever is less~~. The level of the finished ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent public sidewalk or other publicly accessible area.

For ~~buildings~~ on Parcels 1 through 6, as shown on Map 1 in the Appendix to this Chapter, that face a ~~shore public walkway~~, ~~mapped parkland~~ or ~~upland connection~~, not less than 20 percent of the ground floor level ~~floor area~~ of such portions of ~~buildings~~, ~~to a depth of 25 feet~~, shall consist of ~~uses~~ from Use Groups 6A, 6C, 6F, 8A, 8B and 10A, as set forth in Article III, Chapter 2.

(b) Transparency

Any ~~building~~ wall containing ground floor level ~~commercial~~ and ~~community facility uses~~ that faces a ~~shore public walkway~~, ~~mapped parkland~~ or an ~~upland connection~~, shall be glazed with transparent materials which may include ~~show windows~~, ~~glazed transoms~~ or ~~glazed portions of doors~~. Such glazing shall occupy at least 70 percent of the area of each such ground floor level ~~building~~ wall, measured to a height of ten feet above the level of the adjoining public sidewalk or other publicly accessible area or ~~base plane~~, whichever is higher. Not less than 50 percent of the area of each such ground floor level ~~building~~ wall shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials in accordance with the transparency requirements set forth in Section 37-34 (Minimum Transparency Requirements). For the purposes of applying such provisions, ~~shore public~~

walkways#, mapped parkland or an #upland connection# shall be considered designated retail streets.

(e) ~~Security gates~~

~~All security gates that are swung, drawn or lowered to secure #commercial# or #community facility uses# shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or publicly accessible area, except that this provision shall not apply to entrances or exits to parking garages.~~

* * *

87-20

SPECIAL FLOOR AREA REGULATIONS

* * *

87-21

Special Residential Floor Area Regulations

The base #floor area ratio# for any #zoning lot# containing #residences# shall be 3.0. Such base #floor area ratio# may be increased to a maximum of 4.0 through the provision of #affordable housing# pursuant to the provisions for #Inclusionary Housing designated areas# in Section 23-90 (INCLUSIONARY HOUSING), except that the height and setback regulations of Sections ~~23-954~~ 23-951 (Height and setback for compensated developments in Inclusionary Housing designated areas) and 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall not apply. In lieu thereof, the height and setback regulations of this Chapter shall apply.

* * *

87-50

SPECIAL PARKING REGULATIONS

* * *

(d) Design requirements for enclosed off-street parking facilities

All enclosed off-street parking facilities shall be located either entirely below the level of any #street# or open area accessible to the public upon which such facility fronts or, when located above grade, in compliance with the following provisions:

- (1) The provisions of this paragraph, (d)(1), shall apply to facilities facing a #shore public walkway#, an #upland connection#, mapped parkland, or the northern #street line# of 138th Street.

~~Such facilities shall be located at~~ At every level above grade, off-street parking facilities shall be wrapped by #floor area in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). For the purposes of applying such provisions, #shore public walkways#, an #upland connection# or mapped parkland and East 138th Street shall be considered designated retail streets. behind #commercial#, #community facility# or #residential floor area# with a minimum depth of 25 feet as and measured from any #building# wall facing a #shore public walkway#, or facing that portion of an #upland connection# or mapped parkland located west of the #Parcel 1 building line# so that no portion of such parking facility is visible from the #shore public walkway#, #upland connection# or mapped parkland. All such parking facilities shall be exempt from the definition of #floor area#.

On Parcel 6, as shown on Map 1 in the Appendix to this Chapter, the ground floor of a #building# within 60 feet of the intersection of Exterior Street and East 138th Street shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 occupied to a depth of 25 feet with #commercial#, #community facility# or #residential floor area# so that no portion of a parking facility is visible from such portion of Exterior Street or East 138th Street.

- (2) The provisions of this paragraph, (d)(2), shall apply to facilities not facing a #shore public walkway#, or that portion of an #upland connection# or mapped parkland located west of the #Parcel 1 building line#, or the northern #street line# of East 138th Street.

Such facilities shall be ~~designed so that~~ screened in accordance with the provisions set forth in paragraphs (b)(1) through (b)(3) of Section 37-35.

- (i) ~~any non-horizontal parking deck structures are not visible from the exterior of the #building# in elevation view;~~
- (ii) ~~opaque materials are located on the exterior #building# wall between the bottom of the floor of each parking deck and no less than three feet above such deck; and~~
- (iii) ~~a total of at least 50 percent of such exterior #building# wall with adjacent parking spaces consists of opaque materials which may include permitted #signs#, graphic or sculptural art, or living plant material.~~

* * *

Article VIII - Special Purpose Districts

Chapter 8

Special Hudson Square District

88-00

GENERAL PURPOSES

The “Special Hudson Square District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) support the growth of a mixed residential, commercial and industrial neighborhood by permitting expansion and new development of residential, commercial and community facility uses while promoting the retention of commercial uses and light manufacturing uses;
- (b) recognize and enhance the vitality and character of the neighborhood for workers and residents;
- (c) encourage the development of buildings compatible with existing development;
- (d) regulate conversion of buildings while preserving continued manufacturing or commercial use;
- (e) encourage the development of affordable housing;
- (f) promote the opportunity for workers to live in the vicinity of their work;
- (g) retain jobs within New York City; and
- (h) promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings, and thereby protect City tax revenues.

* * *

88-10

SUPPLEMENTAL USE REGULATIONS

* * *

88-11

Residential Use

#Residential use# shall be permitted in accordance with the provisions of this Section.

* * *

(b) #Residential use# by certification

#Residential use# shall be permitted on a #zoning lot# that, on March 20, 2013, was occupied by one or more #qualifying buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot#, as it existed on March 20, 2013, will contain at least the amount of #commercial# or #manufacturing floor area# ~~non #residential floor area#~~ that existed within such #qualifying buildings# on the #zoning lot# on March 20, 2013, subject to the following:

- (1) #commercial# or #manufacturing floor area# ~~non #residential floor area#~~ that is preserved within existing non-#qualifying buildings# on the #zoning lot# through restrictive declaration may count towards meeting the requirements of this certification; and
- (2) #floor area# from #community facility uses# with sleeping accommodations shall not count towards meeting the requirements of this certification.

However, #commercial# or #manufacturing floor area# ~~non #residential floor area#~~ converted to #residential# vertical circulation space and lobby space need not be replaced as #commercial# or #manufacturing floor area# ~~non #residential floor area#~~.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to maintain the amount of #commercial# or #manufacturing floor area# ~~non #residential floor area#~~ that existed within such #qualifying buildings# on March 20, 2013, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change of #use# from #commercial# or #manufacturing floor area# ~~non #residential#~~ to #residential#, or for any #development# containing #residences#.

88-12

Community Facility Use

* * *

- (b) #Community facilities# with sleeping accommodations shall be permitted on a #zoning lot# that, on March 20, 2013, was occupied by one or more #qualifying buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot# will contain at least the amount of #commercial# or #manufacturing floor area# ~~non #residential floor area#~~ that existed within #qualifying buildings# on the #zoning lot# on March 20, 2013, subject to the following:

- (1) ~~#commercial# or #manufacturing floor area# non-#residential floor area#~~ that is preserved within existing non-#qualifying buildings# on the #zoning lot# through restrictive declaration may count towards meeting the requirements of this certification; and
- (2) #floor area# from #community facility uses# with sleeping accommodations shall not count towards meeting the requirements of this certification.

However, ~~#commercial# or #manufacturing floor area# non-#residential floor area#~~ converted to vertical circulation and lobby space associated with a #community facility# with sleeping accommodations need not be replaced as ~~#commercial# or #manufacturing floor area# non-#residential floor area#~~.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to maintain the amount of ~~#commercial# or #manufacturing floor area# non-#residential floor area#~~ that existed within such #qualifying buildings# on March 20, 2013, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change of #use# from ~~#commercial# or #manufacturing# non-#residential#~~ to #community facility uses# with sleeping accommodations, or for any #development# containing #community facility uses# with sleeping accommodations.

- (c) Ground floor #community facility uses# shall be subject to the streetscape provisions set forth in Section 88-131.

* * *

**88-13
Commercial Use**

* * *

**88-131
Streetscape provisions**

For #zoning lots# with #street# frontage of 50 feet or more, the location of certain #uses# shall be subject to the following #use# requirements.

- (a) For #uses# located on the ground floor or within five feet of #curb level#, #uses# limited to Use Groups 6A, 6C, 7B, 8A, 8B, 9A, 10A, 12A and 12B, ~~shall have a depth of at least 30 feet from the #building# wall facing the #street# and~~ shall extend along a minimum of 50 percent of the

width of the #street# frontage of the #zoning lot#, and shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

- (b) The remainder of the #street# frontage of the #zoning lot# may be occupied by any permitted #uses#, lobbies or entrances to parking spaces, except that lobbies shall comply with the standards for Type 2 lobbies set forth in Section 37-33 (Maximum Width of Certain Uses) ~~be limited to a total width of 40 feet per #street# frontage. The 30 foot minimum depth requirement shall not apply where a reduction in such depth is necessary in order to accommodate a #residential# lobby or vertical circulation core.~~

* * *

Enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, shall be permitted to occupy the ground floor, provided they are wrapped by #floor area# or screened located beyond 30 feet from the #building# wall facing the #street# in accordance with the provisions set forth in Section 37-35 (Parking Wrap and Screening Requirements).

Any ground floor #street wall# of a #development# or #enlargement# that contains #uses# listed in Use Groups 1 through 15, not including #dwelling units#, shall be glazed ~~with transparent materials which may include #show windows#, transom windows or glazed portions of doors, provided such transparent materials have a minimum width of two feet. Such transparency shall occupy at least 50 percent of the surface area of each such ground floor #street wall# between a height of two feet, and 12 feet or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. The lowest level of any transparency that is provided to satisfy the requirements of this Section shall not be higher than four feet above the #curb level#, with the exception of transom windows. In addition, the maximum width of a portion of the ground floor level #street wall# without transparency shall not exceed ten feet. However, where an entrance to a parking facility is provided, the requirements of this Section shall not apply to that portion of the ground floor #street wall# occupied by such an entrance.~~ in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

* * *

88-30 SPECIAL BULK REGULATIONS

Except as modified in this Chapter, the following bulk regulations shall apply:

- (a) For #developments#, #enlargements#, or changes of #use# containing #residences#, the #bulk# regulations of an R10 District, as set forth in Article II, Chapter 3 (~~Bulk Regulations for Residential Bulk Regulations Buildings~~ in Residence Districts), shall apply;
- (b) For #developments#, #enlargements#, or changes of #use# containing #manufacturing#, #commercial# or #community facility uses#, the #bulk# regulations set forth in Article IV (Manufacturing District Regulations), Chapter 3 (Bulk Regulations), shall apply.

For the purposes of applying the regulations of this Section, Greenwich Street shall be a #wide street#.

* * *

88-33

Height and Setback

In the #Special Hudson Square District#, the height and setback regulations of the underlying districts shall not apply. In lieu thereof, the provisions of this Section shall apply to all #buildings#.

(a) Rooftop regulations

* * *

(1) Permitted obstructions

* * *

In addition, dormers may penetrate a maximum base height provided that such dormers comply with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts) ~~on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the length of the #street wall# of the highest #story# entirely below the maximum base height. For each foot of height above the maximum base height, the aggregate width of all such dormers shall be decreased by one percent of the #street wall# width of the highest #story# entirely below the maximum base height.~~

(2) Screening requirements for mechanical equipment

For all #developments#, #enlargements# and #conversions# of #commercial# or #manufacturing floor area# ~~non-residential floor area#~~ to #residences#, all mechanical equipment located on any roof of a #building or other structure# shall be fully screened on all sides. However, no such screening requirements shall apply to water tanks.

(b) Height and setback

* * *

(2) Base height

(i) Along #wide streets#

On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# of a #building# shall rise without setback to a minimum base height of 125 feet and a maximum base height of ~~150~~ 155 feet.

(ii) Along #narrow streets#

On #narrow streets#, beyond 50 feet of their intersection with a #wide street#, the #street wall# of a #building# shall rise without setback to a minimum base height of 60 feet, or the height of the #building#, whichever is less, up to a maximum base height of ~~125~~ 135 feet. However, for #buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), the maximum base height may be increased to 155 feet.

* * *

(3) Required setbacks and maximum #building# heights

(i) Along #wide streets#

~~The provisions of this paragraph, (b)(3)(i), shall apply to~~ For #buildings#, or portions thereof, located on #wide streets#, and on #narrow streets# within 100 feet from their intersection with a #wide street#. The portion of such #building# above the maximum base height set forth in paragraph (b)(2)(i) of this Section ~~a height of 150 feet~~ shall be set back from the #street wall# of the #building# at least 10 feet along a #wide street# and at least 15 feet along a #narrow street#, except such dimensions may include the depth of any permitted recesses in the #street wall#. The maximum height of such #buildings# shall be 290 feet. In addition, the gross area of each of either the highest two or three #stories# of such #building# located entirely above a height of 230 feet, shall not exceed 80 percent of the gross area of the #story# directly below such highest two or three #stories#.

(ii) Along #narrow streets#

~~The provisions of this paragraph, (b)(3)(ii), shall apply to~~ For #buildings#, or portions thereof, located on #narrow streets# beyond 100 feet from their intersection with a #wide street#. ~~The~~ the portion of such #building# above the maximum base height set forth in paragraph (b)(2)(ii) of this Section ~~a height of 125 feet~~ shall be set back from the #street wall# of the #building# at least 15 feet, except such dimensions may include the depth of any permitted recesses in the #street wall#.

The maximum height of a #building# and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for an R10A District on a #narrow street#. However, for #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), such maximum heights and number of #stories# may be increased, provided that the maximum number of #stories# does not exceed 23, the maximum height of a #building# with a #non-qualifying ground floor#, as defined in Section 23-662 (Maximum height of buildings and setback regulation) does not exceed a height of 230 feet, and the maximum height of a #building# with a #qualifying ground floor#, as defined in Section 23-662, does not exceed a height of 235 feet.

The maximum height of such #buildings# shall be 185 feet. However, for #buildings# that include #floor area compensation# pursuant to Sections 88-32 and 23-90 (Inclusionary Housing) for the provision of an amount of #low income floor area# not less than 20 percent of the #residential floor area# on the #compensated zoning lot#, the maximum height of such #building# shall be 210 feet where such #building# is on a #block# with a depth between #narrow streets# of more than 180 feet, and the maximum height of such #building# shall be 230 feet where such #building# is on a #block# where the depth between #narrow streets# is less than 180 feet

For #buildings# containing #residences#, all portions of such #building# exceeding a height of 125 feet above the level of the #residential rear yard# shall be set back no less than ten feet from a #rear yard line#. No setback shall be required for #buildings# that include #floor area compensation# pursuant to Sections 88-32 and 23-90 for the provision of an amount of #low income floor area# not less than 20 percent of the #residential floor area# on the #compensated zoning lot#.

* * *

88-332 Courts

Those portions of #buildings# that contain #residences# shall be subject to the court provisions applicable in R10 Districts as set forth in Section 23-80 (~~Court Regulations, Minimum Distance between Windows and Walls or Lot Lines and Open Area Requirements~~ COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS), inclusive.

* * *

88-40

YARD REGULATIONS

* * *

88-41

Rear Yard Regulations for Shallow Through Lots

For through lots or through lot portions of zoning lots located beyond 100 feet of a wide street, where the maximum depth of such through lot between narrow streets is ~~180~~ 190 feet or less, any required rear yard equivalent shall be provided in accordance with the provisions set forth in 23-533 (Required rear yard equivalents for Quality Housing buildings) ~~as an open area with a minimum depth of 60 feet, midway (or within ten feet of being midway) between the two narrow street lines~~ upon which such through lot fronts.

* * *

Article IX - Special Purpose Districts

Chapter 1

Special Lower Manhattan District

* * *

91-00

GENERAL PURPOSES

The "Special Lower Manhattan District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) encourage development of a 24-hour community through the conversion of older commercial buildings to residential use;
- (b) facilitate maximum design flexibility of buildings and enhance the distinctive skyline and streetscape of Lower Manhattan;
- (c) improve public use and enjoyment of the East River waterfront by creating a better physical and visual relationship between development along the East River and the waterfront area, public access areas and the adjoining upland community;
- (d) enhance the pedestrian environment by relieving sidewalk congestion and providing pedestrian amenities;
- (e) restore, preserve and assure the use of the South Street Seaport Subdistrict as an area of small historic and restored buildings, open to the waterfront and having a high proportion of public spaces and amenities, including a South Street Seaport Environmental Museum, with associated cultural, recreational and retail activities;
- (f) establish the Historic and Commercial Core to protect the existing character of this landmarked area by promoting development that is harmonious with the existing scale and street configuration; and
- (g) promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's tax revenues.

* * *

91-05

Applicability of the Quality Housing Program

Within the #Special Lower Manhattan District#, #buildings# containing #residences# may be #developed# or #enlarged# in accordance with the provisions of Article II, Chapter 8 (The Quality Housing Program), except that the #bulk# regulations for #Quality Housing buildings# set forth in Article II, Chapter 3 and modified by Article III, Chapter 5, of Section 28-11 shall be superseded by the #bulk# regulations of this Chapter. Recreation space required pursuant to Section ~~28-30~~ 28-20 (RECREATION SPACE AND PLANTING AREAS) shall be in addition to any recreation space required pursuant to this Chapter.

* * *

**91-20
FLOOR AREA AND DENSITY REGULATIONS**

* * *

**91-23
Floor Area Increase for Provision of Recreation Space**

In C5-3, C5-5 and C6-9 Districts, the #residential floor area ratio# of a #zoning lot# may be increased to 12.0, provided that recreation space, for the #residential# occupants of the #building# on such #zoning lot#, is provided in an amount not less than ~~13 square feet for each #rooming unit#~~, 16.25 square feet for each #dwelling unit# or a total area of at least 5,000 square feet, whichever is greater.

* * *

Article IX - Special Purpose Districts

Chapter 3

Special Hudson Yards District

93-00

GENERAL PURPOSES

The “Special Hudson Yards District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to facilitate and guide the development of an environmentally beneficial, transit-oriented business and residence district by coordinating high density development with expanded mass transit facilities, extended and improved subway lines, improved pedestrian access to mass transit facilities, improved pedestrian circulation and avoidance of conflicts with vehicular traffic;
- (b) to control the impact of buildings on the access of light and air to the streets and avenues of the Hudson Yards area and the surrounding neighborhoods;
- (c) to provide an open space network comprised of public parks, public open space and public access areas through the establishment of a large-scale plan and other controls and incentives;
- (d) to preserve the pedestrian orientation of ground floor uses, and thus safeguard a traditional quality of the City;
- (e) to preserve the low- and medium scale residential character of the Hell’s Kitchen area;
- (f) to provide a transition between the Hudson Yards District and the Clinton community to the north;
- (g) to provide a transition between the Hudson Yards District and the Garment Center to the east;
- (h) to provide a transition between the Hudson Yards District and the West Chelsea area to the south;
- (i) to promote the use of the Jacob K. Javits Convention Center to the west by creating an active and attractive business district that facilitates pedestrian access to the Center;
- (j) to provide flexibility of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms;
- (k) to provide a transition between the Hudson Yards District and the Hudson River to the west;

- (l) to facilitate the restoration and reuse of the High Line elevated rail line as an accessible, public open space through special height and setback regulations;
- (m) to promote the most desirable use of land and building development in accordance with the District Plan for the Hudson Yards and thus conserve the value of land and buildings and thereby protect the City's tax revenues; and
- (n) to limit the amount of off-street parking based on regulations that address the anticipated needs of residents, workers and visitors to the Hudson Yards Area, consistent with the objective of creating an area with a transit- and pedestrian-oriented neighborhood character.

* * *

93-05

Applicability of District Regulations

* * *

93-053

Applicability of ~~Chapter 3~~ of Article VII, Chapter 3

The following special permits by the Board of Standards and Appeals shall not be applicable:

Section 73-16 (Public Transit, Railroad or Electric Utility Substations) shall not apply to electrical utility substations. In lieu thereof, such #uses# shall be allowed within the #Special Hudson Yards District# upon authorization of the City Planning Commission pursuant to Section ~~93-19~~ 93-18 (Authorization for Electrical Utility Substations)

Section 73-62 (Modification of Bulk Regulations for ~~Residential~~ Buildings Containing Residences)

Section 73-63 (Enlargement of Non-Residential Buildings)

Section 73-64 (Modifications for Community Facility Uses).

* * *

93-10

USE REGULATIONS

* * *

93-12

Special Residential Use Regulations

* * *

93-123

Location of residential use within buildings

The provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit residential uses on the same story as a commercial use, ~~non-residential use~~ provided no access exists between such uses at any level containing dwelling units and provided any commercial uses ~~non-residential uses~~ are not located directly over any story occupied in whole or in part by dwelling units. However, such commercial uses ~~non-residential uses~~ may be located over such a story occupied by dwelling units by authorization of the City Planning Commission upon a finding that sufficient separation of residential uses from commercial uses ~~non-residential uses~~ exists within the building.

* * *

93-13

Special Office Use Regulations

93-131

Certification for office use

The provisions of this Section shall apply to all developments or enlargements in the Hudson Yards Redevelopment Area, with the exception of Subdistrict F.

- (a) No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a development or enlargement in the Hudson Yards Redevelopment Area that includes Use Group 6B offices developed or enlarged after January 19, 2005, until the Chairperson of the Department of City Planning certifies to the Commissioner of Buildings that:
 - (1) such development or enlargement does not utilize any floor area increases pursuant to Sections ~~23-90 (INCLUSIONARY HOUSING)~~, ~~93-30 (SPECIAL FLOOR AREA REGULATIONS)~~, 23-154 (Inclusionary Housing) inclusive, or 96-25 (Floor Area Bonus for New Legitimate Theater Use); or
 - (2) such development or enlargement utilizes floor area increases pursuant to Sections ~~23-90~~23-154, 93-30 (SPECIAL FLOOR AREA REGULATIONS), inclusive, or 96-25, and will not result in a total amount of Use Group 6B office floor area developed or enlarged after January 19, 2005, within the Hudson Yards Redevelopment Area of over 20 million square feet.

* * *

(b) Where the Chairperson of the Department of City Planning determines that the amount of office #floor area# in any #development# or #enlargement# will result in a total amount of Use Group 6B office #floor area developed# or #enlarged# after January 19, 2005, within the #Hudson Yards Redevelopment Area# of over 20 million square feet, no building permit from the Department of Buildings shall be issued for any #development# or #enlargement# that includes Use Group 6B offices constructed after January 19, 2005, until the Chairperson certifies to the Commissioner of Buildings that:

- (1) such #development# or #enlargement# does not utilize any #floor area# increases pursuant to Sections ~~23-90~~23-154, 93-30, inclusive, or 96-25; or
- (2) such #development# or #enlargement# utilizes #floor area# increases pursuant to Sections ~~23-90~~23-154, 93-30, inclusive, or 96-25, and will not result in a total amount of Use Group 6B office #floor area# #developed# or #enlarged# after January 19, 2005, within the #Hudson Yards Redevelopment Area# of over 25 million square feet.

* * *

(c) Where the Chairperson of the Department of City Planning determines that the amount of office #floor area# in any #development# or #enlargement# will result in a total amount of Use Group 6B office #floor area developed# or #enlarged# after January 19, 2005, within the #Hudson Yards Redevelopment Area# of over 25 million square feet, and where such #development# or #enlargement# utilizes #floor area# increases pursuant to Sections ~~23-90~~23-154, 93-30, inclusive, or 96-25, such #development# or #enlargement# shall be permitted only upon authorization of the City Planning Commission pursuant to Section 93-132.

* * *

93-132

Authorization for office use

The provisions of this Section shall apply to all #developments# or #enlargements# in the #Hudson Yards Redevelopment Area#, with the exception of Subdistrict F.

Where the amount of Use Group 6B office #floor area# in a #development# or #enlargement# will result in over 25 million square feet of such #use developed# or #enlarged# after January 19, 2005, within the #Hudson Yards Redevelopment Area#, and such #development# or #enlargement# utilizes increased #floor area# pursuant to Sections ~~23-90 (INCLUSIONARY HOUSING)~~23-154 (Inclusionary Housing), 93-30 (SPECIAL FLOOR AREA REGULATIONS), inclusive, or 96-25 (Floor Area Bonus for New ~~Legitimate~~ Theater Use), such #development# or #enlargement# shall be permitted only upon authorization of the City Planning Commission that:

* * *

93-14

Ground Floor Level Requirements

The following provisions relating to retail continuity and transparency requirements shall apply to all subdistricts in the #Special Hudson Yards District#, except that the provisions of this Section shall not apply along the northern #street# frontage of West 35th through West 39th Streets within 100 feet of Eleventh Avenue, as shown on Map 2 (Mandatory Ground Floor Retail) in Appendix A of this Chapter. However, any #zoning lot# fronting on such #streets# and partially within 100 feet of Eleventh Avenue may, as an alternative, apply the provisions of this Section to the entire West 35th, West 36th, West 37th, West 38th or West 39th Street frontage of the #zoning lot#.

- (a) Retail continuity along designated streets in Subdistricts A, B, C, D and E

* * *

~~#Uses# within #stories# that have a floor level within five feet of #curb level#, and within 50 feet of the #street line# shall be limited to #commercial uses# permitted by the underlying district, but not including #uses# listed in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 or 12D. Such #uses# shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses). Where a sidewalk widening is required, such #uses# shall be within 50 feet of the sidewalk widening line.~~

* * *

- (4) a combination of retail #uses# and public access areas so as to satisfy ~~the 50 foot~~ such depth requirement for retail continuity.

~~In no event shall the~~ The length of #street# frontage (exclusive of any portion of such #street# frontage allocated to entrances to subway stations and other subway-related #uses#) occupied by lobby space or entryways shall comply with the applicable provisions for Type 2 lobbies in Section 37-33 (Maximum Width of Certain Uses), except that exceed, in total, 40 feet or 25 percent of the #building's# total #street# frontage, whichever is less, except that the width of a lobby need not be less than 20 feet; and within the Eastern Rail Yard Subarea A1, the width of a lobby located on a #building# wall facing the eastern boundary of the outdoor plaza may occupy 120 feet or 25 percent of such #building# wall, whichever is less.

- (b) Retail continuity along designated streets in Subdistrict F

Map 4 (Subdistrict F: Mandatory Ground Floor Requirements) in Appendix B specifies locations where the special ground floor #use# and transparency requirements of this Section apply. Such regulations shall apply along either 100 percent or 70 percent of the #building's street# frontage, as indicated for each location on Map 4.

* * *

The remaining portion of the #street wall# may be occupied by #uses# listed in this Section, or by lobby space, mechanical space or entrances to #accessory# parking garages, provided that:

- (i) the maximum width of a single lobby frontage shall comply with the provisions for Type 2 lobbies set forth in Section 37-33. ~~be 40 feet, or 25 percent of the #street wall#, whichever is less.~~ A maximum of two such lobbies shall be permitted along a single #street wall# frontage, provided that the minimum distance between such lobbies shall not be less than 120 feet; and
 - (ii) the maximum width of a #street wall# occupied by an entrance to #accessory# parking spaces shall not exceed 35 feet.
- (c) Transparency requirements along designated streets in Subdistricts A, B, C, D, E and F

For any #development# or ground floor #enlargement# fronting on #streets# designated on Map 2 in Appendix A of this Chapter, glazing shall be provided in accordance with the provisions set forth in paragraph (c) of this Section.

Each ground floor level #street wall# of a #commercial# or #community facility use#, as set forth in this Section, shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements) ~~with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk, or public access area, whichever is higher. Not less than 50 percent of the area of each such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

* * *

93-15 Security Gates

All security gates installed after January 19, 2005, that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, ~~permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.~~

93-16-93-15 Public Parking Facilities

* * *

93-17-93-16

Modification of Sign Regulations

* * *

- (a) Subdistricts A, B, C, D and E

Within Subdistricts A, B, C, D and E, the underlying #sign# regulations shall apply, except that #flashing signs# shall not be allowed within 100 feet of Hudson Boulevard, its northerly prolongation to West 39th Street and its southerly prolongation to West 33rd Street. Within the Pennsylvania Station Subarea B4, the provisions of Section ~~93-174~~ 93-161 (Special permit for signs within the Pennsylvania Station Subarea) shall apply. The following modifications to the underlying #sign# regulations shall apply in the Eastern Rail Yard Subarea A1:

* * *

- (3) Along the #ERY High Line#, the #sign# regulations as set forth in Section ~~93-17~~ 93-16, paragraph (b)(1), shall apply. In addition, no #flashing signs# above the level of the #High Line bed# shall be located within 150 feet of and facing the #ERY High Line#.

* * *

93-174 93-161

Special permit for signs within the Pennsylvania Station Subarea

* * *

93-18-93-17

Non-Conforming Uses in Large-Scale Plan Subdistrict A

* * *

93-19-93-18

Authorization for Electrical Utility Substations

* * *

93-20

FLOOR AREA REGULATIONS

* * *

93-222

Maximum floor area ratio in the 34th Street Corridor Subdistrict C

* * *

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5, pursuant to Sections 93-31 (District Improvement Fund Bonus) and ~~23-90 (INCLUSIONARY HOUSING)-23-154 (Inclusionary Housing)~~, as modified by Section 93-23 (Modifications of Inclusionary Housing Program), as follows:

- (a) the #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase, pursuant to Section 93-31, there is a #floor area# increase of six square feet, pursuant to Section ~~23-90-23-154~~, as modified by Section 93-23; and

* * *

93-223

Maximum floor area ratio in Hell’s Kitchen Subdistrict D

- (a) Subareas D1 and D2

* * *

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Section 93-31 (District Improvement Fund Bonus) or through the transfer of #floor area# from the #Phase 2 Hudson Boulevard and Park# as set forth in Section 93-32, and pursuant to Section ~~23-90 (INCLUSIONARY HOUSING)-23-154 (Inclusionary Housing)~~, as modified by Section 93-23, as follows:

- (1) The #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Sections 93-31 or 93-32 there is a #floor area# increase of six square feet, pursuant to Section ~~23-90-23-154~~, as modified by Section 93-23.

* * *

93-23

Modifications of Inclusionary Housing Program

Subdistrict C (34th Street Corridor) and Subareas D1 and D2 of Subdistrict D (Hell’s Kitchen) of the #Special Hudson Yards District# and Area P2 of the #Special Garment Center District#, shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS) for the purpose of making the Inclusionary Housing Program regulations of Section 23-154 (Inclusionary Housing), and Section 23-90 (INCLUSIONARY HOUSING), inclusive, applicable as modified within the Special Districts. The underlying provisions of Sections 23-154 and 23-90 shall only be applicable in Subdistrict F as modified by Section 93-233 (Floor area increase for affordable housing in Subdistrict F).

* * *

93-232

Floor area increase in Subdistricts B, C, D and E, and Preservation Area P2

Within Subdistricts B, C, D and E, and Preservation Area P2, the provisions of ~~Section 23-952 (Floor area compensation in Inclusionary Housing designated areas)~~ Section 23-154 (Inclusionary Housing) shall not apply. In lieu thereof, the #floor area# compensation provisions of this Section shall apply. In accordance with the provisions set forth in Section 93-22 (Floor Area Regulations in Subdistricts B, C, D, E and F) or 121-31 (Maximum Permitted Floor Area), the maximum permitted #residential floor area ratio# on a #zoning lot# with #developments# or #enlargements# that provide #affordable housing# pursuant to the Inclusionary Housing Program may be increased, as follows:

* * *

93-233

Floor area increase for affordable housing in Subdistrict F

* * *

(b) such #building# shall comply with the provisions of:

- (1) Section ~~23-954~~ 23-955 (Additional requirements for compensated developments), paragraphs (b) and (c);

* * *

93-30

SPECIAL FLOOR AREA REGULATIONS

93-31

District Improvement Fund Bonus

* * *

- (a) a letter from the applicant for such permit dated no earlier than 30 days prior to issuance thereof, stating whether as of such date the applicant anticipates filing an application to increase the applicable basic maximum #floor area ratio# pursuant to the provisions of this Section and/or Section ~~23-90-23-154~~, as modified by Section 93-23; or
- (b) an application for a bonus from such applicant to increase the applicable basic maximum #floor area ratio# pursuant to the provisions of this Section and/or Section ~~23-90-23-154~~, as modified by Section 93-23.

* * *

93-32
Floor Area Regulations in the Phase 2 Hudson Boulevard and Park

* * *

- (a) Transfer of floor area by certification

* * *

Where, as a result of the transfer of #floor area# pursuant to this paragraph, (a), the amount of #floor area# on a receiving site is less than the maximum allowable as specified for the applicable subarea in Row B in the table in Section 93-21 and Row C in the table in Section 93-22, any additional #floor area#, up to the maximum #floor area ratio# permitted on the receiving site as specified in such rows, may be achieved only through contributions to the #Hudson Yards District Improvement Fund# pursuant to Section 93-31 (District Improvement Fund Bonus), an increase in #floor area# pursuant to paragraph (b) of this Section or Section 93-33 (Special Regulations for Residual Portions of Zoning Lots Partially Within the Phase 2 Hudson Boulevard and Park), or the Inclusionary Housing Program pursuant to Section ~~23-90-23-154~~, as modified by Section 93-23.

* * *

93-50
SPECIAL HEIGHT AND SETBACK REGULATIONS

* * *

93-55
Special Height and Setback Regulations in the South of Port Authority Subdistrict E

(a) #Zoning lots# with Eighth Avenue frontage

* * *

(1) any portion of the #building or other structure developed# or #enlarged# pursuant to the tower regulations of Sections 33-45 or ~~35-63~~ 35-64, as applicable, may penetrate the #sky exposure plane#;

* * *

Article IX - Special Purpose Districts

Chapter 4

Special Sheepshead Bay District

94-00

GENERAL PURPOSES

The "Special Sheepshead Bay District," established in this Resolution, is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others the following specific purposes:

- (a) to promote and strengthen the unique character of the "Special Sheepshead Bay District" area as a prime location for waterfront-related commercial and recreational development and to help attract a useful cluster of shops, restaurants and related activities, which will complement and enhance the area as presently existing;
- (b) to encourage the provision of housing with appropriate amenities in areas suitable for residential development;
- (c) to improve vehicular and pedestrian circulation patterns by requiring limited curb cuts and uniform sidewalk widening, and encouraging the provision of public open space and other amenities as a related part of new development;
- (d) to provide an incentive for redevelopment of the area in a manner consistent with the foregoing objectives which are integral elements of the Comprehensive Plan of the City of New York; and
- (e) to promote the most desirable use of land in this area and thus to conserve the value of land and thereby protect the City's tax revenues.

* * *

94-10

SPECIAL REQUIREMENTS FOR BUILDING HEIGHT AND SETBACKS

The height and setback regulations set forth in Sections 23-631 (~~Height and setback in R1, R2, R3, R4 and R5 Districts General provisions~~), 34-24 (Modification of Height and Setback Regulations) and ~~35-61 35-62 (Height and Setback Regulations-Commercial Districts with an R1 through R5 Residential Equivalent)~~, shall not apply to #buildings# in the #Special Sheepshead Bay District#. In lieu thereof, height and setback regulations set forth in this Section shall apply. For #buildings# in #Residence Districts#, #building# height is measured from the #base plane#. For #buildings# in #Commercial Districts#, #building# height is measured from #curb level#.

* * *

Article IX - Special Purpose Districts

Chapter 6 Special Clinton District

96-00 GENERAL PURPOSES

The "Special Clinton District" (hereinafter also referred to as the "Special District"), established in this Resolution, is designed to promote and protect public health, safety, general welfare and amenity. Because of the unique geographical location of the Clinton community, situated between the waterfront on the west and a growing central business district on the east, it is necessary to provide specific programs and regulations which will assure realization of community and city-wide goals.

These goals include, among others, the following:

- (a) to preserve and strengthen the residential character of the community;
- (b) to permit rehabilitation and new construction within the area in character with the existing scale of the community and at rental levels which will not substantially alter the mixture of income groups presently residing in the area;
- (c) to preserve the small-scale character and variety of existing stores and activities and to control new commercial uses in conformity with the existing character of the area;
- (d) to recognize the unique character of the eastern edge of the District as an integral part of the Theater Subdistrict within the Special Midtown District as well as the Special Clinton District;
- (e) to provide an appropriate transition from the mixed-use character along Eighth Avenue to the lower-scale residential character of the Clinton community on the narrow streets;
- (f) to relate the unique character of the 42nd Street Perimeter Area to the adjacent #Special Hudson Yards District#;
- (g) to provide amenities, such as street trees, to improve the physical environment;
- (h) to restrict demolition of buildings that are suitable for rehabilitation and continued residential use; and
- (i) to promote the most desirable use of land in the area and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues, consistent with the foregoing purposes.

96-10
PRESERVATION AREA

* * *

96-102
Lot coverage regulations

* * *

Any #development# containing #residential uses# shall provide a minimum of 20 percent of the #lot area# of a #zoning lot# as usable, landscaped open area for occupants of #dwelling units# ~~or #rooming units#~~ in the #development#.

* * *

96-105
Dwelling unit regulations

(a) #Dwelling unit# distribution

For #developments#, #enlargements#, #extensions# or #conversions# of an existing #building# to a #residential use#, the density requirements of the underlying districts shall be inapplicable. In lieu thereof, the required #lot area per dwelling unit# of a #development#, #enlargement#, #extension# or #conversion# of an existing #building# to a #residential use# shall not be less than 168 square feet and the number of two-bedroom units on a #zoning lot# shall not be less than 20 percent.

* * *

The City Planning Commission, by special permit, may modify the two-bedroom unit distribution requirement and the density requirement of this Section for a an #non-profit residence for the elderly# ~~#affordable independent residence for seniors#~~ or for a #residence# substantially for elderly persons with disabilities, under jurisdiction of a State or City agency, provided that the following findings are made:

* * *

96-107
Special regulations for community facility uses

#Developments#, #enlargements# or #extensions# of #community facility uses# or #conversions# of an existing #building# to a #community facility use#, are permitted on #zoning lots# containing existing #buildings# with #residential uses# only pursuant to the provisions of this Section. The City Planning Commission, by special permit, may permit #developments#, #enlargements# or #extensions# of #community facility uses#, provided that the Commission makes the following findings:

* * *

~~This special permit shall be in addition to any special permits required for nursing homes, health-related facilities, long-term care facilities, and domiciliary care facilities for adults, pursuant to the provisions of Section 74-90.~~

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

96-20
PERIMETER AREA

* * *

96-21
Special Regulations for 42nd Street Perimeter Area

The provisions of this Section shall apply in all ~~Commercial Districts~~ within the area bounded by the following:

* * *

(b) ~~Floor area~~ regulations

(1) ~~Floor area~~ regulations in Subarea 1

In Subarea 1 of the 42nd Street Perimeter Area as shown in Appendix A, the basic ~~floor area ratio~~ on a ~~zoning lot~~ shall be 10.0, and may be increased to a maximum of 12.0 only in accordance with the provisions of Section ~~23-90 (INCLUSIONARY HOUSING)~~ 23-154 (Inclusionary Housing), except that any units for which a ~~floor area~~ increase has been earned, pursuant to Section ~~23-90 23-154~~ shall be within the ~~Special Clinton District~~.

(2) ~~Floor area~~ regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, the basic ~~floor area ratio~~ on a ~~zoning lot~~ shall be 10.0. However, the ~~floor area ratio~~ on a ~~zoning lot~~ containing ~~residential use~~ may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section ~~23-90-23-154~~, except that any units for which a ~~floor area~~ increase has been earned pursuant to Section ~~23-90-23-154~~ shall be within the ~~Special Clinton District~~. For ~~zoning lots~~ containing ~~developments~~ or ~~enlargements~~ that have fully utilized the Inclusionary Housing Program, the maximum permitted ~~floor area ratio~~ may be increased from 12.0 to 15.0 for new legitimate theater use in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Theater Use).

* * *

(c) Retail continuity requirements

For #buildings developed# or portions of #buildings enlarged# after August 17, 1990, where the ground floor level of such #development# or the #enlarged# portion of the #building# fronts upon West 42nd Street, between 9th and 12th Avenues:

- (1) at least 50 percent of the #street# frontage of #stories# that have a floor level within five feet of #curb level# shall be limited to Use Groups 4A, 6A, 6C, 10A, 11, 12A and 12B; and
- (2) ~~at least 50 percent of the length of the facade of such #street wall# fronting on West 42nd Street shall be glazed with transparent material to a height of not less than 16 feet above #curb level#.~~ The lowest point of such glazed area shall not be higher than four feet above #curb level#. in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

* * *

**96-30
OTHER AREAS**

* * *

**96-31
Special Regulations in R8 Districts**

* * *

(b) In R8A Districts in Western Subarea C2, including #Commercial Districts# mapped within such R8A Districts, the following special regulations shall apply:

- (1) Inclusionary Housing Program
 - (i) R8A Districts in Other Areas, west of Tenth Avenue, shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

Within such #Inclusionary Housing designated areas#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed a base #floor area ratio# of 5.4, except that such base #floor area ratio# may be increased to a maximum #floor area ratio# of 7.2 through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Sections 23-154 and Section 23-90. However, any units for which a #floor area# increase has been earned,

pursuant to Section ~~23-90~~23-154, shall be located within the #Special Clinton District#.

(ii) Optional provisions for #affordable housing#

For #developments# or #enlargements# located within the #blocks# bounded by West 51st Street, 11th Avenue, West 53rd Street and 10th Avenue, the special optional regulations as set forth in paragraph (b)(1)(ii) of this Section, may modify the provisions of Section ~~23-952 (Floor area compensation in Inclusionary Housing designated areas)~~ 23-154.

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~~ 23-154. However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified as follows. 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 #low income# and #middle 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#.

* * *

96-32

Special Regulations in R9 Districts

In R9 Districts in Western Subarea C2, the provisions of ~~Section 23-633 (Street wall location and height and setback regulations in certain districts)~~ Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) for R9A Districts shall apply to all #buildings or other structures#. In #Commercial Districts# mapped within R9 Districts in Western Subarea C2, the provisions of ~~Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts)~~ Section 35-65 (Height and Setback Requirements for Quality Housing Buildings) for C2-7A Districts shall apply to all #buildings or other structures#. Notwithstanding the provisions of paragraph (c) of Section 23-011 (Quality Housing Program), in all such R9 Districts and #Commercial Districts# mapped within such R9 Districts, the provisions of paragraph (b) of Section 23-011 shall apply.

(a) Inclusionary Housing Program

- (1) R9 Districts in ~~Other Areas~~ other areas, west of Tenth Avenue, shall be #Inclusionary Housing designated areas# pursuant to Section 12-10 (DEFINITIONS) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

Within such #Inclusionary Housing designated area#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed a base #floor area ratio# of 6.0, except that such base #floor area ratio# may be increased to a maximum #floor area ratio# of 8.0 through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Sections 23-154 (Inclusionary Housing) and Section 23-90. However, any units for which a #floor area# increase has been earned pursuant to Section ~~23-90~~ 23-154 shall be located within the #Special Clinton District#.

- (2) Optional provisions for #large-scale general developments# within Western Subarea C2

For #developments# or #enlargements# located within the #blocks# bounded by West 51st Street, 11th Avenue, West 53rd Street and 10th Avenue, the special optional regulations as set forth in paragraph (a)(2) of this Section, may modify the provisions of ~~Section 23-952 (Floor area compensation in Inclusionary Housing designated areas)~~ Section 23-154.

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~~ 23-154. However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified as follows. 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 #low income households# and #middle 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#.

* * *

96-34

Special Regulations in Northern Subarea C1

In Area C1-1, within Northern Subarea C1, as shown on the map in Appendix A, the following special

Inclusionary Housing regulations, #use# and special permit regulations shall apply:

(a) Inclusionary Housing Program

* * *

Within such #Inclusionary Housing designated area# the following special regulations shall apply. The #residential floor area# of the #zoning lot# may be increased by 1.25 square feet for each square foot of #low income floor area# provided, or by 0.625 square feet for each one square foot of #middle income floor area# provided, up to the maximum #floor area# set forth in Section ~~23-952 (Floor area compensation in Inclusionary Housing designated areas)~~ 23-154 (Inclusionary Housing). However, the amount of #low income floor area# plus half the amount of #middle 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# on the #compensated zoning lot#, provided that no more than 8,000 square feet of #middle income floor area# may be included within this calculation.

* * *

96-40

MODIFICATION OF GENERAL LARGE-SCALE DEVELOPMENT PROVISIONS

For parcels within the #blocks# bounded by West 50th Street, Tenth Avenue, West 56th Street and Eleventh Avenue, within a #general large-scale development# that occupies #zoning lots# on more than one #block#, the City Planning Commission may permit the modification of #open space# required pursuant to Section ~~23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio)~~ 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts) as part of a special permit, pursuant to Section ~~74-743 (Special provisions for bulk modifications)~~ 74-743 (Special provisions for bulk modification), provided the Commission finds that:

* * *

Article IX- Special Purpose Districts

Chapter 7

Special 125th Street District

97-00

GENERAL PURPOSES

The “Special 125th Street District” established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity. The general goals include, among others, the following specific purposes:

- (a) to preserve, protect and promote the special character of 125th Street as Harlem’s “Main Street” and the role of 125th Street as Upper Manhattan’s premier mixed use corridor;
- (b) to guide development on the 125th Street corridor;
- (c) to expand the retail and commercial character of 125th Street;
- (d) to provide incentives for the creation of visual and performing arts space and enhance the area’s role as a major arts, entertainment and cultural destination in the City;
- (e) to support mixed use development throughout the 125th Street corridor, including residential uses, and to provide incentives for the production of affordable housing;
- (f) to ensure that the form of new buildings is compatible and relates to the built character of the 125th Street corridor;
- (g) to enhance the pedestrian environment through appropriate ground floor uses and regulations;
- (h) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City’s revenue.

* * *

97-20

LOCATION AND ACCESS REGULATIONS

* * *

97-21

Location of and Access to Arts and Entertainment Uses

Any arts and entertainment #uses# listed in Section 97-11 that are provided in order to comply with the requirements of Section 97-12 (Arts and Entertainment Use Requirement) or Section 97-422 (Floor area bonus for visual or performing arts uses) shall be subject to the following location and access requirements:

The designated #uses# listed in Section 97-11 may be located anywhere throughout a #building# that fronts on 125th Street, subject to the following conditions:

- (a) any such designated #uses# within the Core Subdistrict required pursuant to Section 97-12 shall be accessed from 125th Street; and
- (b) any #residential use# shall be located on a floor wholly above any #commercial use# ~~non-#residential use#~~; or
- (c) any #commercial use# ~~non-#residential use#~~ may be permitted on the same #story# as a #residential use#, provided that:
 - (1) no access exists between #commercial uses# ~~non-#residential uses#~~ and #residential uses# at any level; and
 - (2) #commercial uses# ~~non-#residential uses#~~ are not located directly over any #residential uses#.

Such #commercial use# ~~non-#residential use#~~, however, may be located over a #residential use# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from #commercial uses# ~~non-#residential uses#~~ exists within the #building#.

* * *

97-221

Access to non-ground floor uses

The maximum ground floor #street# frontage on 125th Street allocated to entranceways or lobby space for non-ground floor #uses# listed in Section 97-22 shall be as set forth for Type 1 lobbies in Section 37-33 (Maximum Width of Certain Uses), except that for #developments# or #enlargements# with at least 200 linear feet fronting on 125th Street, the Type 2 lobby regulations shall apply.

Additionally, within the Core Subdistrict the #residential# portion of a #development# or #enlargement# may be accessed from an entrance on 125th Street only if such #development# or #enlargement# does not front upon a #street# other than 125th Street.

For non-ground floor #uses# listed in Section 97-22 with access from 125th Street, the following requirements shall apply:

- (a) — Within the Core Subdistrict the #residential# portion of a #development# or #enlargement# may be accessed from an entrance on 125th Street only if such #development# or #enlargement# does not front upon a #street# other than 125th Street.
- (b) — The width of the ground floor #street# frontage on 125th Street allocated to an entranceway or lobby space shall be no more than 25 linear feet or 40 percent of such #street# frontage, whichever is less, except that an entranceway or lobby space need not be less than 20 feet.
- (c) — For a #development# or #enlargement# with more than one entranceway or lobby on 125th Street for non-ground floor #uses#, each entranceway or lobby for #uses# listed in Section 97-22 shall be no more than 25 linear feet and, in the aggregate, shall not exceed 40 percent of such ground floor frontage.
- (d) — For #developments# or #enlargements# with at least 200 linear feet fronting on 125th Street, the width of #street# frontage on 125th Street allocated to entranceways or lobby space for such #uses# shall be no more than 40 linear feet.

97-23

Transparency Requirements

For all #uses#, other than houses of worship, libraries and primary rehearsal spaces, located on the ground floor of #developments# and #enlargements# that front upon that portion of 125th Street located within the #Special 125th Street District#, the ground floor #street wall# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements). ~~with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 12 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

97-24

Security Gates

Within the #Special 125th Street District#, all security gates installed after April 30, 2008, that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.

* * *

**97-40
SPECIAL BULK REGULATIONS**

* * *

**97-42
Floor Area Bonuses**

The maximum #floor area ratio# may be increased by a #floor area# bonus, pursuant to Sections 23-154 (Inclusionary Housing) 23-90 (INCLUSIONARY HOUSING), inclusive, or 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

**97-421
Inclusionary Housing**

Within the #Special 125th Street District#, C4-4D, C4-7 and C6-3 Districts shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#, the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Sections 23-154 (Inclusionary Housing) 23-90, inclusive.

* * *

**97-43
Special Lot Coverage Regulations**

The maximum #lot coverage# for #residential use# in C6-3 Districts within the #Special 125th Street District# shall be 70 percent for #interior# or #through lots# and ~~80~~ 100 percent for #corner lots#.

~~Within the Special District, there shall be no maximum #lot coverage# applied to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.~~

**97-44
Special Height and Setback Regulations**

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

~~The provisions of paragraph (b) of Section 23-663 (Required rear setbacks for tall buildings in other districts) shall not be applicable within the Special District.~~

* * *

Article IX - Special Purpose Districts

Chapter 8

Special West Chelsea District

98-00

GENERAL PURPOSES

The "Special West Chelsea District" established in this Resolution, is designed to promote and protect public health, safety, general welfare and amenity. These general goals include among others, the following specific purposes:

- (a) to encourage and guide the development of West Chelsea as a dynamic mixed use neighborhood;
- (b) to encourage the development of residential uses along appropriate avenues and streets;
- (c) to encourage and support the growth of arts-related uses in West Chelsea;
- (d) to facilitate the restoration and reuse of the High Line elevated rail line as an accessible, public open space through special height and setback regulations, High Line improvement bonuses and the transfer of development rights from the High Line Transfer Corridor;
- (e) to ensure that the form and use of new buildings relates to and enhances neighborhood character and the High Line open space;
- (f) to create and provide a transition to the lower-scale Chelsea Historic District to the east;
- (g) to create and provide a transition to the Hudson Yards area to the north; and
- (h) to promote the most desirable use of land in the area and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues, consistent with the foregoing purposes.

* * *

98-02

General Provisions

The provisions of this Chapter shall apply to any #zoning lot#, or portion thereof, within the #Special West Chelsea District#, except that the provisions of Sections 98-11 (Special Regulations for Developments and Enlargements Above, Beneath or Adjacent to the High Line) and ~~98-17~~ 98-16 (Air Space over a Railroad or Transit Right-of-way or Yard) shall also apply to any #zoning lot# south of the #Special West Chelsea District# over which the #High Line# passes. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this

Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**98-10
SPECIAL USE AND PARKING REGULATIONS WITHIN THE SPECIAL WEST CHELSEA DISTRICT**

* * *

**98-12
Modification of Use Regulations in C6 Districts**

* * *

**98-122
Location within buildings**

In any C6 District in the #Special West Chelsea District#, the provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit #commercial uses# ~~non-#residential uses#~~ on the same #story# as a #residential use# or on a #story# higher than that occupied by #residential uses#, provided that the #commercial uses# ~~non-#residential uses#~~:

- (a) are located in a portion of the #building# that has separate direct access to the #street# with no access to the #residential# portion of the #building# at any #story#; and
- (b) are not located directly over any portion of a #building# containing #dwelling units#, except this limitation shall not preclude the location of:
 - (1) #residential# lobby space below or on the same #story# as #commercial uses# ~~non-#residential uses#~~; or
 - (2) a #commercial use# that fronts on the #High Line# and is located within five feet of the level of the #High Line bed#.

* * *

**98-15
Security Gates**

All security gates installed after June 23, 2005, that are swung, drawn, or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the façade area covered by such gate, when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking facilities.

98-16 98-15
Signs

* * *

98-17 98-16
Air Space Over a Railroad or Transit Right-of-way or Yard

* * *

98-18 98-17
Parking Regulations in Subarea H

* * *

98-19 98-18
Lighting

* * *

98-20
FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

98-22
Maximum Floor Area Ratio and Lot Coverage in Subareas

For all #zoning lots#, or portions thereof, located in Subareas A through J, the maximum #floor area ratios#, #open space ratios# and #lot coverages# of the applicable underlying district shall not apply. In lieu thereof, the maximum #floor area ratio# permitted for #commercial#, #community facility# and #residential uses#, separately or in combination, shall be as specified in the table in this Section. For #residential use#, the maximum #lot coverage# shall be 70 percent for #interior# or #through lots# and 80 percent for #corner lots#, except that no maximum #lot coverage# shall apply to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less. For the #conversion# to #dwelling units# of non-#residential floor area# where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the table in this Section, such excess #residential

floor area# shall only be permitted pursuant to Section 98-26 (Modifications of Inclusionary Housing Program).

* * *

98-40

SPECIAL YARD, HEIGHT AND SETBACK, AND MINIMUM DISTANCE BETWEEN BUILDINGS REGULATIONS

98-41

Special Rear Yard Regulations

The #yard# regulations of the underlying district shall apply, except as modified in this Section. In all districts, no #rear yard# regulations shall apply to any #zoning lot# that includes a #through lot# portion that is contiguous on one side to two #corner lot# portions and such #zoning lot# occupies the entire #block# frontage of the #street#. Where a #rear yard equivalent# is required by either Section 23-532 (Required rear yard equivalents) or Section 43-28 (Special Provisions for Through Lots), it shall be provided only as set forth in paragraph (a) of either Section, as applicable. However, in M1-5 Districts, a #building# existing prior to January 22, 2015, may be #enlarged# pursuant to Section 43-28, paragraph (b), provided that such #building# is on a #zoning lot# located entirely within 150 feet of the west side of the #High Line#. Where a #rear yard equivalent# is required by Section 23-533 (Required rear yard equivalents for Quality Housing buildings), the alternatives for #through lots# with a depth of 190 feet or less shall not apply.

98-42

Special Height and Setback Regulations

* * *

98-423

Street wall location, minimum and maximum base heights and maximum building heights

The provisions set forth in paragraph (a) of this Section shall apply to all #buildings or other structures#. Such provisions are modified for certain subareas as set forth in paragraphs (b) through (g) of this Section.

* * *

(a) For all #buildings#

(1) #Street wall# location provisions

On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along such entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in the table in this Section. On #narrow street# frontages, beyond 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along at least 70 percent of the #narrow street# frontage of the #zoning lot# up to at least the minimum base height specified in the table in this Section.

* * *

The #street wall# location provisions of this Section shall not apply along that portion of any #street# frontage:

- (1)(i) over which the #High Line# passes;
- (2)(ii) occupied by existing #buildings# to remain, unless such #buildings# are vertically #enlarged#; or
- (3)(iii) between the #High Line# and a #side lot line#, where such frontage measures less than 20 feet.

* * *

(2) Maximum #building# heights

(i) For C6-2A and C6-3A Districts

In C6-2A and C6-3A Districts, the maximum base height, maximum #building# height and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for the residential equivalent of an R8A and R9A District, respectively. For #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), such maximum heights and number of #stories# may be modified in accordance with the provisions of paragraph (b) of Section 23-664 for such districts' applicable residential equivalent. Separate maximum #building# heights are set forth within such Sections for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662.

(ii) For all other districts

All portions of #buildings or other structures# that exceed the applicable maximum base height specified in the table in this Section shall provide a setback at a height not lower than the applicable minimum base height. A setback

with a depth of at least 10 feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#, except such dimensions may include the depth of permitted recesses in the #street wall#.

No #building or other structure# shall exceed the maximum #building# height specified in the table in this Section.

* * *

Minimum and Maximum Base Height and Maximum Building Height
by District or Subarea

District or Subarea		Minimum Base Height (in feet)	Maximum Base Height (in feet)	Maximum #Building# Height (in feet)
C6-2A		60	85	120
C6-3A		60	102	145
M1-5		50	95	135
Subarea A	within 50 feet of a #wide street#	60	85	____ ¹
	between 50 and 100 feet of a #wide street#	15	85	____ ¹
	for #zoning lots# with only #narrow street# frontage	40	60	____ ¹
Subarea B		60	95	135
Subarea C	for #zoning lots# with only #narrow street# frontage	60	110	110
	for #zoning lots# with Tenth Avenue frontage	105 ²	125 ²	125 ²
	for #zoning lots# with Eleventh Avenue frontage	125 ²	145 ²	145 ²
Subarea D		60	90	250 ¹
Subarea E		60	105 ³	120 ³
Subarea F		60 ²	80 ²	80 ²
Subarea G	for #zoning lots# with only #narrow street# frontage	60	95	95
	for #zoning lots# with #wide street# frontage	105 ²	120 ²	120 ²

Subarea H		60 ⁴	85 ⁴	— ⁴
Subarea I	within 300 feet of Tenth Avenue between W. 16th St. & W. 17th St.	60	85	120 ⁵
	all other areas	60	105	135
Subarea J	Midblock Zone	NA	110 ⁶	130 ⁶
	Ninth Avenue Zone	NA	130 ⁶	135 ⁶
	Tenth Avenue Zone	NA	185 ⁶	230 ⁶

* * *

98-50

SPECIAL HEIGHT AND SETBACK, OPEN AREA AND TRANSPARENCY REGULATIONS FOR ZONING LOTS ADJACENT TO THE HIGH LINE

* * *

98-53

Required Open Areas on the East Side of the High Line

* * *

- (a) Open area requirements

All required open areas shall:

* * *

- (5) for open area screening, required open areas may be screened from the public areas of the #High Line# by a wall, fence, or plantings extending not higher than eight feet above the average elevation of the open area. All screening materials must be substantially transparent. For the purposes of this Section, substantially transparent screening is defined as transparent, or non-opaque, in an evenly distributed fashion for at least 75 percent of its area. Chain link fences and razor wire shall not be permitted. Vegetated screening, such as shrubs, vines and other plantings, may be opaque if completely covered by vegetation, provided that any underlying surface is substantially transparent.

In addition, such screening material shall be maintained in good condition at all times, may be interrupted by normal entrances and/or exits, and shall have no signs hung or attached thereto, other than those permitted in Section ~~98-16~~ 98-15.

* * *

98-70

SUPPLEMENTAL REGULATIONS

* * *

In addition, Section 93-90, paragraph (d)(3), is modified as follows:

No portion of the #low income housing# required under this Section shall qualify to:

- (a) increase the #floor area ratio# pursuant to the provisions of the #Special West Chelsea District#, #Special Hudson Yards District#, #Special Garment Center District#, #Special Clinton District# or Section 23-154 ~~23-90~~; or

* * *

Appendix E

Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Partially Within Subareas D, E, G or I

* * *

- (b) Requirements for issuance of certificates of occupancy pursuant to paragraph (c) of Section 98-25:

* * *

- (2) Stairway and Elevator Access Work pursuant to paragraph (c)(3) of Section 98-25:

* * *

- (ii) The Stairway and Elevator Access Work shall consist of one stairway and one elevator located directly adjacent to or below the #High Line#. Except as approved by the Chairperson of the City Planning Commission pursuant to paragraph (a)(1)(iii) of this Appendix, #curb level# entrances to such access facilities must be located at the #street line#. Such access facilities shall be harmonious with the design of the #High Line# on the #zoning lot# and shall be visible and identifiable as #High Line# access facilities when viewed from Tenth Avenue. Such access facilities may be unenclosed or enclosed. When such access facilities are enclosed and located at the #street line#, any wall or ~~façade~~ façade separating the access facility from the #street# shall be substantially glazed and fully transparent from ground level to the full height of the access facility. Any wall or ~~façade~~ façade separating the access facility from the #High Line# shall be

substantially glazed and fully transparent from the level of the #High Line bed# to the full height of the access facility. Stairways shall have a clear path of not less than six feet in width. Such access facilities shall be identified with signage placed at the #High Line# level and at street level that is consistent with guidelines specified in the signage plan as authorized by the City Planning Commission pursuant to the provisions of Section ~~98-16~~ 98-15.

* * *

Article X - Special Purpose Districts

Chapter 1

Special Downtown Brooklyn District

101-00

GENERAL PURPOSES

The "Special Downtown Brooklyn District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to strengthen the business core of Downtown Brooklyn by improving the working and living environments;
- (b) to foster development in Downtown Brooklyn and provide direction and incentives for further growth where appropriate;
- (c) to create and provide a transition between the Downtown commercial core and the lower-scale residential communities of Fort Greene, Boerum Hill, Cobble Hill and Brooklyn Heights;
- (d) to encourage the design of new buildings that are in character with the area;
- (e) to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the vitality of Downtown Brooklyn;
- (f) to improve the quality of development in Downtown Brooklyn by fostering the provision of specified public amenities in appropriate locations;
- (g) to improve visual amenity by establishing special sign regulations within the Fulton Mall and Atlantic Avenue Subdistricts; and
- (h) to promote the most desirable use of land and building development for Downtown Brooklyn and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

101-10

SPECIAL USE REGULATIONS

101-11

Special Ground Floor Use Regulations

Map 2 (Ground Floor Retail Frontage), in Appendix E of this Chapter, specifies locations where the special ground floor #use# regulations of this Section apply.

#Uses# within #stories# that have a floor level within five feet of #curb level#, and within 50 feet of the #street line#, shall be limited to #commercial uses# listed in Use Groups 5, 6A, 6C, 6D, 7A, 7B, 8A, 8B, 8D, 9, 10, 11, 12A, 12B and 12C, where such #uses# are permitted by the underlying district. In addition, libraries, museums and non-commercial art galleries shall be permitted. A #building's street# frontage shall be allocated exclusively to such #uses#, except for Type 2 lobby space, entryways or entrances to subway stations provided in accordance with the provisions of Section 37-33 (Maximum Width of Certain Uses). However, loading berths serving any permitted #use# in the #building# may occupy up to 40 feet of such #street# frontage provided such #street# frontage is not subject to curb cut restrictions as shown on Map 5 (Curb ~~cut~~ Cut restrictions Restrictions) in Appendix E of this Chapter.

~~In no event shall the length of #street# frontage occupied by lobby space or entryways exceed, in total, 30 feet or 50 percent of the #building's# total #street# frontage, whichever is less.~~

* * *

101-12

Transparency Requirements

Map 3 (Ground Floor Transparency Requirements) in Appendix E of this Chapter specifies locations where the following transparency requirements apply.

~~For any #buildings developed# after June 28, 2004, or portions of #buildings enlarged# on the ground floor level after June 28, 2004, each ground floor #street wall# shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements). ~~with transparent materials which may include #show windows#, glazed transoms or glazed portions of doors.~~ Such glazed area shall occupy at least 50 percent of the area of each such ground floor #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk. Where such glazed area is required to occupy at least 70 percent of the area of the ground floor #street wall#, up to 20 percent of the area of the ground floor #street wall# may be glazed with translucent materials. ~~#Show windows# shall have a sill height not more than 2 feet, 6 inches above #curb level#.~~~~

~~For all locations specified on Map 3 in Appendix E of this Chapter, security gates installed after June 28, 2004, that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#.~~

* * *

101-20
SPECIAL BULK REGULATIONS

101-21
Special Floor Area and Lot Coverage Regulations

R7-1 C6-1 C6-4.5

(a) In R7-1 Districts

In R7-1 Districts, the #floor area ratio# and #open space ratio# provisions applicable to #residential buildings# and #residential# portions of #mixed buildings# pursuant to Sections ~~23-151 23-142, 23-143~~ and ~~23-154 23-144~~ shall not apply. In lieu thereof, the maximum #floor area ratio# for #residential buildings# or #residential# portions of #mixed buildings# shall be 4.0, ~~except that for #non-profit residences for the elderly# the maximum #floor area ratio# shall be 5.0~~. The maximum #lot coverage# for #residential buildings# or #residential# portions of #mixed buildings# shall be 65 percent for #interior lots#, except that for #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~ the maximum #lot coverage# for #interior lots# shall be 70 percent. For all #residential buildings# or #residential# portions of #mixed buildings#, the maximum #lot coverage# for #corner lots# shall be 100 ~~80~~ percent.

(b) In C6-1 Districts

In C6-1 Districts, the #floor area ratio# and #open space ratio# provisions applicable to #residential buildings# and #residential# portions of #mixed buildings#, pursuant to Sections ~~23-151 23-142, 23-143~~ and ~~23-154 23-144~~, shall not apply. In lieu thereof, the maximum #floor area ratio# for #residential buildings# or #residential# portions of #mixed buildings# shall be 3.44, ~~except that for #non-profit residences for the elderly# the maximum #floor area ratio# shall be 5.0~~. The maximum #lot coverage# for #residential buildings# or #residential# portions of #mixed buildings# shall be 65 percent for #interior lots#, except that for #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~, the maximum #lot coverage# for #interior lots# shall be 70 percent. For all #residential buildings# or #residential# portions of #mixed buildings#, the maximum #lot coverage# for #corner lots# shall be 100 ~~80~~ percent. For #Quality Housing buildings#, the underlying #floor area ratio# and #lot coverage# regulations shall apply.

* * *

101-222
Standard height and setback regulations

C2-4 / R7-1

~~C5-4 C6-1-C6-4~~ C6-4.5

In the districts indicated, except C6-1A Districts, a #building or other structure# shall not exceed the applicable maximum #building# height set forth in the table in this Section. Furthermore, any portion of a #building or other structure# that exceeds the applicable maximum base height shall be set back at least 10 feet from a #wide street line# and at least 15 feet from a #narrow street line#.

MAXIMUM BASE HEIGHTS AND MAXIMUM BUILDING HEIGHTS
IN C2-4/R7-1, ~~C5-4~~, C6-1 AND ~~C6-4~~ C6-4.5 DISTRICTS

District	Maximum Base Height		Maximum #building# Height	
	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#
C2-4/R7-1	85	85	160	160
C5-4 C6-1-C6-4	125	150	185	210
C6-4.5	125	150	250	250

C5-4 C6-4

In the districts indicated, the maximum height of a #building or other structure# and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for an R10 District. For #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), such maximum heights and number of #stories# may be modified in accordance with the provisions of paragraph (b) of Section 23-664 for an R10 District. Separate maximum #building# heights are set forth within such Sections for #Quality Housing buildings with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662. Furthermore, any portion of a #building or other structure# that exceeds the applicable maximum base height shall be set back at least 10 feet from a #wide street line# and at least 15 feet from a #narrow street line#.

* * *

**101-30
SPECIAL PROVISIONS WITHIN HEIGHT LIMITATION AREAS**

The provisions of this Section shall apply within the Flatbush Avenue Extension and Schermerhorn Street Height Limitation Areas, as shown on Map 6 in Appendix E of this Chapter.

* * *

(b) Schermerhorn Street Height Limitation Area

* * *

(3) #Rear yard# modification

The provisions of Section 23-532 (Required rear yard equivalents) or 23-533 (Required rear yard equivalents for Quality Housing buildings), as applicable, shall not apply to any #through lot#. In lieu thereof, an open area with a minimum depth of 60 feet, midway, or within 10 feet of being midway between the two #street lines# upon which such #through lot# fronts, shall be provided. Such #rear yard# shall be unobstructed from its lowest level to the sky, except as provided in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

* * *

**101-50
OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**

The provisions of Article II, Chapter 5, and Article III, Chapter 6 (ACCESSORY OFF-STREET PARKING AND LOADING REGULATIONS), shall apply, ~~except as modified in this Section, inclusive,~~ that the #accessory# parking requirements of Section 25-23 (Requirements Where Group Parking Facilities Are Provided) shall be modified to require #accessory# off-street parking spaces for at least 20 percent of the total number of new #dwelling units#. However, such modification shall not apply in R6B Districts.

**101-51
Minimum Parking Requirements**

~~The provisions of this Section shall apply to all districts within the #Special Downtown Brooklyn District#, except R6B Districts.~~

~~(a) The #accessory# parking requirements of Section 25-23 (Requirements Where Group Parking~~

~~Facilities Are Provided) shall be modified to require #accessory# off street parking spaces for at least 20 percent of the total number of new #dwelling units#.~~

~~(b) — There shall be no minimum parking requirement for #affordable housing units# as defined in Section 23-91, or for #dwelling units# eligible for reduced parking pursuant to Section 25-25- (Modification of Requirements for Public, Publicly Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly).~~

~~101-52~~ 101-51

~~Curb Cut Restrictions~~

~~*~~ * *

~~101-53~~ 101-52

~~Reservoir Spaces~~

~~*~~ * *

~~101-54~~ 101-53

~~Garages~~

~~101-541~~ 101-531

~~Public parking garages~~

~~*~~ * *

~~101-542~~ 101-532

~~Off-site accessory parking spaces in public garages~~

~~*~~ * *

~~101-543~~ 101-533

~~Pedestrian safety~~

~~*~~ * *

~~101-544~~ 101-534

~~Stackers in garages~~

~~*~~ * *

~~101-545~~ 101-535

Automated parking facilities

* * *

~~101-546~~ 101-536

Special permit for public parking garages

Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) shall not apply to #public parking garages#. In lieu thereof, the City Planning Commission may permit:

- (a) a #public parking garage# that does not comply with the provisions of Section ~~401-544~~101-531 (Public parking garages), provided that such garage complies with all other applicable regulations set forth in Section 101-50 (OFFSTREET PARKING AND OFF-STREET LOADING REGULATIONS); and

* * *

~~101-55~~ 101-54

Restrictions on Use of Accessory Off-Street Parking Spaces

* * *

~~101-56~~ 101-55

Location of Off-Street Parking Spaces

* * *

101-80

SPECIAL PERMITS

101-81

Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 Districts

In order to support a concentration of cultural #uses# and public open spaces in the C6-2 District bounded by Flatbush Avenue, Hanson Place, St. Felix Street and Lafayette Avenue, for #buildings# intended to be occupied in whole or in part by cultural #uses#, the City Planning Commission may permit the maximum #community facility floor area ratio# to be increased from 6.5 to 7.0, may permit modifications of the special #street wall# location regulations of Section 101-41, and the height and setback regulations of Section ~~23-641~~ 23-632 as applied to the #residential# portion of a #building#, and modifications of applicable #sign# regulations in accordance with this Section.

* * *

Article X - Special Purpose Districts

Chapter 4

Special Manhattanville Mixed Use District

104-00

GENERAL PURPOSES

The “Special Manhattanville Mixed Use District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) encourage the development of a mixed use neighborhood that complements a revitalized community-oriented waterfront;
- (b) support a variety of community facility, commercial and manufacturing uses;
- (c) provide opportunities for the expansion of large academic, scientific and mixed use facilities in a manner that benefits the surrounding community;
- (d) strengthen the retail and service character and economic vitality of the neighborhood by encouraging active ground floor uses along Broadway, West 125th Street and 12th Avenue;
- (e) facilitate the maximum amount of design flexibility while fulfilling the goals of the mixed use district;
- (f) improve the physical appearance of the streetscape by providing and coordinating harmonious open space, sidewalk amenities and landscaping within a consistent urban design;
- (g) strengthen the visual corridors along West 125th Street and other east-west corridors that connect the community to the waterfront;
- (h) expand local employment opportunities;
- (i) recognize, preserve and promote the existing historic transportation infrastructure of the neighborhood;
- (j) promote the most desirable use of land in this area and thus conserve the value of land and buildings, and thereby protect the City’s tax revenues.

* * *

104-10

SPECIAL USE REGULATIONS

The #use# regulations of the underlying C6 Districts are modified in Sections 104-11 through 104-18, inclusive.

* * *

104-12

Community Facility Use Modifications

The #community facility use# regulations of the underlying C6-1 and M1-2 Districts are modified, as follows:

- (a) in Subdistrict A, a #community facility use# with sleeping accommodations, as listed in this Section, may locate in the same #building#, or #abut# a #building# containing a #use# listed in Section 104-132 (Use Groups 16, 17 and 18), only in accordance with the certification provisions of Section 104-14:

College or school student dormitories or fraternity or sorority student houses

~~Domiciliary care facilities for adults~~

~~#Long-term care facilities#~~

Monasteries, convents or novitiates

Non-profit hospital staff dwellings without restriction as to location on the same #zoning lot#

Non-profit or voluntary hospitals and related facilities

~~Nursing homes and health-related facilities~~

Philanthropic or non-profit institutions with sleeping accommodations;

- (b) in Subdistrict B, #uses# listed in Use Groups 3 and 4 permitted in the underlying M1-2 District, pursuant to Sections 42-10 (USES PERMITTED AS-OF-RIGHT) and 74-921 (Use ~~Group~~ Groups 3A and 4A community facilities), shall be limited to 5,000 square feet of #floor area# per establishment.

* * *

104-15

Ground Floor Use and Frontage Regulations

For the purposes of this Section, ground floor level shall mean the floor of a #building#, the level of which is located at, or within five feet of, the finished level of the adjacent sidewalk, or the adjacent #mandatory widened sidewalk#, as applicable. In the locations specified on Map 6 (Ground Floor Use and Frontage) in Appendix A of this Chapter, the ground floor #use# and frontage regulations of this Section shall apply to any #development# or change of #use# located on the ground floor level of a #building or other structure#, or any #enlargement# that increases the #floor area# of the ground floor level of a #building# by more than 25 percent.

A minimum of 75 percent of the length of a #street wall# on the ground floor level shall be limited to #uses# listed in Section 104-16 (Use Group MMU) and shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses) measured to a depth of at least 30 feet from the #street wall#, or the depth of the #building#, whichever is less, shall be limited to #uses# listed in Section 104-16 (Use Group MMU). Such #uses# shall be located at the #street wall#. In no event shall the length of #street# frontage occupied solely by lobby space or entryways exceed, in total, 40 feet.

* * *

104-20

SPECIAL BULK REGULATIONS

* * *

104-21

Maximum Floor Area Ratio, Open Space Ratio and Lot Coverage for Residential Uses

In Subdistricts A and C, the #bulk# regulations for #residential use# are modified in accordance with the provisions of this Section.

For all #zoning lots#, or portions thereof, the maximum #floor area ratio#, #open space ratio# and #lot coverage# regulations shall not apply. In lieu thereof, the provisions of this Section shall apply.

In Subdistrict A, the maximum #floor area ratio# for #residential use# shall be 3.44.

In Subdistrict C, the maximum #floor area ratio# for #residential use# shall be 6.02.

For #interior# or #through lots#, or portions thereof, the maximum #lot coverage# shall not exceed 70 percent. For #corner lots#, the maximum #lot coverage# shall be 100 percent, shall not exceed 80 percent. ~~However, there shall be no maximum #lot coverage# for any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.~~

The provisions of Section 23-70 (MINIMUM REQUIRED DISTANCES BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT) shall not apply.

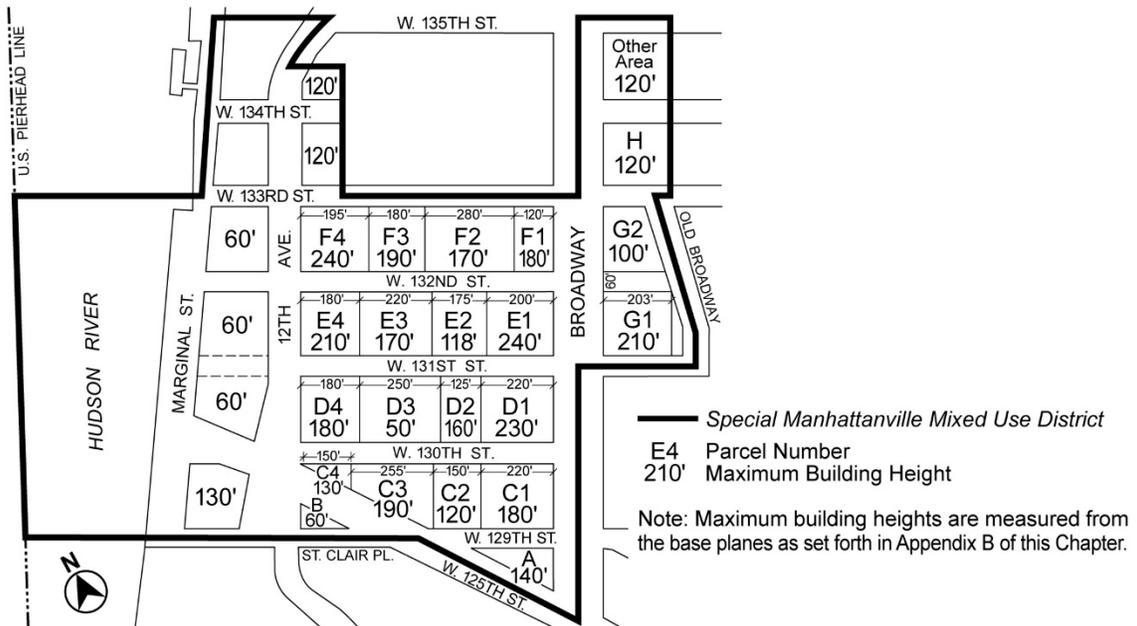
* * *

Appendix A
Special Manhattanville Mixed Use District Plan

* * *

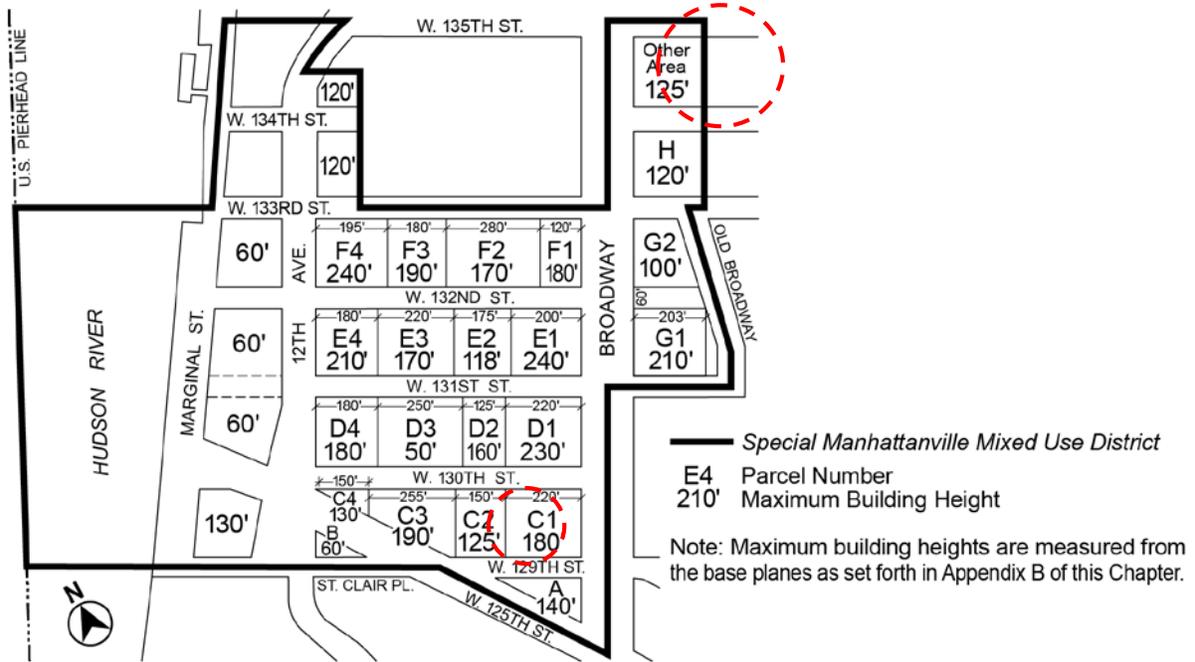
Map 5 - Parcel Designation and Maximum Building Heights

[TO BE REMOVED]



Map 5 - Parcel Designation and Maximum Building Heights

[TO BE ADDED]



Article X - Special Purpose Districts

Chapter 5

Special Natural Area District

105-00

GENERAL PURPOSES

The "Special Natural Area District" (hereinafter also referred to as the "Special District"), established in this Resolution, is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to guide development in areas of outstanding natural beauty in order to protect, maintain and enhance the natural features of such areas;
- (b) to preserve land having qualities of exceptional recreational or educational value to the public;
- (c) to protect aquatic, biologic, botanic, geologic and topographic features having ecological and conservation values and functions;
- (d) to reduce hillside erosion, landslides and excessive storm water runoff associated with development by conserving vegetation and protecting natural terrain;
- (e) to preserve hillsides having unique aesthetic value to the public; and
- (f) to promote the most desirable use of land and the direction of building development in accordance with a well-considered plan, to promote stability of residential development, to promote the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

105-90

FUTURE SUBDIVISION

* * *

105-94

Special Natural Area Districts Specified

* * *

105-944

Special Fort Totten Natural Area District-4

* * *

(d) Special regulations

* * *

(2) Special height regulations

In order to preserve the unique character of the Special District and to protect the views of and to the water within the Special District, Section 23-631 (General provisions Height and setback in R1, R2, R3, R4 and R5 Districts) shall apply except that the maximum height for any #development# or #enlargement# shall be 32 feet or three #stories#, whichever is less.

* * *

Article X - Special Purpose Districts

Chapter 7

Special South Richmond Development District

107-00

GENERAL PURPOSES

The "Special South Richmond Development District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following purposes:

- (a) to guide future development in accordance with the Land Use Plan for South Richmond and the Capital Improvement Plan for the Special District area;
- (b) to promote balanced land use and development of future land uses and housing in the Special District area, including private and public improvements such as schools, transportation, water, sewers, drainage, utilities, open space and recreational facilities, on a schedule consistent with the City's Capital Improvement Plan and thereby provide public services and facilities in the most efficient and economic manner, and to ensure the availability of essential public services and facilities for new development within the area;
- (c) to avoid destruction of irreplaceable natural and recreational resources such as lakes, ponds, watercourses, beaches and natural vegetation and to maintain the natural ecological balance of the area with minimum disruption of natural topography, trees, lakes and other natural features; and
- (d) to promote the most desirable use of land in the South Richmond area and thus to conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

107-40

SPECIAL USE, BULK AND PARKING REGULATIONS

107-41

Type of Residence

* * *

107-411

Affordable independent residences for seniors ~~Non-profit residences for the elderly in Area SH~~

In Area SH, as shown on the District Plan (Map 4 in Appendix A) of this Chapter, any #development# or

~~#enlargement#~~ comprised of #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~ shall be permitted upon certification of the Chairperson of the City Planning Commission that:

- (a) such ~~#development#~~ or ~~#enlargement#~~ will contain not more than 250 ~~#dwelling units#~~ of #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~, individually or in combination with other ~~#developments#~~ or ~~#enlargements#~~ within Area SH that have received prior certification pursuant to this Section;
- (b) a site plan has been submitted showing a detailed plan demonstrating compliance with the provisions of this Chapter; and
- (c) such ~~#residences#~~ comply with the ~~#use#~~ and ~~#bulk#~~ regulations of R3-2 Districts, except that the maximum ~~#floor area ratio#~~, maximum ~~#lot coverage#~~ and minimum required ~~#open space#~~ shall be as set forth for R3-2 Districts in Section ~~23-142-23-144~~ (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts ~~Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts~~), as modified by this Chapter. The provisions of Section ~~23-144 23-147~~ (Affordable independent residences for seniors) ~~(For non-profit residences for the elderly)~~ shall not apply.

Any ~~#development#~~ or ~~#enlargement#~~ that results in a total of more than 250 ~~#dwelling units#~~ of #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~ in Area SH shall be permitted only upon authorization of the City Planning Commission, pursuant to Section 107-672 (In Area SH).

107-412

Special bulk regulations for certain community facility uses in lower density growth management areas

The ~~#bulk#~~ regulations of this Chapter applicable to ~~#residential buildings#~~ shall apply to all ~~#zoning lots#~~ in ~~#lower density growth management areas#~~ containing ~~#buildings#~~ used for:

- (a) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such ~~#zoning lot#~~ contains ~~#buildings#~~ used for hospitals or #long-term care facilities# ~~nursing homes~~ as defined in the New York State Hospital Code; or
- (b) child care services as listed under the definition of ~~#school#~~ in Section 12-10 (DEFINITIONS), except where such ~~#zoning lot#~~ contains ~~#buildings#~~ used for houses of worship or, for ~~#zoning lots#~~ that do not contain ~~#buildings#~~ used for houses of worship, where the amount of ~~#floor area#~~ used for child care services is equal to 25 percent or less of the amount of ~~# floor area#~~ permitted for ~~#community facility use#~~ on the ~~#zoning lot#~~.

* * *

107-42

Minimum Lot Area and Lot Width for Residences

* * *

107-421

Minimum lot area and lot width for zoning lots containing certain community facility uses

In R1, R2, R3-1, R3A, R3X, ~~R3-1~~, R4-1 and R4A ~~and R4-1~~ Districts, the provisions of this Section shall apply to #zoning lots# containing #buildings# used for:

- (a) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals or #long-term care facilities# ~~nursing homes~~ as defined in the New York State Hospital Code; and

* * *

107-60

AUTHORIZATIONS

* * *

107-67

Uses and Bulk Permitted in Certain Areas

* * *

107-672

In Area SH

The City Planning Commission may authorize #developments# that will result in more than 250 #dwelling units# of #affordable independent residences for seniors# ~~#non-profit residences for the elderly#~~ in Area SH, as shown on the District Plan (Map 4 in Appendix A), provided such #developments# comply with the #use# and #bulk# regulations of R3-2 Districts, except that the maximum #floor area ratio#, maximum #lot coverage# and minimum required #open space# shall be as set forth for R3-2 Districts in Section 23-1424 (Open space and floor area regulations in R1, and R2, Districts with a letter suffix and R3, R4 and through R5 Districts), as modified by this Chapter. The provisions of Section 23-1447 (Affordable independent residences for seniors ~~For non-profit residences for the elderly~~) shall not apply.

* * *

Article X - Special Purpose Districts

Chapter 9

Special Little Italy District

109-00

GENERAL PURPOSES

The "Special Little Italy District" established in this Resolution is designed to promote and protect public health, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to preserve and strengthen the historical and cultural character of the community;
- (b) to protect the scale of storefronts and character of the existing retail uses along Mulberry Street and other major shopping streets so that Little Italy will remain a unique regional shopping area, and thereby strengthen the economic base of the City;
- (c) to preserve the vitality of street life by reducing conflict between pedestrian and vehicular traffic;
- (d) to permit rehabilitation and new development consistent with the residential character and scale of the existing buildings in the area;
- (e) to provide amenities, such as public open space, and street trees, to improve the physical environment;
- (f) to discourage the demolition of noteworthy buildings which are significant to the character of the area; and
- (g) to promote the more desirable use of land in the area and thus to preserve the value of land and buildings, and thereby protect and strengthen the City's tax revenues, consistent with the foregoing purposes.

* * *

109-02

General Provisions

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Little Italy District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Little Italy District# are superimposed are made inapplicable, and special regulations are substituted therefore in this Chapter.

Except as modified by the express provisions of this Special District, the regulations of the underlying zoning district remain in effect. For the purposes of this Chapter, the provisions of Sections ~~23-15 23-14~~, 23-20 and 33-13 are made inapplicable.

* * *

**109-10
PRESERVATION AREA (Area A)**

The provisions of this Section shall apply within Area A (Preservation Area) as shown on the District Plan (Appendix A).

* * *

**109-12
Bulk Regulations**

* * *

**109-122
Lot coverage, through lot and rear yard regulations**

Within Area A, the maximum #lot coverage# for a #zoning lot# shall not exceed the following percentages:

Lot Type	Maximum #Lot Coverage# (in percent)
#Corner lot#	<u>100</u> 70
#Interior lot#	60
#Through lot#, except as provided below	60

* * *

**109-30
HOUSTON STREET CORRIDOR (Area B)**

The provisions of this Section are applicable within Area B, as shown on the District Plan (Appendix A).

* * *

109-32
Bulk Regulations

The #bulk# regulations of the underlying district shall apply to the Houston Street Corridor (Area B), except as set forth in this Section.

* * *

109-322
Lot coverage regulations

For any #zoning lot# within Area B, the maximum #lot coverage# shall not exceed the following percentages:

Lot Type	Maximum #Lot Coverage# (in percent)
#Corner lot#	<u>100</u> 80
#Interior# or #through lot#	70

* * *

109-37
Noise Attenuation

For any #residential# or #commercial use# in a #development# within Area B:

- (a) window wall attenuation of 35 dB(A) for #residential uses# or 30 dB(A) for #commercial uses#, shall be provided. However, upon application to the Office of Environmental Remediation (OER) by the owner of the affected #building#, consistent with its authority under the provisions of Section 11-15 (Environmental Requirements) with respect to (E) designations, OER may modify the requirements of this Section, based upon new information, additional facts or updated standards, as applicable, provided that such modification is equally protective. In such instances, OER shall provide the Department of Buildings with notice of such modification, stating that it does not object to the issuance of a building permit, or temporary or final certificate of occupancy; and

* * *

Article XI - Special Purpose Districts

Chapter 1

Special Tribeca Mixed Use District

111-00

GENERAL PURPOSES

The "Special Tribeca Mixed Use District" established in this Resolution is designed to promote and protect public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (a) to retain adequate wage, job producing, stable industries within the Tribeca neighborhood;
- (b) to protect light manufacturing and to encourage stability and growth in the Tribeca neighborhood by permitting light manufacturing and controlled residential uses to coexist where such uses are deemed compatible;
- (c) to provide housing opportunity of a type and at a density appropriate to this mixed use zone;
- (d) to ensure the provision of safe and sanitary housing units in converted buildings; and
- (e) to promote the most desirable use of land and building development in accordance with the Plan for Lower Manhattan as adopted by the City Planning Commission.

* * *

111-10

SPECIAL USE REGULATIONS

* * *

111-13

Additional Use Regulations

* * *

- (e) Environmental conditions for Area A2
 - (1) All #developments# or #enlargements# shall be subject to Ambient Noise Quality Zone Regulations*. #Uses# listed in Use Group 11A shall be subject to the performance standards of an M1 District.

(2) All new #dwelling units# shall be provided with a minimum 35dB(A) of window wall attenuation in order to maintain an interior noise level of 45dB(A), or less, with windows closed. Therefore, an alternate means of ventilation is required. However, upon application to the Office of Environmental Remediation (OER) by the owner of the affected #building#, consistent with OER's authority under the provisions of Section 11-15 (Environmental Requirements) with respect to (E) designations, OER may modify the requirements of this Section, based upon new information, additional facts or updated standards, as applicable, provided that such modification is equally protective. In such instances, OER shall provide the Department of Buildings with notice of such modification, stating that it does not object to the issuance of a building permit, or temporary or final certificate of occupancy.

* Ambient Noise Quality Regulations for an M2 District as set forth in the Noise Control Code for the City of New York, Article VI(B)

**111-20
SPECIAL BULK PROVISIONS FOR AREAS A1 THROUGH A7**

* * *

(b) Area A2

The underlying regulations applicable to a C6-3 District shall apply to #developments# and #enlargements#, except as set forth herein.

* * *

(2) #Open space# and #lot coverage# regulations

The #open space# and #lot coverage# regulations of Article II, Chapters 3 and 4, and Article III, Chapter 5, for a #residential building#, or the #residential# portion of a #mixed building#, are not applicable. In lieu thereof, the maximum permitted #lot coverage# on a ~~#zoning interior lots#~~ and #through lots# shall not exceed 80 percent of the #lot area#. The maximum permitted #lot coverage# on #corner lots# shall be 100 percent of the #lot area#. However, any permitted obstruction on a #zoning lot# pursuant to Sections 23-44, 24-12 or 33-23 shall not count as #lot coverage#.

(3) #Yard#, #court# and minimum distance between #buildings# regulations

The #yard# and #court# regulations of a C6-3 District shall apply, except that on a

#through lot# the provisions of paragraphs (b) and (c) of Sections ~~23-532~~ ~~23-533~~ and 24-382 (Required rear yard equivalents) and 23-71 (Minimum Distance between Buildings on a Single Zoning Lot) shall not apply. On any single #zoning lot# within Area A2, if a #development# or #enlargement# results in two or more #buildings# or portions of #buildings# detached from one another at any level, such #buildings# or portions of #buildings# shall at no point be less than eight feet apart.

* * *

(c) Area A3

The regulations applicable to a C6-3A District shall apply to #developments# and #enlargements#, except as set forth herein.

(1) Height and setback regulations

The height and setback regulations of Section 35-65 (Height and Setback Requirements for Quality Housing Buildings) ~~24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts)~~ shall not apply. In lieu thereof, the following height and setback regulations shall apply:

* * *

(d) Area A4, A5, A6 and A7

* * *

(4) Applicability of Inclusionary Housing Program

R8A Districts within Area A6 shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District. The base #floor area ratio# for any #zoning lot# containing #residences# shall be 5.4. Such base #floor area ratio# may be increased to a maximum of 7.2 through the provision of #affordable housing# pursuant to the provisions for #Inclusionary Housing designated areas# in Section 23-90, except that the height and setback regulations of Sections ~~23-951~~ ~~23-954~~ (Height and setback for compensated developments in Inclusionary Housing designated areas) and 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall not apply. In lieu thereof, the height and setback regulations of this Chapter shall apply.

* * *

111-40

REQUIREMENTS FOR LOFT DWELLINGS CONSTRUCTED PRIOR TO OCTOBER 13, 2010

The following is applicable to all existing #loft dwellings#, created prior to October 13, 2010, within the #Special Tribeca Mixed Use District#.

- (a) All #loft dwellings# shall have one or more windows which open into a #street# or a #yard# with a minimum depth of 30 feet.
- (b) (1) The minimum #floor area# contained within a #loft dwelling# shall be not less than 2,000 square feet, except that:

* * *

- (2) The minimum #loft dwelling# size and #yard# requirement may be replaced by the requirements of Section 15-0246 (Special bulk regulations for certain pre-existing dwelling units, joint living-work quarters for artists and loft dwellings) for #loft dwellings#:

* * *

No #building# that meets the density requirements of paragraph (c) of this Section may subsequently add additional units or quarters except in accordance thereof. No #building# to which the regulations of Section 15-0246 have been applied may subsequently add additional units or quarters except in accordance with the requirements of paragraph (c).

* * *

Article XI - Special Purpose Districts

Chapter 2 Special City Island District

112-00 GENERAL PURPOSES

The "Special City Island District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to promote and strengthen the unique character of the Special City Island District for nautical and waterfront activities by limiting permitted uses to those which complement and enhance the existing character of the Special District;
- (b) to maintain the existing low-rise residential and commercial character of the district by regulating the height of buildings;
- (c) to maintain and protect the environmental quality and "village" character of City Island Avenue by imposing special controls on building setbacks and signs; and
- (d) to promote the most desirable use of land in this area and thus to conserve the value of land and thereby protect the City's tax revenue.

* * *

112-07 Special Use Regulations

* * *

112-074 Ground floor use restrictions on certain blocks

For all #buildings# fronting on City Island Avenue between Bay Street and Carroll Street, only non-#residential uses# shall be permitted on the ground floor level or within #stories# that have a floor level within five feet of #curb level#, except for #residential# Type 1 lobbies provided in accordance with 37-33 (Maximum Width of Certain Uses).

* * *

112-10
SPECIAL BULK REGULATIONS

* * *

112-104
Special transparency requirements along City Island Avenue

For #buildings# with ground floor #commercial# or #community facility uses# fronting upon City Island Avenue, the provisions of ~~this Section 37-34 (Minimum Transparency Requirements)~~ shall apply to any #street wall# of such #building# facing City Island Avenue. ~~At least 50 percent of the total surface area of such wall between #curb level# and 12 feet above #curb level#, or to the ceiling of the ground floor, whichever is less, or to the full height of the wall if such wall is less than 12 feet in height, shall be transparent. The lowest point of any transparency that is provided to satisfy this requirement shall not be higher than two feet, six inches above #curb level#.~~

~~In addition, solid security gates that are swung, drawn or lowered to secure #commercial# or #community facility uses# shall be prohibited. All security gates installed after September 30, 2003, shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#.~~

* * *

112-11
Special Parking Regulations

* * *

112-112
Accessory parking and floor area requirements for eating or drinking establishments

* * *

For eating or drinking establishments, the provisions of Sections 36-23 or 44-23 (Waiver of Requirements for Spaces below Minimum Number) or Sections 52-41 (General Provisions), with respect only to #enlargements# or #extensions# to provide off-street parking spaces, 73-43 (Reduction of Parking Spaces for Houses of Worship or Places of Assembly) and 73-45 (Modification of Off-Site Parking Provisions) are hereby made inapplicable. For eating or drinking establishments with frontage on City Island Avenue, if less than 15 #accessory# off-street parking spaces are required, all such parking spaces shall be waived.

* * *

Article XI - Special Purpose Districts

Chapter 3

Special Ocean Parkway District

113-00

GENERAL PURPOSES

The "Special Ocean Parkway District" established in this Resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include among others the following specific purposes:

- (a) to promote and strengthen the scenic landmark designation of Ocean Parkway by requiring landscaping along Ocean Parkway;
- (b) to maintain the existing scale and character of the community by limiting the bulk of permitted community facilities;
- (c) to protect the environmental quality of and improve circulation within the District by requiring enclosed parking for all uses along Ocean Parkway and by requiring off-street loading for certain community facilities throughout the District; and
- (d) to promote the most desirable use of land in this area and thus to conserve the value of land and thereby protect the City's tax revenue.

* * *

113-50

THE SUBDISTRICT

* * *

113-503

Special bulk regulations

For #single-# and #two-family detached# and #semi-detached residences#, and for #zoning lots# containing both #community facility# and #residential uses#, certain underlying district #bulk# regulations are set forth in Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts), except as superseded by those set forth in Sections 113-51 through 113-55, inclusive. The regulations applicable to a #predominantly built-up area# shall not apply in the Subdistrict.

For #community facility buildings#, the #bulk# regulations of Article II, Chapter 3, are superseded by those set forth in Sections 113-51 (Maximum Permitted Floor Area Ratio), 113-542 (Minimum required

front yards), 113-543 (Minimum required side yards), 113-544 (Minimum required rear yards) and 113-55 (Height and Setback Regulations). The provisions of Sections 24-01 (Applicability of this Chapter), ~~24-012~~ ~~24-014~~ (Exceptions to the bulk ~~regulations~~ provisions of this Chapter), paragraph (a), and 24-04 (Modification of Bulk Regulations in Certain Districts), pertaining to R4-1 Districts, shall not apply in the Subdistrict.

* * *

**113-52
Density Regulations**

The regulations set forth in Section 23-22 (Maximum Number of Dwelling Units ~~or Rooming Units~~) pertaining to R4-1 Districts shall apply.

* * *

**113-54
Yard Regulations**

* * *

**113-544
Minimum required rear yards**

One ~~#rear yard#~~ with a depth of not less than 20 feet shall be provided on any ~~#zoning lot#~~ except a ~~#corner lot#~~. The provisions of Section 23-52 (Special Provisions for Shallow Interior Lots) shall be inapplicable. The provisions of Section 23-53 (Special Provisions for Through Lots) pertaining to R4 Districts shall apply except that the provisions in Section ~~23-533~~ 23-532 (Required rear yard equivalents) shall be modified to require 40 feet instead of 60 feet in paragraph (a), or 20 feet instead of 30 feet in paragraphs (b) and (c).

* * *

**113-55
Height and Setback Regulations**

The height and setback regulations of a ~~#building or other structure#~~ in the Subdistrict shall be those as set forth applicable to R4A Districts in Section 23-631 (General provisions), ~~for #buildings or other structures# in R4A Districts~~, except that paragraph (b)(2) shall be modified as follows:

Each perimeter wall of the ~~#building or other structure#~~ may have one or more apex points directly above it on the 35 foot high plane. (See Section 23-631, Figure B).

* * *

Article XI - Special Purpose Districts

Chapter 5

Special Downtown Jamaica District

115-00

GENERAL PURPOSES

The "Special Downtown Jamaica District" established in this Resolution is designed to promote and protect the public health, safety and general welfare of the Downtown Jamaica community. These general goals include, among others, the following specific purposes, to:

- (a) strengthen the business core of Downtown Jamaica by improving the working and living environments;
- (b) foster development in Downtown Jamaica and provide direction and incentives for further growth where appropriate;
- (c) encourage the development of affordable housing;
- (d) expand the retail, entertainment and commercial character of the area around the transit center and to enhance the area's role as a major transportation hub in the City;
- (e) provide transitions between the downtown commercial core, the lower-scale residential communities and the transportation hub;
- (f) improve the quality of development in Downtown Jamaica by requiring the provision of specified public amenities in appropriate locations;
- (g) encourage the design of new buildings that are in character with the area;
- (h) enhance the pedestrian environment by relieving sidewalk congestion and providing pedestrian amenities; and
- (i) promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's tax revenues.

* * *

115-10

SPECIAL USE REGULATIONS

* * *

115-13

Ground Floor Use, Frontage and Major Building Entrance Regulations in C4-5X and C6 Districts

On designated #streets#, as shown on Map 2 (Ground Floor Use and Transparency and Curb Cut Restrictions) in Appendix A of this Chapter, the special ground floor #use#, frontage and major #building# entrance regulations of this Section shall apply to any #building or other structure# fronting on such #streets#.

#Uses# within #stories# on the ground floor or with a floor level within five feet of the level of the adjoining sidewalk, ~~and within 30 feet of the #street line#~~, shall be limited to #community facility uses# without sleeping accommodations, as listed in Section 115-15 (Modification of Use Regulations in M1-4 Districts), and #uses# listed in Use Groups 5, 6A, 6B, 6C, 6D, 7A, 7B, 8A, 8B, 8D, 9, 10, 11, 12A, 12B and 12C. A #building's street# frontage shall be allocated exclusively to such #uses#, except for Type 2 lobby space, entryways or entrances to subway stations provided in accordance with 37-33 (Minimum Width of Certain Uses). Such non-~~residential uses#~~ shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

~~In no event shall the length of #street# frontage occupied by lobby space, entrance space and/or a #building# entrance recess exceed, in total, 30 feet, or 50 percent of the #building's# total #street# frontage, whichever is less.~~

* * *

115-14

Transparency Requirement in C4-5X and C6 Districts

For #buildings developed# or #enlarged# after September 10, 2007, where the ground floor of such #development# or #enlarged# portion of the #building# fronts upon designated #streets# as shown on Map 2 (Ground Floor Use and Transparency and Curb Cut Restrictions) in Appendix A of this Chapter, each ground floor #street wall# shall be glazed in accordance with 37-34 (Minimum Transparency Requirements) ~~with transparent materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 50 percent of the area of each such ground floor #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk.~~

* * *

115-20

SPECIAL BULK REGULATIONS

115-21

Floor Area Ratio, Open Space and Lot Coverage

* * *

(c) #Lot coverage#

In C4 and C6 Districts, for #residential buildings# or the #residential# portion of a #mixed building#, the maximum #lot coverage# shall be 100.80 percent on a #corner lot# and 70 percent on an #interior# or #through lot#. ~~However, no #lot coverage# provisions shall apply to any #zoning lot# comprising an entire #block# or to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.~~

115-211

Special Inclusionary Housing regulations

* * *

(b) Maximum #floor area ratio#

The maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed the base #floor area ratio# set forth in the table in this Section, except that such base #floor area ratio# may be increased to the maximum #floor area ratio#, set forth in Section 23-154 ~~952~~ (Inclusionary Housing), through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90, inclusive.

* * *

(d) Height and setback

The height and setback regulations of ~~paragraph (a) of Sections 23-954-23-951 (Height and setback for compensated developments Inclusionary Housing designated areas) and 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors)~~ shall ~~be modified by the~~ not apply. In lieu thereof, the special height and setback regulations of Section 115-23, inclusive, of this Chapter shall apply.

* * *

115-23

Height and Setback Regulations

* * *

115-233

Street wall height

C4 C6

Except in the locations indicated on Map 4 (Street Wall Height) in Appendix A of this Chapter, the minimum and maximum heights before setback of a #street wall# required pursuant to Section 115-232 (Street wall location), shall be as set forth in the following table:

District	Minimum #Street Wall# Height	Maximum #Street Wall# Height
C4-4A	40 feet	65 75 feet
C4-5X	40 feet	85 95 feet
C6	40 feet	60 feet

* * *

115-234

Maximum building height

C4 C6

In C4-4A and C4-5X Districts, the maximum height of a #building or other structure# and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for the applicable residential equivalent set forth in the tables in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts). For #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), such maximum heights and number of #stories# may be modified in accordance with the provisions of paragraph (b) of Section 23-664 for such districts' applicable residential equivalent. Separate maximum #building# heights are set forth within such Sections for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662. ~~no #building or other structure# shall exceed a height of 80 feet.~~

~~In C4-5X Districts, no #building or other structure# shall exceed a height of 125 feet.~~

* * *

115-30

MANDATORY IMPROVEMENTS

* * *

115-32

Refuse Storage, Recreation Space and Planting Areas

All #buildings# containing #residences# shall provide refuse storage space, recreation space and planting areas in accordance with the provisions of Sections 28-12 ~~28-23~~ (Refuse Storage and Disposal) and 28-20 ~~28-30~~ (RECREATION SPACE AND PLANTING AREAS), whether or not they are #Quality Housing buildings#.

* * *

Article XI – Special Purpose Districts

Chapter 6 Special Stapleton Waterfront District

116-00 GENERAL PURPOSES

The "Special Stapleton Waterfront District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include among others, the following specific purposes:

- (a) encourage design of development that is in character with the neighborhood and surrounding community;
- (b) maintain and reestablish physical and visual public access to and along the waterfront;
- (c) strengthen the traditional town center of Stapleton by allowing the development of residential and commercial uses;
- (d) encourage the creation of a lively and attractive environment that will provide daily amenities and services for the use and enjoyment of the working population and the new residents;
- (e) take maximum advantage of the beauty of the New York Harbor waterfront, thereby best serving the business community, the residential population and providing regional recreation; and
- (f) promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect City tax revenues.

* * *

116-10 SPECIAL USE REGULATIONS

Within the #Special Stapleton Waterfront District#, the following special #use# regulations shall apply. The #use# regulations of the underlying C4-2A District shall be modified by Sections 116-101 through 116-13, inclusive.

* * *

116-12 Mandatory Ground Floor Use and Frontage Requirements

The provisions of Section 32-433 (Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island) shall not apply in the #Special Stapleton Waterfront District#. However, on designated #streets# and #mandatory front building wall lines# in Subareas B3 and C, as shown on Map 2 in the Appendix to this Chapter, the special ground floor #use# and frontage regulations of this Section shall apply to any #building developed# or #enlarged# after October 25, 2006.

~~#Uses# located on the ground floor level; or within two feet of the as-built level of the adjoining sidewalk, shall be exclusively limited to the permitted non-residential uses# permitted by the underlying district regulations, as modified by the special #use# provisions of this Chapter. A #building's# ground floor frontage shall be allocated exclusively to such #uses#, and shall have a depth of at least 30 feet from the #street wall# of the #building# and~~ Such ground floor #uses# shall extend along the entire width of the #building#, except for lobbies or entrances to #accessory# parking spaces, and shall have a depth provided in accordance with Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

In no event shall lobbies and entrances to #accessory# parking spaces occupy more than 50 percent of the #building's# total frontage along such #street# or #mandatory front building wall line#, or 35 feet, whichever is less. However, the total length of such frontage occupied by such lobbies and entrances need not be less than 25 feet.

116-13

Transparency Requirements

Within the #Special Stapleton Waterfront District#, the transparency requirements of ~~this~~ Section 37-34 (Minimum Transparency Requirements) shall apply to any #development# or an #enlargement# where the #enlarged# portion of the ground floor of the #building# is within eight feet of the #street line# and where non-residential uses# are located on the ground floor level or within two feet of the as-built level of the adjoining sidewalk.

~~At least 50 percent of a #building's# front #building# wall surface shall be glazed and transparent at the ground floor level. For the purpose of the glazing requirements, the #building's street wall# surface at the ground floor level shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is less. The lowest point of any transparency that is provided to satisfy the requirements of this Section shall not be higher than four feet above the as-built level of the adjoining sidewalk.~~

116-20

SPECIAL BULK REGULATIONS

The special #bulk# regulations of this Section shall apply within the #Special Stapleton Waterfront District#.

* * *

116-23

Special Height and Setback Regulations

The special height and setback regulations set forth in this Section shall apply.

* * *

116-233

Maximum building height

Within the #Special Stapleton Waterfront District#, the maximum height of a #building or other structure# with a #non-qualifying ground floor#, as defined in Section 23-662 (Maximum height of buildings and setback regulations), shall not exceed 50 feet, and the maximum height of a #building or other structure# with a #qualifying ground floor#, as defined in Section 23-662, shall not exceed 55 feet. ~~except~~ However, in Subarea B2, ~~where~~ the maximum height of a #building or other structure# shall not exceed 60 feet.

* * *

Article XI - Special Purpose Districts

Chapter 7

Special Long Island City Mixed Use District

117-00

GENERAL PURPOSES

The "Special Long Island City Mixed Use District" established in this Resolution is designed to promote and protect the public health, safety and general welfare of the Long Island City community. These general goals include, among others, the following specific purposes:

- (a) support the continuing growth of a mixed residential, commercial and industrial neighborhoods by permitting expansion and development of residential, commercial, community facility and light manufacturing uses where adequate environmental standards are assured;
- (b) encourage the development of moderate to high density commercial uses within a compact transit-oriented area;
- (c) strengthen traditional retail streets in Hunters Point by allowing the development of new residential and retail uses;
- (d) encourage the development of affordable housing;
- (e) promote the opportunity for people to work in the vicinity of their residences;
- (f) retain jobs within New York City;
- (g) provide an opportunity for the improvement of Long Island City; and
- (h) promote the most desirable use of land and thus conserve the value of land and buildings and thereby protect City tax revenues.

* * *

117-02

General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution

are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

- (b) For #mixed use buildings#, #dwelling units# ~~or #rooming units#~~ shall be located on a #story# or #stories# above the highest #story# occupied, in whole or in part, by a #commercial# or #manufacturing use# non-residential use#. #Commercial# or #manufacturing uses# Non-residential uses# may, however, be located on the same #story#, or on a #story# higher than that occupied by #dwelling units# ~~or #rooming units#~~, provided that the #commercial# or #manufacturing uses#: ~~non-residential uses#~~:
- (1) are located in a portion of the #mixed use building# that has separate direct access to the #street# with no access to the #residential# portion of the #building# at any #story#; and
 - (2) are not located directly over any portion of the #building# containing #dwelling units# ~~or #rooming units#~~.

* * *

**117-50
QUEENS PLAZA SUBDISTRICT**

* * *

**117-51
Queens Plaza Subdistrict Special Use Regulations**

* * *

**117-512
Ground floor use and frontage regulations**

On designated #streets# in the Queens Plaza Subdistrict, as shown on Map 2 in Appendix C of this Chapter, the special ground floor #use# and frontage regulations of this Section shall apply to any #building or other structure# fronting on such #streets#.

#Uses# within #stories# on the ground floor or with a floor level within five feet of #curb level# shall be limited exclusively to permitted #commercial#, #manufacturing# or #community facility uses# ~~permitted by the designated district regulations except~~ as modified by the special #use# provisions of Sections 117-51 and 117-511. ~~A #building's# ground floor frontage shall be allocated exclusively to such #uses#,~~

except for lobby space or entrance space.

* * *

117-513

Transparency requirement

Within the Queens Plaza Subdistrict, the transparency requirements of ~~this Section~~ Section 37-34 (Minimum Transparency Requirements) shall apply to all ~~#developments#~~ and to ~~#enlargements#~~ where the ~~#enlarged#~~ portion of the ground floor of the ~~#building#~~ is within eight feet of the ~~#street line#~~. ~~Transparency requirements shall not apply to any #building# where the ground floor is occupied by #uses# listed in Use Groups 16 or 17. However, the provisions establishing the maximum width of ground floor level #street wall# without transparency shall not apply. In lieu thereof, any portion of such #building# wall that is 50 feet or more in length and contains no transparent element between #curb level# and 14 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 14 feet in height, shall be covered with vines or similar planting or contain artwork or be treated so as to provide visual relief. Plantings shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches.~~

The transparency requirements of this Section shall not apply to any #building# where the ground floor is occupied by #uses# listed in Use Groups 16 or 17.

~~At least 50 percent of a #building's street wall# surface shall be glazed and transparent at the ground floor level. For the purpose of the glazing requirements, the #building's street wall# surface at the ground floor level shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is less. The lowest point at any point of any transparency that is provided to satisfy the requirements of this Section shall not be higher than four feet above #curb level#. Door or window openings within such walls shall be considered as transparent. Such openings shall have a minimum width of two feet.~~

~~In addition, the remaining portion of such #building# wall that is 50 feet or more in length and contains no transparent element between #curb level# and 14 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 14 feet in height, shall be covered with vines or similar planting or contain artwork or be treated so as to provide visual relief. Plantings shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches.~~

* * *

117-52

Queens Plaza Subdistrict Special Bulk Regulations

* * *

117-523

Lot coverage and open space ratio requirements

- (a) #Lot coverage# requirements for #residential buildings#

In the Queens Plaza Subdistrict, where the designated #Residence District# is an R7 or R9 District, the provisions of ~~Sections 23-142~~ Section 23-151 (Basic regulations for R6 through R9 Districts In R6, R7, R8 or R9 Districts) through 23-144, inclusive, regulating minimum required #open space ratios# and maximum #floor area ratios#, shall not apply. In lieu thereof, all #residential buildings#, regardless of whether they are required to be #Quality Housing buildings#, shall comply with the #lot coverage# requirements set forth for the designated district in Section ~~23-145-23-153~~ (For Quality Housing buildings)., ~~or Section 23-147 for #non-profit residences for the elderly#.~~ For purposes of this Section, #non-profit residences for the elderly# in R7 Districts without a letter suffix, shall comply with the provisions for R7A Districts, as set forth in ~~Section 23-147.~~

Where the designated district is an R7-3 District, the maximum #lot coverage# shall be 70 percent on an #interior# or #through lot# and ~~100~~ 80 percent on a #corner lot#.

* * *

117-55
Mandatory Plan Elements for the Queens Plaza Subdistrict

117-552
Central refuse storage area

The provisions of Section ~~28-23-28-12~~ (Refuse Storage and Disposal) shall apply.

* * *

117-60
DUTCH KILLS SUBDISTRICT

In the #Special Long Island City Mixed Use District#, the special regulations of Sections 117-60 through 117-64, inclusive, shall apply within the Dutch Kills Subdistrict.

* * *

117-63
Special Bulk Regulations in the Designated Districts

* * *

117-631
Floor area ratio and lot coverage modifications

* * *

(b) Maximum #floor area ratio# and #lot coverage# for #residential uses#

* * *

(2) M1-3/R7X designated district

(i) Inclusionary Housing Program

* * *

(ii) Maximum #floor area ratio#

Within such #Inclusionary Housing designated area#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed the base #floor area ratio# of 3.75, except that such base #floor area ratio# may be increased to the maximum #floor area ratio# of 5.0, as set forth in Section 23-154 ~~952~~ (Inclusionary Housing), through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90.

* * *

117-634

Maximum building height for mixed use buildings in designated R5 Districts

The provisions regarding the maximum height of #mixed use buildings# within 25 feet of a #street line#, as set forth in Section 123-661 (Mixed use buildings in Special Mixed Use Districts with R3, R4 or R5 District designations), shall be modified in the Dutch Kills Subdistrict, where the designated Residence District is an R5 District, as follows:

(a) in designated R5B Districts, no #building or other structure# shall exceed a height of 33 feet within 25 feet of a #street line#;

(b) in designated R5D Districts, no #building or other structure# shall exceed a height of ~~40~~ 45 feet within 25 feet of a #street line#.

* * *

Article XI - Special Purpose Districts

Chapter 8 Special Union Square District

118-00 GENERAL PURPOSES

The "Special Union Square District" established in this Resolution is designated to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) to promote a revitalized mixed-use area around Union Square by encouraging controlled development on vacant and under-utilized sites within the District;
- (b) to stimulate such growth while providing guidelines which will ensure urban design compatibility between new development, existing buildings and Union Square and which will preserve and enhance the special character of the Square;
- (c) to stabilize the area through residential development and thereby encourage active utilization of Union Square Park;
- (d) to enhance the retail and service nature and economic vitality of 14th Street by mandating appropriate retail and service activities;
- (e) to improve the physical appearance and amenity of the streets within the District by establishing streetscape and signage controls which are compatible to Union Square Park;
- (f) to improve access, visibility, security and pedestrian circulation in and around the 14th Street/Union Square Station; and
- (g) to promote the most desirable use of land in this area and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

118-10 USE REGULATIONS

* * *

118-12 Sign Regulations

On #street walls# fronting on 14th Street, no #sign# may be located more than 25 feet above #curb level#.

#Signs# on #street walls# fronting on all other #streets# within the Special District shall be subject to the provisions of paragraph (e) of Section 32-435 (Ground floor use in high density Commercial Districts) ~~37-36 (Sign Regulations)~~.

* * *

**118-20
BULK REGULATIONS**

**118-21
Floor Area Regulations**

The maximum #floor area ratio# permitted on property bounded by:

* * *

- (b) Broadway, a line midway between East 13th Street and East 14th Street, south prolongation of the center line of Irving Place and Irving Place, East 15th Street, Union Square East, Fourth Avenue, and East 14th Street is 10.0, except as provided in Section ~~118-70~~ 118-60 (SUBWAY STATION IMPROVEMENTS WITHIN THE SPECIAL UNION SQUARE DISTRICT).

In no event, shall the commercial #floor area ratio# exceed 6.0.

* * *

**118-22
Residential Density Regulations**

The density regulations of Section ~~23-30~~ 23-20 (DENSITY REGULATIONS) shall not apply. Instead, for every 750 square feet of #residential floor area# permitted on a #zoning lot#, there shall be no more than one #dwelling unit#.

However, the conversion of non-#residential buildings# to #residential use# shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion of within Existing ~~Non-Residential~~ Buildings).

* * *

**118-30
STREET WALL, HEIGHT AND SETBACK REGULATIONS**

The location and height above #curb level# of the #street wall# of any #development# or #enlargement# shall be as shown in the District Plan (Appendix A). However, if a #development# or #enlargement# is adjacent to one or more existing #buildings# fronting on the same #street line#, the #street wall# of such #development# or #enlargement# shall be located neither closer to nor further from the #street line# than the front wall of the adjacent #building# which is closest to the same #street line#.

#Street wall# recesses are permitted below the level of the second #story# ceiling for subway stair entrances required under Section ~~118-50~~ ~~118-60~~ (OFF STREET RELOCATION OF A SUBWAY STAIR WITHIN THE SPECIAL UNION SQUARE DISTRICT). Such recesses shall be no longer than 15 feet and no deeper than eight feet or the width or length of the relocated subway stair, whichever is greater.

* * *

118-40 ENTRANCE AND STREET WALL TRANSPARENCY REQUIREMENTS

All #buildings developed# or portions of #buildings enlarged# after January 10, 1985, that front on 14th Street, Union Square East, Union Square West or 17th Street shall be subject to the requirements set forth below.

* * *

118-43 Street Wall Transparency

When the #street wall# of any #building# or portion of a #building#, as applicable, pursuant to Section 118-40 (ENTRANCE AND STREET WALL TRANSPARENCY REQUIREMENTS), is located on 14th Street, Union Square East, Union Square West or 17th Street, ~~at least 50 percent of the total surface area of such #street wall# shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements) transparent between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is higher. Such transparency must begin not higher than four feet above #curb level#.~~

118-50 ADDITIONAL REQUIREMENTS

118-51 Double Glazed Windows

~~All new #dwelling units# in #developments#, #enlargements# or changes of #use# shall be required to have double glazing on all windows and shall provide alternate means of ventilation.~~

~~118-60~~

118-50

OFF-STREET RELOCATION OF A SUBWAY STAIR WITHIN THE SPECIAL UNION SQUARE DISTRICT

* * *

~~118-70~~

118-60

SUBWAY STATION IMPROVEMENTS WITHIN THE SPECIAL UNION SQUARE DISTRICT

* * *

Article XI - Special Purpose Districts

Chapter 9 Special Hillside Preservation District

119-00 GENERAL PURPOSES

The "Special Hillside Preservation District" (hereinafter also referred to as the "Special District") established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following special purposes:

- (a) to reduce hillside erosion, landslides and excessive storm water runoff associated with development by conserving vegetation and protecting natural terrain;
- (b) to preserve hillsides having unique aesthetic value to the public;
- (c) to guide development in areas of outstanding natural beauty in order to protect, maintain and enhance the natural features of such areas; and
- (d) to promote the most desirable use of land and to guide future development in accordance with a comprehensive development plan, and to protect the neighborhood character of the district.

* * *

119-20 PROVISIONS REGULATING TIER II SITES

* * *

119-21 Tier II Requirements

119-211 Lot coverage, floor area and density regulations

The area of a #private road# shall be excluded from the area of the #zoning lot# for the purposes of applying the applicable requirements of Sections 23-14 (Open Space and Floor Area Regulations in R1 through R5 Districts ~~Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio~~) or Section 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts) as modified by this Section, and Sections 23-21 (Required Floor Area per Dwelling Unit ~~or Floor Area per Rooming Unit~~) and 33-10 (FLOOR AREA REGULATIONS). For the purposes of this

Section, the area of the #private road# shall include the area of the paved roadbed plus a seven-foot wide area adjacent to and along the entire length of the required curbs.

* * *

**119-212
Height and setback regulations**

The height and setback regulations set forth in Sections ~~23-63~~ 631 (Height and Setback Requirements in R1 Through R5 Districts), ~~23-64~~ 632 (Basic Height and Setback Requirements), ~~34-24~~ (Modification of Height and Setback Regulations), and ~~35-61~~ 35-62 (Height and Setback Regulations Commercial Districts with an R1 through R5 Residential Equivalent) and ~~35-63~~ (Basic Height and Setback Modifications) shall not apply to #buildings or other structures# on #Tier II sites# within the #Special Hillside Preservation District#. In lieu thereof, the height and setback regulations set forth in this Section shall apply.

* * *

TABLE III
MAXIMUM HEIGHT OF A BUILDING OR OTHER STRUCTURE

#Residence District#*	Maximum Height above #Base Plane#
R1 R2 R3 R4**	36 feet
R5**	60 feet
R6	70 feet

* or #Residence District# equivalent when the #zoning lot# is located within a #Commercial District#

** #buildings# that utilize the regulations of Section ~~23-141~~ 23-143, applying to a #predominantly built-up area#, shall not exceed a maximum height of 32 feet above the #base plane#.

* * *

Article XII - Special Purpose Districts

Chapter 1

Special Garment Center District

121-00

GENERAL PURPOSES

The "Special Garment Center District" established in this Resolution is designed to promote and protect public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (a) to retain adequate wage and job producing industries within the Garment Center;
- (b) to preserve apparel production and showroom space in designated areas of the Garment Center;
- (c) to limit conversion of manufacturing space to office use in designated areas of the Garment Center;
- (d) to recognize the unique character of the western edge of the Special District as integral to the adjacent #Special Hudson Yards District#;
- (e) to establish an appropriate visual character for wide streets within the Garment Center; and
- (f) to promote the most desirable use of land within the district, to conserve the value of land and buildings, and thereby protect the City's tax revenues.

* * *

121-30

SPECIAL BULK REGULATIONS WITHIN PRESERVATION AREA P-2

The following special #bulk# regulations shall apply within Preservation Area P-2, as shown in Appendix A of this Chapter.

* * *

121-32

Height of Street Walls and Maximum Building Height

* * *

(b) Maximum #building# height

Above a height of 90 feet or the height of the adjacent #street wall# if higher than 90 feet, no portion of a #building or other structure# shall penetrate a #sky exposure plane# that begins at a height of 90 feet above the #street line#, or the height of the adjacent #street wall# if higher than 90 feet, and rises over the #zoning lot# at a slope of four feet of vertical distance for each foot of horizontal distance to a maximum height limit of 250 feet, except as provided below:

- (1) any portion of the #building or other structure developed# or #enlarged# pursuant to the tower regulations of Sections 33-45 (Tower Regulations) or ~~35-63~~ 35-64 (Special Tower Regulations for Mixed Buildings), as applicable, may penetrate the #sky exposure plane#, provided no portion of such #building or other structure# exceeds the height limit of 250 feet; and

* * *

Article XII - Special Purpose Districts

Chapter 3 Special Mixed Use District

123-00 GENERAL PURPOSES

The "Special Mixed Use District" regulations established in this Chapter of the Resolution are designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to encourage investment in mixed residential and industrial neighborhoods by permitting expansion and new development of a wide variety of uses in a manner ensuring the health and safety of people using the area;
- (b) to promote the opportunity for workers to live in the vicinity of their work;
- (c) to create new opportunities for mixed use neighborhoods;
- (d) to recognize and enhance the vitality and character of existing and potential mixed use neighborhoods; and
- (e) to promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings and thereby protect City tax revenues.

* * *

123-20 SPECIAL USE REGULATIONS

* * *

123-21 Modification of Use Groups 2, 3 and 4

The #uses# listed in Use Group 2, and the following #uses# listed in Use Groups 3 and 4: college or school student dormitories and fraternity or sorority student houses, ~~#long-term care facilities#, domiciliary care facilities for adults, nursing homes and health-related facilities,~~ philanthropic or non-profit institutions with sleeping accommodations, monasteries, convents or novitiates, #non-profit hospital staff dwellings# without restriction on location, and non-profit or voluntary hospitals, may only locate in the same #building# as, or share a common wall with a #building# containing, an existing

~~#manufacturing# or #commercial use#, upon certification by a licensed architect or engineer to the Department of Buildings that such #manufacturing# or #commercial use#:~~

* * *

123-30

SUPPLEMENTARY USE REGULATIONS

123-31

Provisions Regulating Location of Uses in Mixed Use Buildings

In ~~#Special Mixed Use Districts#, in any #building# or portion of a #building# occupied by #residential uses#, #commercial# or #manufacturing uses# ~~non-#residential uses#~~ may be located only on a #story# below the lowest #story# occupied by #dwelling units# ~~or #rooming units#~~, except that this limitation shall not preclude the:~~

* * *

- (b) location of #commercial# or #manufacturing uses# ~~non-#residential uses#~~ on the same #story#, or on a #story# higher than that occupied by #dwelling units# ~~or #rooming units#~~, in #buildings# in existence on or prior to December 10, 1997, that are partially #converted# to #residential use# pursuant to paragraph (a) of Section 123-67 (Residential Conversion), or were previously so #converted# pursuant to Article I, Chapter 5 (Residential Conversion within Existing Buildings); or
- (c) location of #commercial# or #manufacturing uses# ~~non-#residential uses#~~ on the same #story#, or on a #story# higher than that occupied by #dwelling units# ~~or #rooming units#~~, provided that the #commercial# or #manufacturing uses# ~~non-#residential uses#~~:
 - (1) are located in a portion of the #mixed use building# that has separate direct access to the #street# with no access to the #residential# portion of the #building# at any #story#; and
 - (2) are not located directly over any portion of a #building# containing #dwelling units# ~~or #rooming units#~~.

123-32

Environmental Conditions

In ~~#Special Mixed Use Districts#, all new #dwelling units# shall be provided with a minimum 35dB(A) of window wall attenuation to maintain an interior noise level of 45dB(A) or less, with windows closed, and shall provide an alternate means of ventilation. However, upon application to the Office of Environmental Remediation (OER) by the owner of the affected #building#, consistent with its authority~~

under the provisions of Section 11-15 (Environmental Requirements) with respect to (E) designations, OER may modify the requirements of this Section, based upon new information, additional facts or updated standards, as applicable, provided that such modification is equally protective. In such instances, OER shall provide the Department of Buildings with notice of such modification, stating that it does not object to the issuance of a building permit, or temporary or final certificate of occupancy.

* * *

**123-60
SPECIAL BULK REGULATIONS**

* * *

**123-61
General Provisions**

All #buildings or other structures# on #zoning lots# within the #Special Mixed Use District# shall comply with the #bulk# regulations of this Chapter.

In #Special Mixed Use Districts#, the #bulk# regulations set forth in Article II, Chapter 3, shall apply to all #residential uses# in a #building or other structure#, and the #bulk# regulations set forth in paragraph (a) of Section 24-013 (Special provisions for certain community facility uses) shall apply to #buildings#, or portion thereof, containing #long-term care facilities#. ~~the~~ The #bulk# regulations set forth in Article IV, Chapter 3, shall apply to all #manufacturing#, #commercial# and other #community facility uses# in a #building or other structure#. Exceptions to the applicability of such underlying #bulk# regulations are, except as set forth in Sections 123-60 through 123-66, inclusive. Where, pursuant to paragraph (a) of Section 24-013, #buildings# containing #long-term care facilities# are required to utilize the #bulk# provisions applicable to #affordable independent residences for seniors#, the exceptions to the underlying #bulk# regulations set forth in this Chapter applicable to #affordable independent residences for seniors# shall also apply to #long-term care facilities#.

When two or more #buildings# on a single #zoning lot# are used in any combination for #uses# which, if located in a single #building#, would make it a #mixed use building#, the regulations set forth in this Section shall apply as if such #buildings# were a single #mixed use building#.

* * *

**123-63
Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Only Residential Buildings in R6, R7, R8 and R9 Districts**

Where the designated #Residence District# is an R6, R7, R8 or R9 District, the minimum required #open space ratio# and maximum #floor area ratio# provisions of Sections ~~23-142~~ 23-151 (Basic regulations for R6 through R9 Districts), ~~23-143 and paragraph (a) of Section 23-147~~ shall not apply. In lieu thereof, all

~~#residential buildings#, regardless of whether they are required to be #developed# or #enlarged# pursuant to the Quality Housing Program, shall comply with the maximum #floor area ratio# and #lot coverage# requirements set forth for the designated district in Section 23-145 23-153 (For Quality Housing buildings), or paragraph (b) of Section 23-147 23-155 (Affordable independent residences for seniors), as applicable. for #non-profit residences for the elderly#. For purposes of this Section, #non-profit residences for the elderly# in R6 and R7 Districts without a letter suffix, shall comply with the provisions for R6A or R7A Districts, respectively, as set forth in paragraph (b) of Section 23-147.~~

Where the designated district is an R7-3 District, the maximum #floor area ratio# shall be 5.0 and the maximum #lot coverage# shall be 70 percent on an #interior# or #through lot# and 100.80 percent on a #corner lot#.

Where the designated district is an R9-1 District, the maximum #floor area ratio# shall be 9.0, and the maximum #lot coverage# shall be 70 percent on an #interior# or #through lot# and 100.80 percent on a #corner lot#.

The provisions of this Section shall not apply on #waterfront blocks#, as defined in Section 62-11. In lieu thereof, the applicable maximum #floor area ratio# and #lot coverage# requirements set forth for #residential uses# in Section 62-30 (SPECIAL BULK REGULATIONS) through 62-32 (Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks), inclusive, shall apply.

However, in #Inclusionary Housing designated areas#, as listed in the table in this Section, the maximum permitted #floor area ratio# shall be as set forth in Section 23-154~~952~~ (Inclusionary Housing). The locations of such districts are specified in APPENDIX F of this Resolution.

* * *

123-64

Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Mixed Use Buildings

For #zoning lots# containing #mixed use buildings#, the following provisions shall apply.

- (a) Maximum #floor area ratio#

* * *

- (3) #Residential uses#

Where the #Residence District# designation is an R3, R4 or R5 District, the maximum #floor area ratio# permitted for #residential uses# shall be the applicable maximum #floor area ratio# permitted for #residential uses# under the provisions of Sections 23-14~~1~~, inclusive, and 23-141, in accordance with the designated #Residence District#.

* * *

(4) Maximum #floor area# in #mixed use buildings#

The maximum total #floor area# in a #mixed use building# shall be the maximum #floor area# permitted for either the #commercial#, #manufacturing#, #community facility# or #residential use#, as set forth in this Section, whichever permits the greatest amount of #floor area#.

However, in #Inclusionary Housing designated areas#, except within Waterfront Access Plan BK-1, the maximum #floor area ratio# permitted for #zoning lots# containing #residential# and #commercial#, #community facility# or #manufacturing uses# shall be the base #floor area ratio# set forth in Section 23-154 ~~952~~ (Inclusionary Housing) for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #affordable housing#, pursuant to Section 23-90, inclusive.

* * *

123-65

Special Yard Regulations

* * *

123-652

Special yard regulations for mixed use buildings

No #front yards# or #side yards# are required in #Special Mixed Use Districts#. However, if any open area extending along a #side lot line# is provided at any level, such open area shall have a minimum width of eight feet; except, if the #mixed use building# contains no more than two #dwelling units#, the open area extending along a #side lot line# may be less than eight feet in width at the level of the #dwelling unit#. For a #residential# portion of a #mixed use building#, the required #rear yard# shall be provided at the floor level of the lowest #story# containing #dwelling units# ~~or #rooming units#~~ where any window of such #dwelling units# ~~or #rooming units#~~ faces onto such #rear yard#.

* * *

123-655

Special permitted obstructions in required yards or rear yard equivalents for certain Inclusionary Housing buildings or affordable independent residences for seniors

A portion of a #building# used for #residential uses# other than #dwelling units# in #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent

residences for seniors) shall be a permitted obstruction within a #rear yard# or #rear yard equivalent# on #zoning lots# in #Special Mixed Use Districts# with R6 through R10 District designations, provided that the height of such #building# portion does not exceed one #story#, or 15 feet above the adjoining grade, whichever is less, and provided that such space shall be accessible to all residents of the #building#.

* * *

123-66
Height and Setback Regulations

* * *

123-662
All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations

In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District, the height and setback regulations of Sections 23-60 and 43-40 shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the height and setback regulations of this Section.

(a) Medium and high density non-contextual districts

- (1) In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District without a letter suffix, except an R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9X, R10A or R10X District, the height of a #building or other structure#, or portion thereof, located within ~~ten~~ 10 feet of a #wide street# or 15 feet of a #narrow street#, may not exceed the maximum base height specified in Table A of this Section, except for dormers permitted in accordance with paragraph (c) of this Section. Beyond ~~ten~~ 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed the maximum #building# height specified in Table A. However, a #building or other structure# may exceed such maximum #building# height by four #stories# or 40 feet, whichever is less, provided that the gross area of each #story# located above the maximum #building# height does not exceed 80 percent of the gross area of that #story# directly below it.

* * *

(b) Medium and high density contextual districts

In #Special Mixed Use Districts# where the #Residence District# designation is an R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9X, R10A or R10X District, the height and setback provisions of Section 23-662 shall apply. Where the #Residence District# designation is an R10X District, a tower may be provided in accordance with the provisions of Section 23-663. In addition, in all applicable districts, for #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing

buildings or affordable independent residences for seniors), the height and setback provisions of paragraph (b) of Section 23-664 shall apply. Separate maximum #building# heights are set forth within Sections 23-662 and 23-664 for #Quality Housing buildings# with #qualifying ground floors# as well as for those with #non-qualifying ground floors#, as defined in Section 23-662. no #building or other structure# shall exceed the maximum #building# height specified in Table B of this Section.

Setbacks are required for all portions of #buildings# that exceed the maximum base height specified in Table B. Such setbacks shall be provided in accordance with the following provisions:

- (1) ~~#Building# walls facing a #wide street# shall provide a setback at least ten feet deep from such wall of the #building# at a height not lower than the minimum base height specified in Table B. #Building# walls facing a #narrow street# shall provide a setback at least 15 feet deep from such wall of the #building# at a height not lower than the minimum base height specified in Table B.~~
- (2) ~~These setback provisions are optional for any #building# wall that is either located beyond 50 feet of a #street line# or oriented so that lines drawn perpendicular to such #building# wall would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be deemed to be the #street line#.~~
- (3) ~~Required setback areas may be penetrated by dormers in accordance with paragraph (e) of this Section.~~
- (4) ~~Where the #Residence District# designation is an R10X District, no maximum #building# height shall apply. However, the minimum coverage of any portion of a #building# that exceeds the permitted maximum base height shall be 33 percent of the #lot area# of the #zoning lot#. Such minimum #lot# coverage requirement shall not apply to the highest four #stories# of the #building#.~~

TABLE B
HEIGHT AND SETBACK FOR ALL BUILDINGS
IN MEDIUM AND HIGH DENSITY CONTEXTUAL DISTRICTS
(in feet)

District	Minimum Base Height	Maximum Base Height	Maximum #Building# Height
R6B	30	40	50

R6A	40	60	70
R7B	40	60	75
R7A	40	65	80
R7D	60	85	100
R7X	60	85	125
R8A	60	85	120
R8B	55	60	75
R8X	60	85	150
R9A**	60	95	135
R9A*	60	102	145
R9X**	60	120	160
R9X*	105	120	170
R10A**	60	125	185
R10A*	125	150	210
R10X	60	85	***

* That portion of a district which is within 100 feet of a #wide street#

** That portion of a district on a #narrow street# except within a distance of 100 feet from its intersection with a #wide street#

*** #Buildings# may exceed a maximum base height of 85 feet in accordance with paragraph (b)(4) of this Section

(c) Permitted obstructions and dormer provisions

Obstructions shall be permitted pursuant to Sections 23-62, 24-51 or 43-42. In addition, in all Districts, within a required setback area, a dormer may be provided in accordance with the provisions of paragraph (c)(1) of Section 23-621. ~~exceed a maximum base height specified in Tables A or B of this Section and thus penetrate a required setback area, provided that, on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the length of the #street wall# of the highest #story# entirely below the maximum base height. At any level above the maximum base height, the length of a #street wall# of a dormer shall be decreased by one percent for every foot that such level of dormer exceeds the maximum base height. (See illustration of Dormer in Section 62-341).~~

However, all #buildings or other structures# on #waterfront blocks#, as defined in Section 62-11, shall comply with the height and setback regulations set forth for the designated #Residential District# as set forth in Section 62-34 (Height and Setback Regulations on Waterfront Blocks), inclusive.

* * *

Article XII - Special Purpose Districts

Chapter 4

Special Willets Point District

124-00

GENERAL PURPOSES

The “Special Willets Point District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) transform Willets Point into a diverse and sustainable community that enhances connections to its surroundings through a unique combination of uses;
- (b) create a retail and entertainment destination that catalyzes future growth and strengthens Flushing’s role as a nexus of economic, social and cultural activity;
- (c) encourage a mix of uses that complement sporting venues within Flushing Meadows-Corona Park;
- (d) maximize utilization of mass transit, reducing the automobile dependency of the redevelopment;
- (e) create a livable community combining housing, retail and other uses throughout the district;
- (f) create a walkable, urban streetscape environment with publicly accessible open spaces;
- (g) encourage the pedestrian orientation of ground floor uses;
- (h) build upon the diversity of the Borough of Queens as well as the proximity of regional transportation facilities, including the Van Wyck and Whitestone Expressways, LaGuardia and JFK Airports and the Long Island Railroad;
- (i) provide flexibility of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms; and
- (j) promote the most desirable use of land and building development in accordance with the District Plan and Urban Renewal Plan for Willets Point and thus improve the value of land and buildings and thereby improve the City’s tax revenues.

124-10
SPECIAL USE REGULATIONS

The ~~use~~ regulations of the underlying district are modified as set forth in this Section, inclusive.

124-11
Regulation of Residential Uses

124-111
Location of residential use within buildings

The provisions of Section 32-422 (Location of floors occupied by commercial uses) shall be modified to permit ~~dwelling units~~ or ~~rooming units~~ on the same ~~story~~ as a ~~commercial use~~ ~~non-residential use~~ provided no access exists between such ~~uses~~ at any level containing ~~dwelling units~~ or ~~rooming units~~ and provided any ~~commercial uses~~ ~~non-residential uses~~ are not located directly over any ~~dwelling units~~ or ~~rooming units~~. However, such ~~commercial uses~~ ~~non-residential uses~~ may be located over ~~dwelling units~~ or ~~rooming units~~ by authorization of the City Planning Commission upon a finding that sufficient separation of ~~residential uses~~ from ~~commercial uses~~ ~~non-residential uses~~ exists within the ~~building~~.

* * *

124-14
Retail Continuity

The following regulations shall apply within Area A, as shown on Map 1 in the Appendix to this Chapter, to all portions of ~~buildings~~ with frontage on 126th Street, the ~~primary retail street~~, ~~the retail streets~~, ~~connector streets~~ and, in the event that a utility easement is retained on the ~~block~~ bounded by Roosevelt Avenue and 126th Street, along the frontage of the publicly accessible open space required by paragraph (d) of Section 124-42.

- (a) Ground floor ~~uses~~

~~Uses~~ within ~~stories~~ on the ground floor or with a floor level within five feet of ~~base flood elevation~~ shall be limited to ~~commercial uses~~ permitted by the underlying district, ~~but not including except~~ ~~uses~~ listed in Use Groups 6B, 6E, 8C, 8D, 9B, 10B or 12D, ~~as provided in Article III, Chapter 2~~. A ~~building's~~ frontage shall be allocated exclusively to such ~~uses~~, except for Type 2 lobby space or entryways provided in accordance with Section 37-33 (Maximum Width of Certain Uses), parking pursuant to Section 124-50, inclusive, and vehicular access pursuant to Section 124-53 (Curb Cut Restrictions). Such ~~uses~~ shall have a minimum depth of 50 feet measured from any ~~street wall~~ facing 126th Street, the ~~primary retail street~~

or #connector streets#.

~~In no event shall the length of such frontage occupied by lobby space or entryways exceed, in total, 40 feet or 25 percent of the #building's# frontage, whichever is less, except that the width of a lobby need not be less than 20 feet.~~

* * *

(d) Transparency

~~For any #building#, or portion thereof, #developed# or #enlarged# after November 13, 2008, each ground floor #street wall# shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements) with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such glazed area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

However, in locations where such ground floor #street wall# above the level of the adjoining sidewalk or public access area is below #base flood elevation#, the required glazed area shall occupy an area measured from #base flood elevation# to a height 10 feet above #base flood elevation#.

* * *

**124-50
OFF-STREET PARKING REGULATIONS**

Off-street parking shall be provided for all required parking spaces and loading berths as specified by the underlying district, except as modified by the special regulations of this Section, inclusive.

**124-51
Use and Location of Parking Facilities**

The provisions of this Section shall apply to all off-street parking spaces within the #Special Willets Point District#.

Floor space used for parking shall be exempt from the definition of #floor area#.

Parking facilities with over 225 parking spaces shall provide adequate reservoir space at the vehicular entrances to accommodate either ten automobiles or five percent of the total parking spaces provided in

such facility, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles.

(a) All off-street parking spaces shall be located within facilities that, except for entrances and exits, are located:

(1) entirely below the level of any #street# or publicly accessible open space upon which such facility, or portion thereof, fronts;

* * *

(3) at every level above-grade, ~~wrapped by behind any #floor area# provided in accordance with paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements) containing permitted #commercial#, #community facility# or #residential uses#, at least 25 feet from any #street wall# or public access area;~~ or

(4) above-grade and adjacent to a #street wall# or public access area, and screened in accordance with the provisions set forth in paragraphs (b)(1) through (b)(3) of Section 37-35 ~~provided that any non-horizontal parking deck structures are not visible from the exterior of the #building# in elevation view and opaque materials are located in the exterior #building# wall between the bottom of the floor of each parking deck and no less than three feet above such deck and a total of at least 50 percent of such #street wall# with adjacent parking spaces consists of opaque materials.~~ A parking structure so screened shall be permitted only in the following locations:

(i) except within #blocks# that bound the intersection of 126th Street and Northern Boulevard or 126th Street and Roosevelt Avenue, a parking facility may be located adjacent to a #street wall# facing 126th Street above a height of 35 feet and limited to a height of 85 feet, ~~provided that no less than 60 percent and no more than 70 percent of the surface area of the portion of such #street wall# with adjacent parking spaces consists of one or more of the following: #signs#, graphic or sculptural art, or living plant material.~~ At least 30 25 feet of #floor area# containing permitted #commercial#, #community facility# or #residential uses# shall separate such parking spaces from any other adjacent #street#;

(ii) a parking facility may be located adjacent to a #street wall# limited to a height of 85 feet on a #block# that bounds the intersection of 126th Street and Northern Boulevard, provided that such #street wall# is on Northern Boulevard and is more than 100 feet from 126th Street, ~~and provided that no less than 60 percent and no more than 70 percent of the surface area of the portion of such #street wall# with adjacent parking spaces consists of one or more of the following: #signs#, graphic or sculptural art, or living plant material.~~ At least 30 25 feet of #floor area# containing permitted #commercial#, #community facility# or #residential uses# shall separate such parking spaces from adjacent #residential#,

~~#connector# or #primary retail streets#;~~

- (iii) a parking facility not on a ~~#block#~~ that bounds the intersection of 126th Street and Northern Boulevard may be located adjacent to a ~~#street wall#~~ limited to a height of 40 feet facing Northern Boulevard, provided that such ~~#street wall#~~ with adjacent parking spaces is on Northern Boulevard and is more than 100 feet from 126th Street. At least ~~30~~ 25 feet of ~~#floor area#~~ containing permitted ~~#commercial#, #community facility# or #residential-uses#~~ shall separate such parking spaces from any other adjacent ~~#street#~~;
 - (iv) a parking facility may be located adjacent to a ~~#street wall#~~ on a ~~#block#~~ that bounds the intersection of 126th Street and Roosevelt Avenue, provided that such ~~#street wall#~~ with adjacent parking spaces is more than 100 feet from 126th Street, Roosevelt Avenue and at least ~~30~~ 25 feet from any ~~#connector street#~~;
 - (v) a parking facility may be located adjacent to a ~~#street wall#~~ limited to a height of 40 feet facing the eastern boundary of the ~~#Special Willets Point District#~~, within 200 feet of such eastern boundary, so that such parking facility is not visible from a ~~#connector street#~~. At least ~~30~~ 25 feet of permitted ~~#floor area#~~ containing ~~#commercial#, #community facility# or #residential-uses#~~ shall separate such parking spaces from adjacent ~~#residential# and #connector streets#~~; and
 - (vi) a parking facility may be located adjacent to a ~~#street wall#~~ where such ~~#street wall#~~ is on a ~~#service street#~~, provided that at least ~~30~~ 25 feet of ~~#floor area#~~ containing permitted ~~#commercial#, #community facility# or #residential-uses#~~ shall separate such parking spaces from adjacent ~~#residential#, #connector#, #retail# or #primary retail streets#~~.
- (b) All parking facilities with parking spaces adjacent to an exterior ~~#building#~~ wall that is not a ~~#street wall#~~ shall provide screening in accordance with the provisions set forth in paragraphs (b)(1) through (b)(3) of Section 37-35 ~~of such exterior wall so that any non-horizontal parking deck structures are not visible from the exterior of the #building# in elevation view and opaque materials are located in the exterior #building# wall between the bottom of the floor of each parking deck and no less than three feet above such deck and a total of at least 50 percent of such exterior #building# wall with adjacent parking spaces consists of opaque materials.~~

* * *

Article XII - Special Purpose Districts

Chapter 5

Special Southern Hunters Point District

125-00

GENERAL PURPOSES

The "Special Southern Hunters Point District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) encourage well-designed buildings that complement the built character of the Hunters Point neighborhood;
- (b) maintain and reestablish physical and visual public access to and along the waterfront;
- (c) broaden the regional choice of residences by introducing new affordable housing;
- (d) achieve a harmonious visual and functional relationship with the adjacent neighborhood;
- (e) create a lively and attractive built environment that will provide daily amenities and services for the use and enjoyment of area residents, workers and visitors;
- (f) take maximum advantage of the beauty of the East River waterfront and provide an open space network comprised of public parks, public open space and public access areas;
- (g) provide flexibility of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms; and
- (h) promote the most desirable use of land in accordance with the district plan for Southern Hunters Point, thus conserving the value of land and buildings, thereby protecting the City's tax revenues.

* * *

125-10

USE REGULATIONS

* * *

125-13

Location of Uses in Mixed Buildings

The provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit ~~#dwelling units# or #rooming units#~~ on the same ~~#story#~~ as a ~~#commercial use# non-residential use#~~, provided no access exists between such ~~#uses#~~ at any level containing ~~#dwelling units# or #rooming units#~~ and provided any ~~#commercial uses# non-residential uses#~~ are not located directly over any ~~#dwelling units# or #rooming units#~~. However, such ~~#commercial uses# non-residential uses#~~ may be located over ~~#dwelling units# or #rooming units#~~ by authorization of the City Planning Commission upon a finding that sufficient separation of ~~#residential uses#~~ from ~~#commercial uses# non-residential uses#~~ exists within the ~~#building#~~.

125-14

Security Gates

~~All security gates that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or any publicly accessible area, except that this provision shall not apply to entrances or exits to parking garages.~~

125-20

FLOOR AREA REGULATIONS

* * *

125-22

Newtown Creek Subdistrict

In the Newtown Creek Subdistrict, the maximum ~~#floor area ratio#~~ shall be 2.75, and may be increased only as set forth in this Section.

* * *

(b) ~~#Floor area#~~ increase for Inclusionary Housing

- (1) Within the ~~#Special Southern Hunters Point District#~~, the Newtown Creek Subdistrict shall be an ~~#Inclusionary Housing designated area#~~, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, and this Section, applicable within the Special District.
- (2) In the Newtown Creek Subdistrict, for ~~#developments#~~ that provide a publicly accessible

private street and open area that comply with the provisions of paragraph (a) of this Section, the #floor area ratio# for any #zoning lot# with #buildings# containing #residences# may be increased from 3.75 to a maximum #floor area ratio# of 5.0 through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90 (INCLUSIONARY HOUSING), except that:

- (i) the height and setback regulations of ~~paragraph (a) of Sections 23-954 23-951~~ (Height and setback for compensated developments in Inclusionary Housing designated areas) or Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall not apply. In lieu thereof, the special height and setback regulations of Section 125-30, inclusive, of this Chapter shall apply; and

* * *

Article XII - Special Purpose Districts

Chapter 8

Special St. George District

128-00

GENERAL PURPOSES

The "Special St. George District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include among others, the following specific purposes:

- (a) build upon St. George's existing strengths as a civic center, neighborhood and transit hub by providing rules that will bolster a thriving, pedestrian-friendly business and residence district;
- (b) establish zoning regulations that facilitate continuous ground floor retail and the critical mass needed to attract and sustain a broader mix of uses;
- (c) require a tall, slender building form that capitalizes on St. George's hillside topography and maintains waterfront vistas;
- (d) encourage the reuse and reinvestment of vacant office buildings;
- (e) accommodate an appropriate level of off-street parking while reducing its visual impact; and
- (f) promote the most desirable use of land and building development in accordance with the District Plan for St. George and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

* * *

128-10

USE REGULATIONS

128-11

Ground Floor Uses on Commercial Streets

Map 2 (Commercial Streets) in the Appendix to this Chapter specifies locations where the special ground floor #use# regulations of this Section apply.

#Uses# on the ground floor of a #building# shall be limited to #commercial uses#, except for Type 1

lobbies and entrances to accessory parking spaces provided in accordance with Section 37-33 (Maximum Width of Certain Uses). Such commercial uses shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses). In addition, accessory parking spaces, including such spaces accessory to residences, shall be permitted on the ground floor, provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements). The level of the finished floor of such ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjoining street.

~~Commercial uses shall have a depth of at least 30 feet from the street wall of the building facing the commercial street and shall extend along the entire width of the building except for lobbies and entrances to accessory parking spaces, provided such lobbies and entrances do not occupy more than 25 percent of the street wall width of the building. Enclosed parking spaces, or parking spaces covered by a building, including such spaces accessory to residences, shall be permitted to occupy the ground floor provided they are located beyond 30 feet of the street wall of the building facing the commercial street.~~

128-12

Transparency Requirements

Any street wall of a building developed or enlarged after October 23, 2008, where the ground floor level of such development or enlarged portion of the building contains commercial or community facility uses, ~~excluding schools,~~ shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements) ~~transparent materials which may include show windows, glazed transoms or glazed portions of doors.~~ Such glazed area shall occupy at least 50 percent of the area of each such ground floor street wall measured to a height of 10 feet above the level of the adjoining sidewalk or public access area.

For the purposes of this Section, Bank Street shall be considered a street. However, this Section shall not apply to a stadium use within the North Waterfront Subdistrict.

128-13

Location of Uses in Mixed Buildings

The provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit dwelling units or ~~rooming units~~ on the same story as a commercial use ~~non-residential use~~ provided no access exists between such uses at any level containing dwelling units or ~~rooming units~~ and provided any commercial uses ~~non-residential uses~~ are not located directly over any dwelling units or ~~rooming units~~. However, such commercial use ~~non-residential uses~~ may be located over dwelling units or ~~rooming units~~ by authorization of the City Planning Commission upon a finding that sufficient separation of residential uses from commercial uses ~~non-residential uses~~ exists within the building.

128-14

Security Gates

Within the #Special St. George District#, all security gates that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or publicly accessible area, except that this provision shall not apply to entrances or exits to parking garages.

128-20

FLOOR AREA, LOT COVERAGE AND YARD REGULATIONS

* * *

128-22

Maximum Lot Coverage

In C4-2 Districts within the Upland Subdistrict, the underlying #open space ratio# provisions shall not apply. In lieu thereof, the maximum permitted #lot coverage# for a #residential building#, or portion thereof, shall be 70 percent for an #interior# or #through lot# and 100 ~~80~~ percent for a #corner lot#. However, no maximum #lot coverage# shall apply to any #corner lot# of 5,000 square feet or less.

* * *

128-30

HEIGHT AND SETBACK REGULATIONS

* * *

128-33

Maximum Base Height

The maximum height of a #building or other structure# before setback shall be as specified on Map 3 (Minimum and Maximum Base Heights) in the Appendix to this Chapter. Where a maximum base height of 65 ~~60~~ feet applies as shown on Map 3, such maximum base height shall be reduced to 40 feet for #zoning lots developed# or #enlarged# pursuant to the tower provisions of Section 128-35. When a #building# fronts on two intersecting #streets# for which different maximum base heights apply, the higher base height may wrap around to the #street# with the lower base height for a distance of up to 100 feet. All portions of #buildings or other structures# above such maximum base heights shall provide a setback at least ~~ten~~ 10 feet in depth measured from any #street wall# facing a #wide street# and 15 feet in

depth from any #street wall# facing a #narrow street#.

* * *

128-34

Maximum Building Height

In C4-2 Districts within the Upland Subdistrict, for #buildings# that are not #developed# or #enlarged# pursuant to the tower provisions of Section 128-35 (Towers), the maximum height of a #building or other structure# and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for a residential equivalent of an R6 District. Separate maximum #building# heights are set forth within such Section for #developments# or #enlargements# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662. ~~the maximum height of a #building or other structure# shall be 70 feet, except that~~ However, on Bay Street where there is a maximum base height of 85 feet, the maximum height of a #building or other structure# also shall be 85 feet.

In C4-2 Districts within the Upland Subdistrict for #buildings# that are #developed# or #enlarged# pursuant to the tower provisions of Section 128-35, the maximum height of the tower portion of a #building# shall be 200 feet, and the height of all other portions of the #building# shall not exceed the applicable maximum base height. Where a maximum base height of ~~65~~ 60-feet applies as shown on Map 3 in the Appendix to this Chapter, such maximum base height shall be reduced to 40 feet for #zoning lots developed# or #enlarged# pursuant to the tower provisions of Section 128-35.

128-35

Towers

The tower provisions of this Section shall apply, as an option, to any #zoning lot# with a #lot area# of at least 10,000 square feet. Any portion of a #building developed# or #enlarged# on such #zoning lots# that exceeds the applicable maximum base height shall be constructed as either a point tower or a broad tower, as follows:

(a) Point tower

(1) Tower #lot coverage# and maximum length

Each #story# located entirely above a height of ~~70~~ 75 feet shall not exceed a gross area of 6,800 square feet. The outermost walls of each #story# shall be inscribed within a rectangle, and the maximum length of any side of such rectangle shall be 85 feet.

(2) Tower top articulation

The highest three #stories#, or as many #stories# as are located entirely above a height of

~~70~~ 75 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this paragraph, (a)(2), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each tower face. Required setback areas may overlap.

(b) Broad tower

Each #story# located entirely above a height of ~~70~~ 75 feet shall not exceed a gross area of 8,800 square feet. The outermost walls of each such #story# shall be inscribed within a rectangle, and the maximum length of any side of such rectangle shall be 135 feet. The upper #stories# shall provide setbacks with a minimum depth of 15 feet measured from the east facing wall of the #story# immediately below. Such setbacks shall be provided at the level of three different #stories#, or as many #stories# as are located entirely above a height of ~~70~~ 75 feet, whichever is less. For towers with at least six #stories# located entirely above a height of ~~70~~ 75 feet, the lowest level at which such setbacks may be provided is 100 feet, and the highest #story# shall be located entirely within the western half of the tower.

(c) Orientation of all towers

The maximum length of the outermost walls of any side of each #story# of a #building# facing the #shoreline# that is entirely above a height of ~~70~~ 75 feet shall not exceed 80 feet. For the purposes of this Section, the #street line# of St. Marks Place shall be considered to be a line parallel to the #shoreline#, and any side of such rectangle facing St. Marks Place from which lines perpendicular to the #street line# of St Marks Place may be drawn, regardless of intervening structures, properties or #streets#, shall not exceed 80 feet.

* * *

(e) Maximum tower height

The maximum height of any #building# utilizing the tower provisions of this Section shall be 200 feet. The height of the tower portion of the #building# shall be measured from the #base plane#.

(f) Tower and base integration

All portions of a #building# that exceed the applicable maximum base height set forth in Section 128-33 shall be set back at least 10 feet from the #street wall# of a #building# facing a #wide

street# and at least 15 feet from the #street wall# of a #building# facing a #narrow street#. However, up to 50 percent of the #street wall# of the portion of the #building# located above a height of 70 75 feet need not be set back from the #street wall# of the #building#, and may rise without setback from grade, provided such portion of the #building# is set back at least 10 feet from a #wide street line# or sidewalk widening line, where applicable, and at least 15 feet from a #narrow street line# or sidewalk widening line, where applicable.

(g) Tower exclusion areas

No #building or other structure# may exceed a height of 70 75 feet within the areas designated on Map 4 (Tower Restriction Areas) in the Appendix to this Chapter.

* * *

128-50

PARKING REGULATIONS

* * *

128-51

Required Off-Street Parking and Loading

In C4-2 Districts, the following special regulations shall apply:

(a) #Residential uses#

One off-street parking space shall be provided for each #dwelling unit# created after October 23, 2008, including any #dwelling units# within #buildings converted# pursuant to Article 4 I, Chapter 5 (Residential Conversion within Existing Buildings), except that the provisions of Section 25-25 (Modification of Requirements for Income-Restricted Housing Units or Affordable Independent Residences for Seniors) shall apply to #income-restricted housing units#. However, where the total number of required spaces is five or fewer or, for #conversions#, where the total number of required spaces is 20 or fewer, no parking shall be required, except that such waiver provision shall not apply to any #zoning lot# subdivided after October 28, 2008. The provisions of Section 73-46 (Waiver of Requirements for Conversions) shall apply to #conversions# where more than 20 parking spaces are required.

* * *

128-54

Location of Accessory Off-Street Parking Spaces

No open parking areas shall be located between the #street wall# of a #building# and the #street line#, and no open parking area shall front upon a #commercial street#. All open parking areas, regardless of the number of parking spaces, shall comply with the perimeter screening requirements of Section 37-921.

All off-street parking spaces within structures shall be located within facilities that, except for entrances and exits, are:

- (a) entirely below the level of each #street# upon which such facility fronts; or
- (b) located, at every level above-grade, behind #floor area# or screening in accordance with the provisions of 37-35 (Parking Wrap and Screening Requirements). For the purpose of applying such provisions, #commercial streets# designated on Map 2 in Appendix A of this Chapter shall be considered designated retail #streets# behind #commercial#, #community facility# or #residential floor area# so that no portion of such parking facility is visible from adjoining #streets#. ~~The minimum depth of any such #floor area# shall be 30 feet, except that such depth may be reduced to 15 feet where the #street wall# containing such #floor area# fronts upon a #street# with a slope in excess of 11 percent; and~~

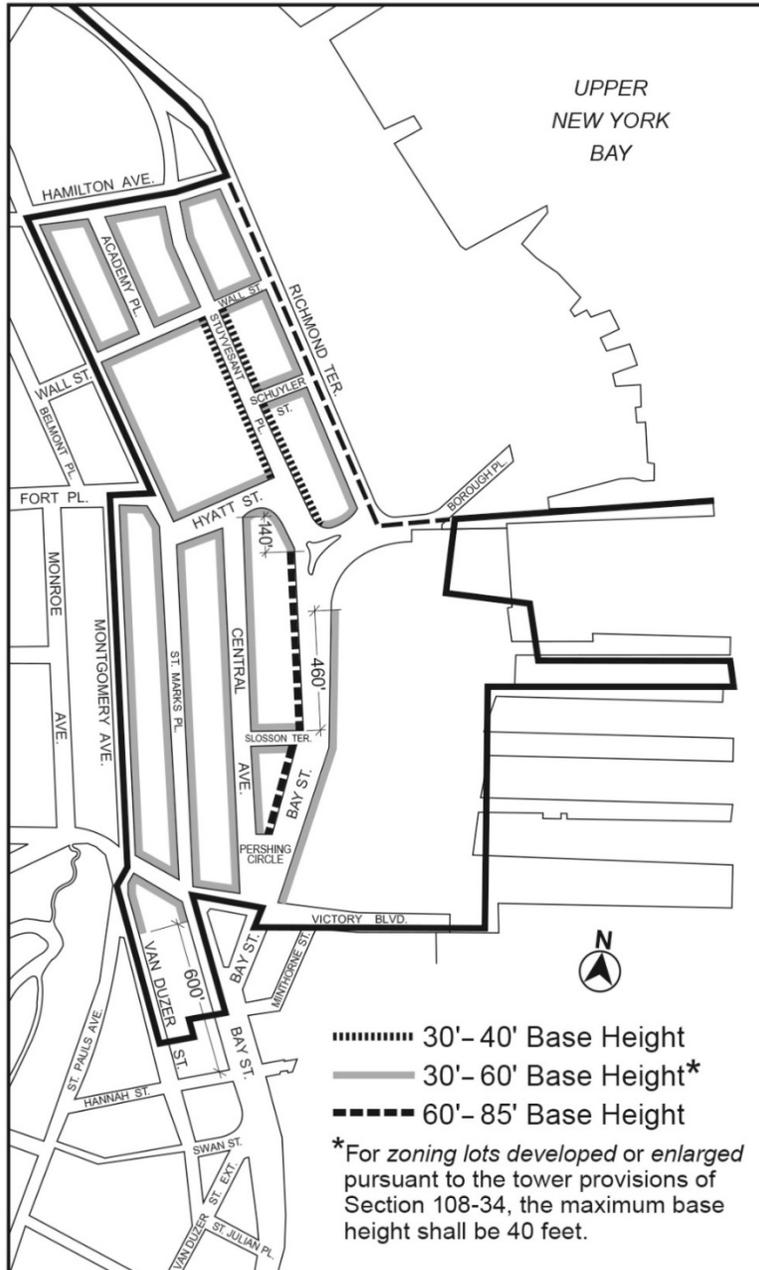
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**Appendix
Special St. George District Plan**

* * *

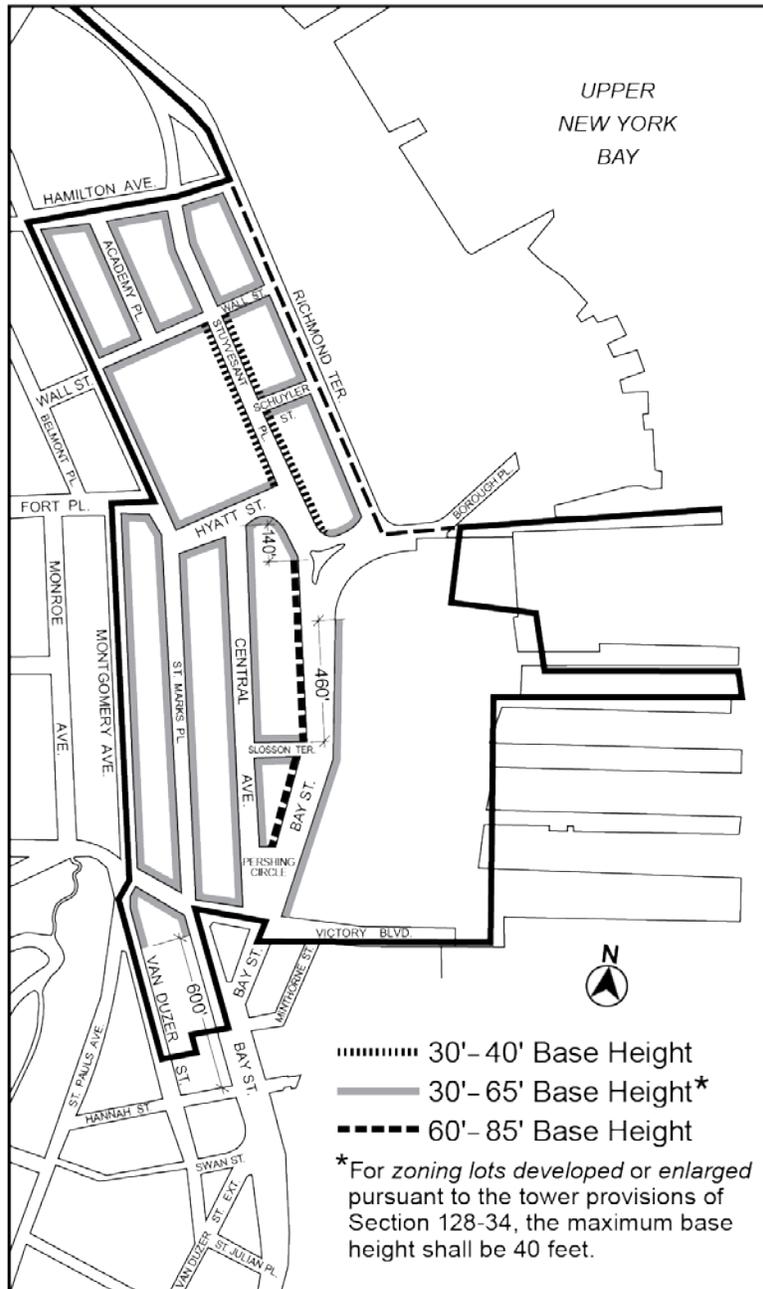
Map 3 – Minimum and Maximum Base Heights

[TO BE REMOVED]



Map 3 – Minimum and Maximum Base Heights

[TO BE ADDED]



Article XIII - Special Purpose Districts

Chapter 1

Special Coney Island District

131-00

GENERAL PURPOSES

The “Special Coney Island District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) preserve, protect and enhance the character of the existing amusement district as the location of the city’s foremost concentration of amusements and an area of diverse uses of a primarily entertainment and entertainment-related nature;
- (b) facilitate and guide the development of a year-round amusement, entertainment and hotel district;
- (c) facilitate and guide the development of a residential and retail district;
- (d) provide a transition to the neighboring areas to the north and west;
- (e) provide flexibility for architectural design that encourages building forms that enhance and enliven the streetscape;
- (f) control the impact of development on the access of light and air to streets, the Boardwalk and parks in the district and surrounding neighborhood;
- (g) promote development in accordance with the area’s District Plan and thus conserve the value of land and buildings, and thereby protect the City’s tax revenues.

* * *

131-10

SPECIAL USE REGULATIONS

* * *

131-13

Special Use Regulations in Subdistricts

131-131

Coney East Subdistrict

The #use# regulations of the underlying C7 District are modified as set forth in this Section. The locations of the mandatory ground floor #use# regulations of paragraphs (b), (c), (d) and (f) of this Section are shown on the #streets#, or portions of #streets#, specified on Map 2 in the Appendix to this Chapter. #Transient hotels# and Use Groups A, B and C, as set forth in Sections 131-11 through 131-123, inclusive, and #public parking garages#, shall be the only #uses# allowed in the Coney East Subdistrict, and shall comply with the following regulations:

* * *

(f) Depth of ground floor #uses#

All ground floor #uses# within #buildings# shall have a depth of at least 15 feet measured from the #street wall# of a #building#, located on #streets#, or portions of #Streets#, shown on Map 2. However, such minimum depth requirement may be reduced where necessary in order to accommodate vertical circulation cores or structural columns associated with upper #stories# of the #building#.

* * *

131-132

Coney North and Coney West Subdistricts

In the Coney North and Coney West Subdistricts, #uses# allowed by the underlying district regulations shall apply, except as modified in this Section for #uses# fronting upon #streets# specified on Map 2 (Mandatory Ground Floor Use Requirements) in the Appendix to this Chapter. For the purposes of this Section, the “building line” shown on Parcel F on Map 2 shall be considered a #street line# of Ocean Way or Parachute Way, as applicable. Furthermore, an open or enclosed ice skating rink shall be a permitted #use# anywhere within Parcel F in the Coney West Subdistrict.

(a) Mandatory ground floor level #uses# along certain #streets#

* * *

(1) Riegelmann Boardwalk

Only #uses# listed in Use Groups A, B and C and #transient hotels# located above the ground floor level are permitted within 70 feet of Riegelmann Boardwalk, except that a #transient hotel# lobby may occupy up to 30 feet of such ground floor frontage along Riegelmann Boardwalk. Use Group C #uses# shall be limited to 2,500 square feet of #floor area# and 30 feet of #street# frontage for each establishment. All other establishments shall be limited to 60 feet of #street# frontage, except that for any establishment on a corner, one #street# frontage may extend up to 100 feet. All ground floor #uses# within #buildings# shall have a depth of at least 15 feet measured from the

#street wall# of the #building#. However, such minimum depth requirement may be reduced where necessary in order to accommodate vertical circulation cores or structural columns associated with upper #stories# of the #building#.

(2) #Streets# other than Riegelmann Boardwalk

* * *

All ground floor #commercial uses# within #buildings# shall have a depth of at least 50 feet measured from the #street wall# of the #building#. Such minimum 50 foot depth requirement may be reduced where necessary in order to accommodate a #residential# lobby, ~~and~~ vertical circulation cores or structural columns associated with upper #stories# of the #building#.

* * *

131-14

Location of Uses within Buildings

The provisions of Section 32-42 are modified to permit:

(a) #residential uses# on the same #story# as a #commercial use# ~~non #residential use#~~ or directly below a #commercial use# ~~non #residential use#~~, provided no access exists between such #uses# at any level containing #residences#, and separate elevators and entrances from the #street# are provided; and

* * *

131-15

Transparency

Each ground floor level #street wall# of a #commercial# or #community facility use# other than a #use# listed in Use Group A, as set forth in Section 131-121, shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements). ~~with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk, public access area or #base plane#, whichever is higher. Not less than 50 percent of the area of each such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

However, in the Coney East Subdistrict and along Riegelmann Boardwalk and boundary of KeySpan Park in the Coney West Subdistrict, in lieu of the transparency requirements of this Section, at least 50 ~~70~~ percent of the area of the ground floor level #street wall# of a #commercial use#, measured to a height of 12 ~~10~~ feet above the level of the adjoining sidewalk, public access area or #base plane#, whichever is higher, may be designed to be at least 50 ~~70~~ percent open during seasonal business hours.

131-16

Security Gates

All security gates installed after July 29, 2009, that are swung, drawn or lowered to secure ~~#commercial#~~ or ~~#community facility#~~ premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the ~~#street#~~. However, this provision shall not apply to entrances or exits to parking garages, or to any ~~#use#~~ fronting upon Riegelmann Boardwalk, provided that security gates at such locations that permit less than 75 percent visibility when closed shall be treated with artwork.

~~131-16~~ 131-17

Authorization for Use Modifications

* * *

131-30

FLOOR AREA, LOT COVERAGE AND YARD REGULATIONS

The ~~#floor area ratio#~~ regulations of the underlying districts shall be modified as set forth in this Section, inclusive.

* * *

131-32

Coney West, Coney North and Mermaid Avenue Subdistricts

131-321

Special floor area regulations for residential uses

R7A R7D R7X

* * *

- (d) Height and setback

For all ~~#zoning lots#~~, or portions thereof, located in the Coney West or Coney North Subdistricts, the height and setback regulations of Section ~~23-664~~ 23-664 (Modified height and setback regulations for certain buildings) ~~23-954~~ shall not apply. In lieu thereof, the height and setback regulations of this Chapter shall apply.

* * *

131-324

Lot coverage

~~For #residential uses# in the Coney North and Coney West Subdistricts, no maximum #lot coverage# shall apply to any #corner lot#.~~

~~For #residential uses# in the Mermaid Avenue Subdistrict, no maximum #lot coverage# shall apply to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.~~

~~Furthermore, in In the #Special Coney Island District#, the level of any #building# containing #accessory# parking spaces or non-#residential uses# shall be exempt from #lot coverage# regulations.~~

131-40

HEIGHT AND SETBACK REGULATIONS

The underlying height and setback regulations shall not apply. In lieu thereof, the height and setback regulations of this Section shall apply. The height of all #buildings or other structures# shall be measured from the #base plane#.

* * *

131-421

Coney East Subdistrict, south side of Surf Avenue

The following regulations shall apply along the south side of Surf Avenue and along those portions of #streets# intersecting Surf Avenue located north of a line drawn 50 feet north of and parallel to the northern #street line# of Bowery and its westerly prolongation.

* * *

(b) #Building# base

(1) Surf Avenue, west of West 12th Street

* * *

~~For #buildings# located west of West 12th Street that provide a tower in accordance with the requirements of paragraph (d) of this Section, at least 40 percent of the #aggregate width of street walls# facing Surf Avenue shall not exceed a height of 45 feet without setback, and at least 40 percent of the #aggregate width of street walls# facing Surf~~

~~Avenue shall rise without setback to a height of at least 60 feet but not more than 65 feet. Furthermore, any~~ Any portion of a #street wall# which exceeds a height of 60 feet shall be located within 150 feet of the intersection of two #street lines# and shall coincide with the location of a tower. Towers shall comply with the location requirements of paragraph (d) of this Section.

* * *

131-423

Along all other streets

The following regulations shall apply along Wonder Wheel Way, Bowery, and all other #streets#, and portions thereof, located south of a line drawn 50 feet north of and parallel to the northern #street# line of Bowery and its westerly prolongation.

* * *

(b) Maximum height

The #street wall# of a #building#, or portion thereof, shall rise to a minimum height of 20 feet and a maximum height of 40 feet before setback. The maximum height of a #building or other structure# shall be 60 feet, provided any portion of a #building# that exceeds a height of 40 feet shall be set back from the #street wall# of the #building# at least 20 feet.

West of West 12th Street, along the northern #street line# of Bowery, the maximum #building# height shall be 40 feet. If a tower is provided along the Surf Avenue portion of the #block#, 40 percent of the #aggregate width of street walls# may rise above the maximum #street wall# height of 40 feet, ~~provided that and such portion is of the #aggregate width of street walls# shall be located within 150 feet of the intersection of two #street lines# and shall coincide with that portion of the #street wall# along Surf Avenue that rises to a height of between 60 to 65 feet, pursuant to the provisions of paragraph (b)(1) of Section 131-421.~~ However, where the portion of the #block# that fronts on Surf Avenue is #developed# or #enlarged# pursuant to the special regulations for Use Group A in paragraph (c)(3) of Section 131-421 (Coney East Subdistrict, south side of Surf Avenue), the #street wall# may rise after a setback of 20 feet to a maximum height of 60 feet for the entire length of the Bowery #street line#, or may extend beyond the 40 percent of the #aggregate width of street wall# for the length of the #street wall# of such Use Group A #development# or #enlargement# which fronts along Surf Avenue, whichever is less.

131-43

Coney West Subdistrict

* * *

131-431

Coney West District, Surf Avenue

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

* * *

(b) #Building# base

A #street wall# fronting on Surf Avenue shall rise without setback to a minimum height of six #stories# or 65 feet, or the height of the #building#, whichever is less, and a maximum height of eight #stories# or 85 feet, whichever is less, before a setback is required. ~~For #buildings# that exceed a height of eight #stories# or 85 feet, at least 40 percent of the #aggregate width of street walls# facing Surf Avenue shall not exceed a height of six #stories# or 65 feet, whichever is less, and at least 40 percent of the #aggregate width of street walls# facing Surf Avenue shall rise without setback to a height of at least eight #stories# or 80 feet, whichever is less.~~ However, on the #block# front bounded by West 21st Street and West 22nd Street, the minimum height of a #street wall# shall be 40 feet and the maximum height of a #street wall# shall be six #stories# or 65 feet, whichever is less, before a setback is required.

* * *

(c) Transition height

Above the maximum base height, a #street wall# may rise to a maximum transition height of nine #stories# or 95 feet, whichever is less, provided that ~~up to 60 percent of the #aggregate width of street walls# facing Surf Avenue~~ such #street walls# are shall be set back a minimum distance of 10 feet from the Surf Avenue #street line#. ~~The remaining portion of such #aggregate width of street walls# facing Surf Avenue shall be set back a minimum distance of 15 feet.~~ All portions of #buildings or other structures# that exceed a transition height of 95 feet shall comply with the tower provisions of Section 131-434 (Coney West Subdistrict towers).

131-432

Along all other streets, other than Riegelmann Boardwalk

The following regulations shall apply along all other #streets# in the Coney West Subdistrict, except within 70 feet of Riegelmann Boardwalk.

* * *

(c) Transition heights

Beyond 100 feet of Surf Avenue, a #street wall# may rise to a maximum transition height of nine #stories# or 95 feet, whichever is less, provided that:

- (1) above the maximum base height, ~~#street walls# are up to 60 percent of the #aggregate width of street walls#, measured separately, facing Ocean Way and along all other #streets#, other than Riegelmann Boardwalk, shall be set back a minimum distance of 10 feet from the #street line#. The remaining portion of such #aggregate width of street walls# facing Ocean Way, and along all other #streets# other than Riegelmann Boardwalk, shall be set back a minimum distance of 15 feet from the #street line#, except that for #blocks# north of the Ocean Way #street line#, along a minimum of one #street line# bounding the #block# (except for Surf Avenue), at least 40 percent of the ~~the remaining portion of such #aggregate width of street walls# shall remain open to the sky for a minimum depth of 100 feet from the #street line#;~~~~

* * *

131-434

Coney West Subdistrict towers

All #stories# of a #building# or portions of other structures located partially or wholly above an applicable transition height shall be considered a “tower” and shall comply with the provisions of this Section.

* * *

(b) Maximum length and height

* * *

Where #affordable housing# is provided pursuant to Section 131-321 (Special floor area regulations for residential uses), the maximum height of a #building# shall be increased to 270 feet, provided that either: ~~the tower complies with either paragraph (b)(1) or (b)(2) of this Section.~~

- (1) The outermost wall of all tower #stories# ~~are shall be~~ inscribed within a rectangle where no side of such rectangle exceeds a length of 100 feet; or
- (2) The outermost wall of all tower #stories# below a height of 120 feet ~~are shall be~~ inscribed

within a rectangle where no side of such rectangle exceeds a length of 130 feet, and above such height, ; above a height of 120 feet, no side of such rectangle shall exceed a length of 100 feet. ~~Above~~ In addition, above a height of 120 feet, the maximum floor plate shall be 80 percent of the #story# immediately below such height, or 6,800 square feet, whichever is greater. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least five feet and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of each respective tower face.

* * *

**131-44
Coney North Subdistrict**

* * *

**131-441
Coney North Subdistrict, Surf Avenue**

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

* * *

(b) #Building# base

The #street wall# of a #building# base fronting on Surf Avenue shall rise without setback to a minimum height of six #stories# or 65 feet, or the height of the #building#, whichever is less, and a maximum height of eight #stories# or 85 feet, whichever is less, before a setback is required. However, on the portion of the #block# bounded by Stillwell Avenue and West 15th Street, for #buildings# that exceed a height of 85 feet, all #street walls# of such #building# facing Surf Avenue shall rise without setback to a height of 85 feet.

~~For #buildings# that exceed a height of eight #stories# or 85 feet, at least 40 percent of the #aggregate width of street walls# facing Surf Avenue shall not exceed a height of 65 feet without setback, and at least 40 percent of the #aggregate width of street walls# facing Surf Avenue shall rise without setback to a height of at least 80 feet, but not more than 85 feet. However, on the portion of the #block# bounded by Stillwell Avenue and West 15th Street, for #buildings# that exceed a height of 85 feet, all #street walls# of such #building# facing Surf Avenue shall rise without setback to a height of 85 feet.~~

* * *

(c) Transition height

Above the maximum base height, a #street wall# may rise to a maximum transition height of nine #stories# or 95 feet, whichever is less, provided that such #street walls# are up to 60 percent of the #aggregate width of street walls# facing Surf Avenue shall be set back a minimum distance of 10 feet from the Surf Avenue #street line#. ~~The remaining portion of such #aggregate width of street walls# facing Surf Avenue shall be set back a minimum distance of 15 feet.~~ All portions of #buildings or other structures# that exceed a transition height of 95 feet shall comply with the tower provisions of Section 131-444 (Coney North Subdistrict towers).

131-442
Along all other streets, other than Stillwell Avenue

The following regulations shall apply along all other #streets# in the Coney North Subdistrict, other than Stillwell Avenue.

* * *

(c) Transition height

In all portions of #blocks# located beyond 100 feet of Surf Avenue, a #street wall# may rise above the maximum base height to a maximum transition height of eight #stories# or 85 feet, whichever is less, provided that such #street walls# are up to 60 percent of the #aggregate width of street walls# facing Surf Avenue shall be set back a minimum distance of 10 feet from the Surf Avenue #street line#. ~~The remaining portion of such #aggregate width of street walls# facing Surf Avenue shall be set back a minimum distance of 15 feet.~~ All portions of #buildings or other structures# that exceed a transition height of 85 feet shall comply with the tower provisions of Section 131-444 (Coney North Subdistrict towers).

* * *

131-444
Coney North Subdistrict towers

All #stories# of a #building# or portions of other structures located partially or wholly above a height of 85 feet within 175 feet of Surf Avenue and above a height of 65 feet beyond 175 feet of Surf Avenue shall be considered a “tower” and shall comply with the provisions of this Section.

* * *

(b) Maximum length and height

* * *

Where #affordable housing# is provided pursuant to Section 131-321 (Special floor area regulations for residential uses), the maximum height of a #building# shall be increased to 270 feet, provided that ~~either: the tower portion of such #building# complies with either paragraph (b)(1) or (b)(2) of this Section.~~

- (1) The outermost wall of all tower #stories# ~~are shall be~~ inscribed within a rectangle, where no side of such rectangle shall exceed a length of 100 feet; or
- (2) The outermost wall of all tower #stories#, below a height of 120 feet, ~~are shall be~~ inscribed within a rectangle, where no side of such rectangle shall exceed a length of 130 feet, ~~and above such height, ; above a height of 120 feet,~~ no side of such rectangle shall exceed a length of 100 feet. ~~In addition, above~~ Above a height of 120 feet, the maximum floorplate shall be 80 percent of the #story# immediately below such height or 6,800 square feet, whichever is greater. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least five feet and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of each respective tower face.

* * *

131-47

Design Requirements for Ground Level Setbacks

Wherever a #building# base below a tower is set back from the #street line#, and the #building# walls bounding such setback area are occupied by non-#residential uses#, such setback area shall comply with the provisions of this Section. Where two such setback areas adjoin one another at the intersection of two #streets#, the combined area of such spaces shall determine the applicability of such provisions.

* * *

(c) Wall treatments

All ground floor level #building# walls bounding such setback area not otherwise subject to the transparency requirements of Section 131-15, shall comply with the provisions of either paragraphs (c)(1) or (c)(2) of this Section.

- (1) If such #building# wall is a #street wall# wider than 10 feet, such #street wall# shall comply with the provisions of Section 131-15.
- (2) All other #building# walls shall comply with one of the following provisions:

- (i) such #building# walls shall be glazed with transparent materials in accordance with the transparency provisions of Section 37-34 (Minimum Transparency Requirements), except that such transparency shall be measured from ~~which may include show windows, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 50 percent of the area of each such ground floor level #building# wall, measured to a height of 10 feet above the level of the adjoining sidewalk, public access area or #base plane#, whichever is higher; or~~
- (ii) such #building# walls shall be articulated with artwork or landscaping to a height of at least ten feet.

* * *

**131-50
OFF-STREET PARKING AND LOADING REGULATIONS**

The special provisions of this Section shall apply to all off-street parking spaces and loading facilities within the #Special Coney Island District#.

* * *

**131-52
Use and Location of Parking Facilities**

The following provisions shall apply to all parking facilities:

* * *

- (c) All off-street parking facilities shall be located within facilities that, except for entrances and exits, are:
 - (1) entirely below the level of any #street# or #publicly accessible open area# upon which such facility, or portion thereof, fronts; or
 - (2) wrapped by #floor area# or screened in accordance with the provisions of Section 37-35 (Parking Wrap and Screening Requirements). For the purpose of applying such provisions, Surf Avenue, Stillwell Avenue, Ocean Way, Parachute Way and the Riegelmann Boardwalk shall be considered designated retail streets, and the wrapping provisions of paragraph (a) of Section 37-35 shall apply to such #street# frontages at all levels above grade. located, at every level above grade, behind #commercial#, #community facility# or #residential floor area# with a minimum depth of 15 feet as measured from the #street wall# of the #building#, so that no portion of such parking

~~facility is visible from adjoining #streets# or publicly accessible open spaces. All such parking facilities shall be exempt from the definition of #floor area#. However, in the Coney East Subdistrict, the provisions of this paragraph, (c)(2), need not apply on the north side of Surf Avenue above the level of the ground floor, on Parcel 2 beyond 70 feet of Riegelmann Boardwalk, or on the east side of that portion of West 16th Street beyond 50 feet of Surf Avenue and Wonder Wheel Way, provided that:~~

- ~~(i) — any non horizontal parking deck structures shall not be visible from the exterior of the #building# in elevation view;~~
- ~~(ii) — opaque materials are located on the exterior #building# wall between the bottom of the floor of each parking deck and no less than three feet above such deck; and~~
- ~~(iii) — a total of at least 50 percent of such exterior #building# wall with adjacent parking spaces consists of opaque materials which may include #signs#, graphic or sculptural art, or living plant material.~~

* * *

Article XIII - Special Purpose Districts

Chapter 2

Special Enhanced Commercial District

132-00

GENERAL PURPOSES

The “Special Enhanced Commercial District,” established in this Resolution, is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the promotion and maintenance of a lively and engaging pedestrian experience along commercial avenues and the following specific purposes:

- (a) in “Special Enhanced Commercial District” 1, to enhance the vitality of emerging commercial districts ensuring that a majority of the ground floor space within buildings is occupied by commercial establishments that enliven the pedestrian experience along the street;
- (b) in “Special Enhanced Commercial District” 2, to enhance the vitality of well-established commercial districts by ensuring that ground floor frontages continue to reflect the multi-store character that defines such commercial blocks;
- (c) in “Special Enhanced Commercial District” 3, to enhance the vitality of well-established commercial districts by limiting the ground floor presence of inactive street wall frontages;
- (d) in “Special Enhanced Commercial District” 4, to enhance the vitality of commercial districts by limiting the ground floor presence of inactive street wall frontages; and
- (e) to promote the most desirable use of land in the area and thus preserve, protect and enhance the value of land and buildings and thereby protect City tax revenues.

* * *

132-20

SPECIAL USE REGULATIONS

* * *

132-21

Applicability of Use Regulations

* * *

In addition, in all ~~Special Enhanced Commercial Districts~~, the applicable special ~~use~~ provisions indicated in the table in Section 132-13 shall not apply to any ~~community facility building~~ used exclusively for either a ~~school~~, as listed in Use Group 3, or a house of worship, as listed in Use Group 4.

* * *

132-22

Mandatory Ground Floor Uses

In the applicable ~~Special Enhanced Commercial Districts~~ indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the ~~ground floor level street walls~~ of ~~buildings~~ fronting along a ~~designated commercial street~~. For ~~buildings~~ fronting along multiple ~~streets~~, the required percentage of ~~ground floor level street wall~~ allocated to certain ~~uses~~, as set forth in this Section, shall apply only to the portion of the ~~building's ground floor level~~ fronting upon a ~~designated commercial street~~.

(a) Minimum percentage of ~~commercial uses~~

Mandatory ~~commercial use~~ regulations shall apply to an area of a ~~building's ground floor level~~ defined by an aggregate width equal to at least 50 percent of a ~~building's street wall~~ along a ~~designated commercial street~~ and a depth equal to at least 30 feet, as measured from the ~~street wall~~ along the ~~designated commercial street~~. Such an area on the ~~ground floor level~~ shall be occupied by ~~commercial uses~~ listed in Use Groups 5, 6A, 6C excluding banks and loan offices, 7B, 8A, 8B or 9A.

* * *

(c) Other permitted ~~uses~~

In the applicable ~~Special Enhanced Commercial Districts~~, ~~the following uses~~ Type 1 lobbies, entrances and exits to accessory parking facilities and entryways to subway stations, where applicable, shall be permitted on the ground floor level of a building along a designated commercial street, in accordance with the provisions of Section 37-33 (Maximum Width of Certain Uses). ~~only as follows:~~

- (1) ~~residential lobbies, and an associated vertical circulation core, shall be permitted on the ground floor level, provided that such lobbies comply with the maximum width provisions of paragraph (c) of Section 132-24 (Maximum Width Restrictions). In addition, the 30 foot depth requirement for commercial uses set forth in paragraph (a)~~

~~of this Section, where applicable, may be encroached upon where necessary to accommodate a vertical circulation core associated with such #residential# lobby; and~~

- (2) ~~#accessory# off street parking spaces and entrances and exits shall be permitted on the #ground floor level#, provided that such off street parking spaces and associated entrances and exits comply with the provisions of Section 132-40 (SPECIAL PARKING REGULATIONS).~~

132-23

Minimum Number of Establishments

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

For #zoning lots# with a #lot width# of 50 feet or more, as measured along the #street line# of the #designated commercial street#, a minimum of two non-#residential# establishments shall be required for every 50 feet of #street# frontage. In addition, each such #ground floor level# establishment shall comply with the minimum depth requirements of Section 37-32 (Ground Floor Depth Requirements for Certain Uses). ~~have an average depth equal to at least 30 feet, as measured from the #street wall# along the #designated commercial street#. However, such depth requirement may be reduced where necessary in order to accommodate a vertical circulation core associated with a #residential# lobby.~~

132-24

Maximum Street Wall Width

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

- (a) Banks and loan offices

In the applicable #Special Enhanced Commercial Districts#, within 30 feet of a #building's street wall# along a #designated street#, the maximum #street wall# width of a bank or loan office, as listed in Use Group 6C, on a #ground floor level# shall not exceed 25 feet.

- (b) Other non-#residential# establishments

In the applicable #Special Enhanced Commercial Districts#, the maximum #street wall# width of any non-#residential ground floor level# establishment, other than a bank or loan office, shall not

exceed 40 feet, as measured along the #street line# of a #designated commercial street#.

(e) ~~#Residential# lobbies~~

~~In the applicable #Special Enhanced Commercial Districts#, the maximum #street wall# width of any #ground floor level residential# lobby shall not exceed 25 feet, as measured along the #street line# of a #designated commercial street#.~~

132-30

SPECIAL TRANSPARENCY REGULATIONS

The special transparency regulations of this Section, inclusive, shall apply to #buildings# in the #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), except as otherwise provided in Section 132-31.

132-31

Applicability of Transparency Regulations

In #Special Enhanced Commercial Districts#, the special transparency provisions indicated in the table in Section 132-13 shall apply to #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts on a #designated commercial street#, except that such provisions shall not apply:

(a) to #zoning lots# in #Commercial Districts# with a width of less than 20 feet, as measured along the #street line# of a #designated commercial street#, provided such #zoning lots# existed on:

(1) November 29, 2011, for #Special Enhanced Commercial District# 1;

(2) June 28, 2012, for #Special Enhanced Commercial Districts# 2 and 3; and

(3) October 11, 2012, for #Special Enhanced Commercial District# 4;

~~(b) to any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4; and~~

~~(e)(b) in #Special Enhanced Commercial Districts# 1 and 4, to #buildings# in #Residence Districts# where the #ground floor level# contains #dwelling units# or #rooming units#.~~

132-32

Ground Floor Level Transparency Requirements

In the applicable #Special Enhanced Commercial Districts#, as indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the special transparency regulations of ~~this Section 37-34 (Minimum Transparency Requirements)~~ shall apply to the #ground floor level street walls# of #buildings# fronting along a #designated commercial street#. ~~For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to transparent materials, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon a #designated commercial street#.~~

~~The #ground floor level street wall# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials may be provided anywhere on such #ground floor level street wall#, except that:~~

- ~~(a) — transparent materials shall occupy at least 50 percent of the surface area of such #ground floor level street wall# between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Transparent materials provided to satisfy such 50 percent requirement shall:
 - ~~(1) — not begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and~~
 - ~~(2) — have a minimum width of two feet; and~~~~
- ~~(b) — the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet.~~

~~However, where an entrance to an off-street parking facility is permitted on a #designated commercial street# in accordance with the provisions of Section 132-43 (Curb Cut Requirements), the transparency requirements of this Section shall not apply to the portion of the #ground floor level street wall# occupied by such entrance.~~

132-40 SPECIAL PARKING REGULATIONS

* * *

132-42 Locations of Parking Spaces

In the applicable #Special Enhanced Commercial Districts#, as indicated in the table in Section 132-13 (Applicability of Special Use, Transparency and Parking Regulations), the following provisions shall apply to the ground floor of all #buildings# with #street# frontage along a #designated commercial street#.

All off-street parking spaces shall be located within a #completely enclosed building#, and shall be wrapped by #floor area# or screened in accordance with the provisions of Section 37-35 (Parking Wrap and Screening Requirements), as applicable.

~~Enclosed, off-street parking spaces shall be permitted on the ground floor of a #building# only where they are located beyond 30 feet of such #building's street wall# along a #designated commercial street#.~~
Entrances to such spaces along a #designated commercial street# shall be permitted only where a curb cut is allowed in accordance with the provisions of Section 132-43.

* * *

Article XIII - Special Purpose Districts

Chapter 3

Special Southern Roosevelt Island District

133-00

GENERAL PURPOSES

The “Special Southern Roosevelt Island District” established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) providing opportunities for the development of an academic and research and development campus in a manner that benefits the surrounding community;
- (b) allowing for a mix of residential, retail and other commercial uses to support the academic and research and development facilities and complementing the urban fabric of Roosevelt Island;
- (c) establishing a network of publicly-accessible open areas that take advantage of the unique location of Roosevelt Island and that integrate the academic campus into the network of open spaces on Roosevelt Island and provide a community amenity;
- (d) strengthening visual and physical connections between the eastern and western shores of Roosevelt Island by establishing publicly-accessible connections through the Special District and above-grade view corridors;
- (e) encouraging alternative forms of transportation by eliminating required parking and placing a maximum cap on permitted parking;
- (f) providing flexibility of architectural design within limits established to assure adequate access of light and air to the street and surrounding waterfront open areas, and thus to encourage more attractive and innovative building forms; and
- (g) promoting the most desirable use of land in this area and thus conserving the value of land and buildings, and thereby protecting the City’s tax revenues.

* * *

133-20

SPECIAL BULK REGULATIONS

Within the #development parcel#, the special #bulk# regulations of this Section, inclusive, shall apply.

133-21

Floor Area Ratio

The #floor area# provisions of ~~Section 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio)~~, Section 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts) shall be modified to permit a maximum #residential floor area ratio# of 3.44 without regard to a #height factor#. In addition, the maximum permitted #floor area ratio# for a Use Group 17B research, experimental or testing laboratory shall be 3.40.

133-22

Lot Coverage

The #open space ratio# requirements of ~~Section 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio)~~ Section 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts) and the #lot coverage# requirements of Sections ~~23-14~~ 23-15 and 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) shall not apply. In lieu thereof, the aggregate #lot coverage# for all #buildings# shall comply with the following requirements.

* * *

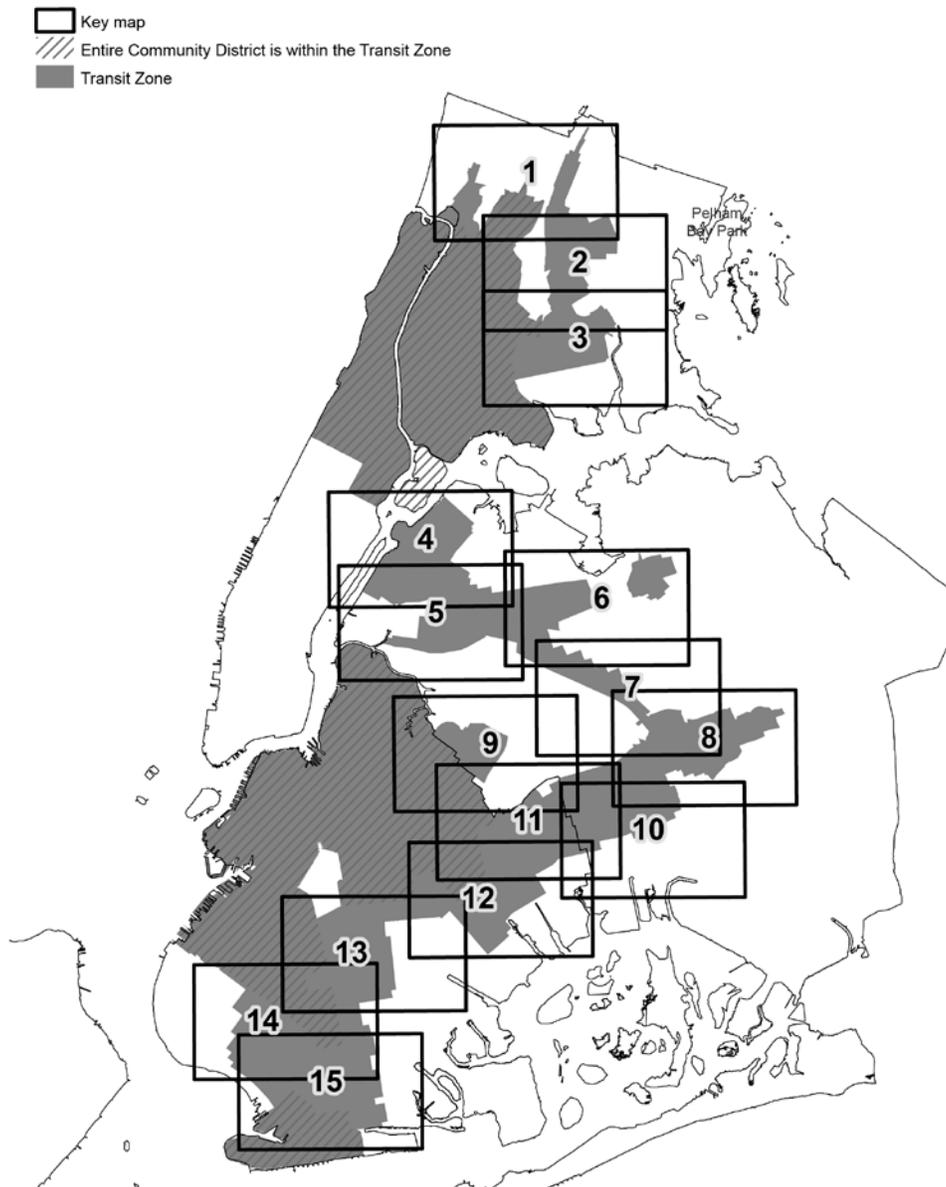
[APPENDICES]

Appendix I

Transit Zone

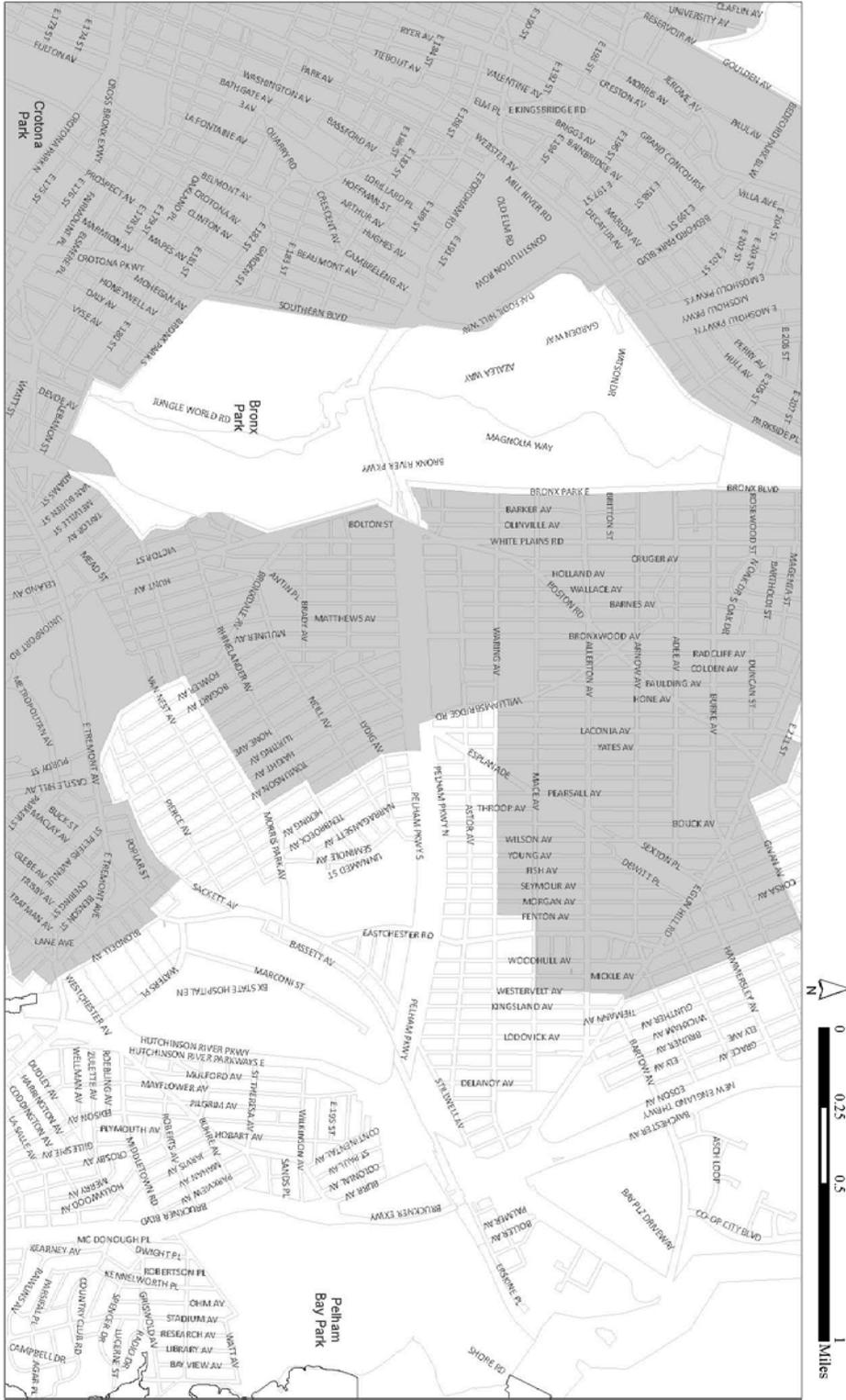
The #Transit Zone# includes all of Manhattan Community Districts 9, 10, 11 and 12; all of Bronx Community Districts 1, 2, 3, 4, 5, 6 and 7; and all of Brooklyn Community Districts 1, 2, 3, 4, 6, 7, 8, 9, 12, 13 and 16. Portions of other Community Districts in a #Transit Zone# are shown on the maps in this APPENDIX.

[New map to be added]



Key Map 2

[New map to be added]



Key Map 3

[New map to be added]



Key Map 4

[New map to be added]



Key Map 5

[New map to be added]



Key Map 6

[New map to be added]



Key Map 7

[New map to be added]



Key Map 8

[New map to be added]



Key Map 9

[New map to be added]



Key Map 10

[New map to be added]



Key Map 12

[New map to be added]



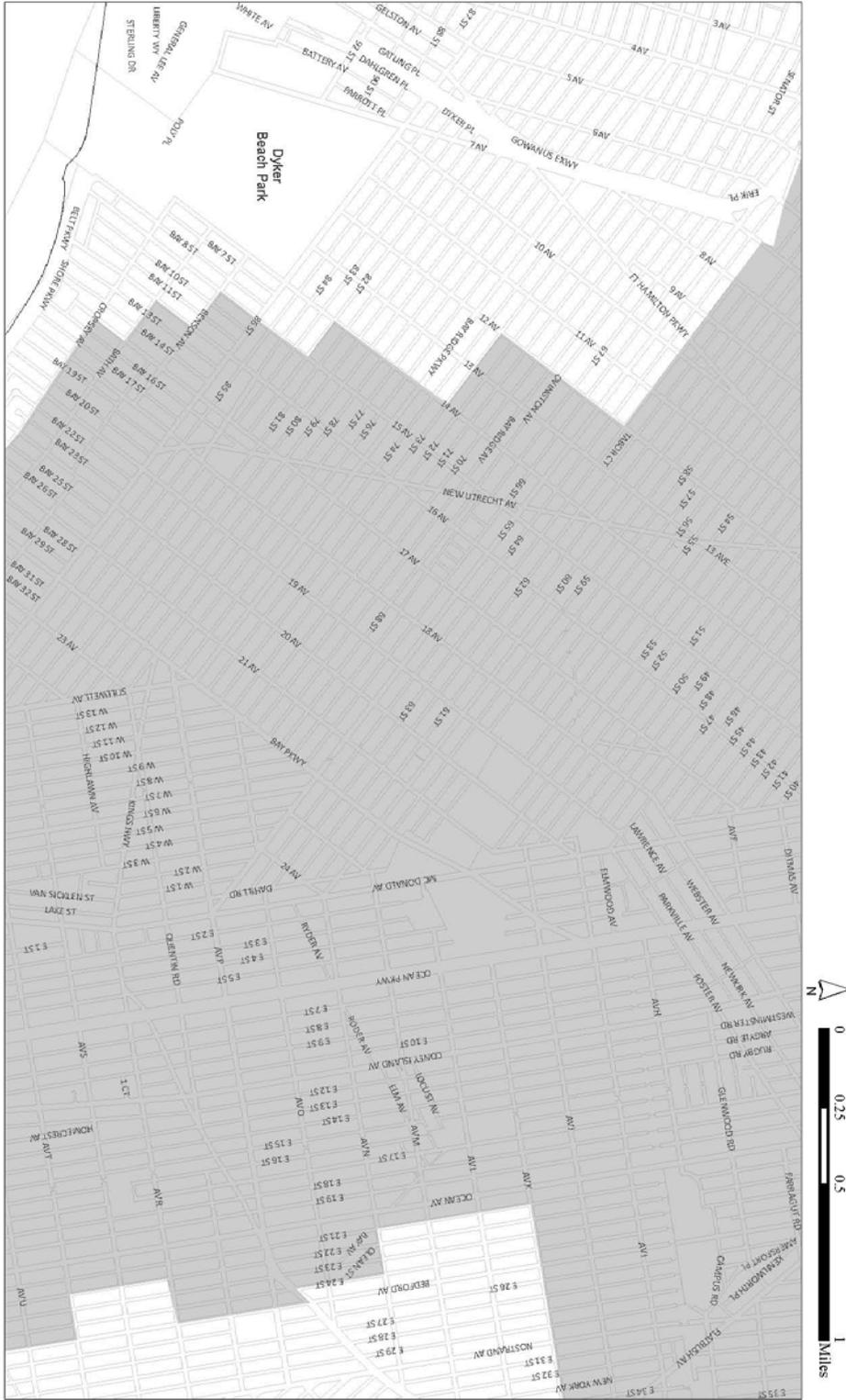
Key Map 13

[New map to be added]



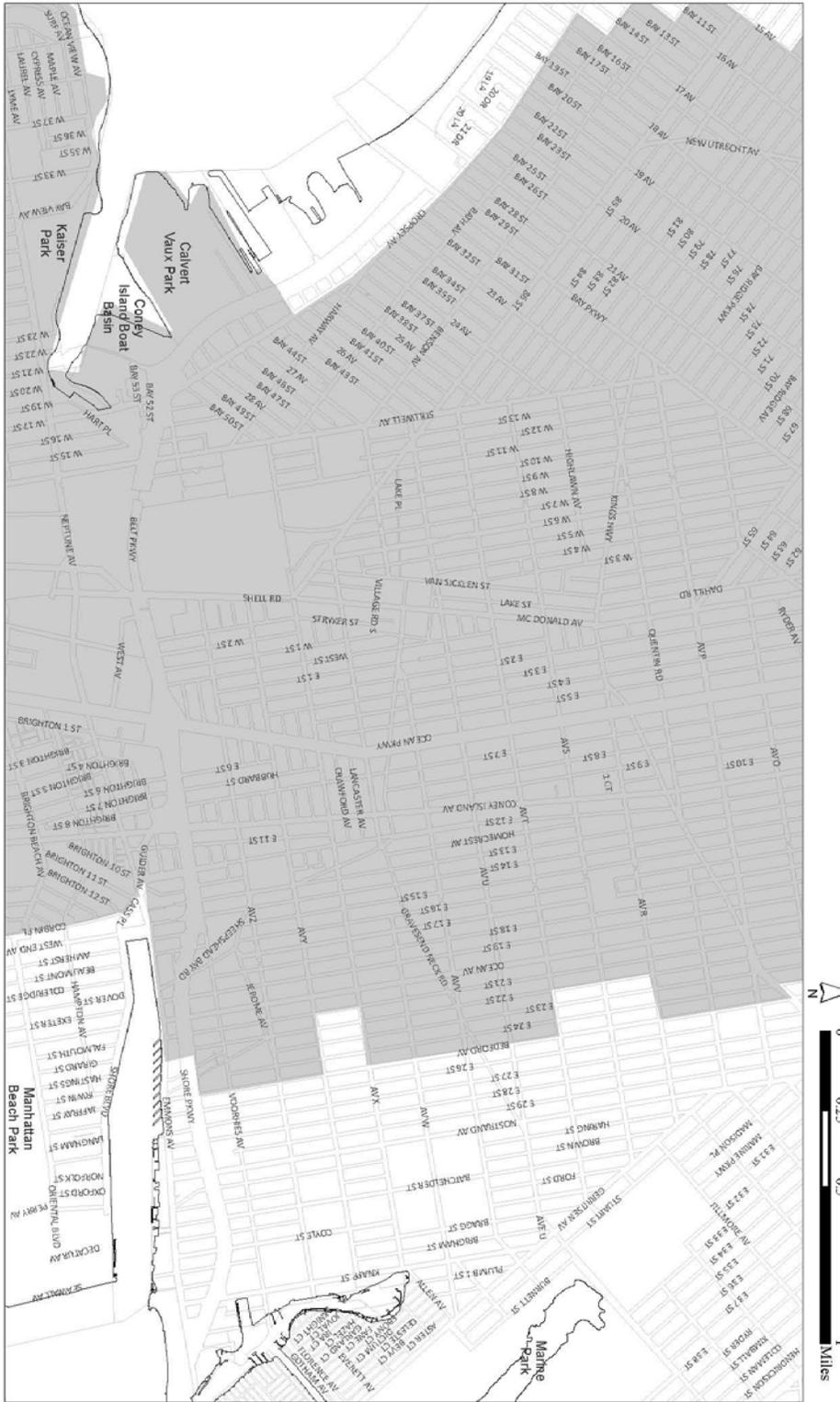
Key Map 14

[New map to be added]



Key Map 15

[New map to be added]



END

The above resolution (N 160049 ZRY), duly adopted by the City Planning Commission on February 3, 2016 (Calendar No.3), is filed with the Office of the Speaker, City Council, and the Borough President 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

MICHELLE R. DE LA UZ, Commissioner, ABSTAINING

RAYANN BESSER, IRWIN G. CANTOR, P.E. ORLANDO MARIN, Commissioners,
VOTING NO

EXECUTIVE SUMMARY

A. INTRODUCTION

As part of the City's coordinated efforts under Housing New York – the Mayor's ten-year, five-borough housing plan – the Department of City Planning is proposing a set of targeted changes to zoning regulations to support the creation of new affordable housing and encourage better residential buildings.

Zoning establishes limits on the use, size, and shape of buildings, with numerous zoning districts mapped in the city's diverse neighborhoods to reflect their varying density and character. These limits help give shape to neighborhoods and predictability to their future. But sometimes they also have unintended consequences, discouraging the very types of outcomes they were intended to encourage. This proposal aims to address several ways in which current regulations, drafted a generation ago, have in practice discouraged the affordability and quality of recent buildings.

Since the release of Housing New York, the Department of City Planning, working with the Department of Housing Preservation and Development (HPD), communities, nonprofit housing groups, architects, affordable housing developers, and other practitioners, has identified a set of zoning changes that would address the needs of affordable housing, aid efficient use of housing subsidies, and encourage higher-quality residential buildings in the city's medium- and high-density neighborhoods.

The Zoning for Quality and Affordability text amendment (ZQA) serves 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. While the various elements of the proposal work together to achieve these goals, they are described separately below, starting with changes that serve to promote affordability, followed by changes designed to encourage better buildings that contribute to the quality of neighborhoods.

B. PROMOTING AFFORDABILITY

In order to make zoning work better with financial and other programs to create more affordable housing for a wider range of New Yorkers, ZQA proposes modifications to the rules affecting various forms of affordable housing identified in the Zoning Resolution. The primary categories of changes under the proposal would:

- Make it easier to provide the range of affordable senior housing and care facilities needed to meet the varied needs of an aging population, and to help seniors remain in their communities;
- Enable Inclusionary Housing buildings, which provide mixed-income housing, to construct high-quality buildings that fit the full amount of housing they are allowed under zoning; and
- Free up resources to create more affordable housing by enabling cost-effective, transit-accessible affordable housing, through modifications to parking requirements.

Specific changes to the rules for affordable senior housing and long-term care facilities are detailed in the sections below, followed by changes related to the height and setback regulations for Inclusionary Housing buildings, and changes to parking requirements for various forms of affordable housing.

Affordable Senior Housing

Older New Yorkers are a diverse and rapidly growing segment of the city's population. The 2010 census documents that the population 65 years and over consisted of about 1 million people, and by 2040, this population is projected to increase to 1.4 million, a 40 percent increase. In recent years, around the country, a wider range of housing and facility types have emerged for seniors that offer specialized living arrangements targeted to accommodate elderly lifestyles and higher care needs. The growth in older New Yorkers has already resulted in an increased demand for affordable senior housing and related long-term care facilities like nursing homes.

Affordable senior housing is designed specifically to meet the needs of seniors, with smaller individual units with more common areas and amenities for residents. Eligibility is limited by age and by income. The development of affordable senior housing normally requires public subsidies, and traditional federal capital funding for this type of housing has recently been eliminated. There have been approximately 3,500 affordable senior housing units constructed in the city since 2003. Under Housing New York, Mayor de Blasio has set a target of 5,000 new units in the next decade.

Today in zoning this use is defined as a “non-profit residence for the elderly,” a Use Group 2 residence. The use requires a funding agreement with a city or state agency, and at least 90 percent of the space must be occupied by an elderly family, the head of which is 62 years or older. In addition, a minimum of 4 percent of the space must be dedicated to shared facilities for residents, like cafeterias and community rooms. If the use meets these various requirements, it is permitted a higher floor area ratio than a typical residence in many low- and medium- density zoning districts and a slightly lower “dwelling units factor” in low-density districts that allows a slightly greater number of units to be included in the building than would be for ordinary residences.

This zoning framework has not been updated in over 40 years, and housing advocates and affordable senior housing providers have pointed out a number of ways in which it unnecessarily limits the creation of these facilities. This is particularly important at a time when new development models may be necessary to replace the traditional federally funded approach to creating affordable senior housing. ZQA proposes a number of changes to make it easier to construct and maintain these facilities, in order to help seniors remain in their communities throughout the city. Specifically the proposal would update the following:

Definitions – The zoning definition “non-profit residence for the elderly” would be replaced by “affordable independent residence for seniors.” This change would allow a wider range of non-profit and for-profit entities to provide affordable senior housing. However, the existing age restrictions described above would remain in place. Incomes would be restricted to seniors making less than 80 percent of area median income. The zoning would require a regulatory agreement from a City or State agency with a minimum term of 30 years, to be consistent with typical requirements of public agencies providing housing subsidies. The requirement for shared facilities would be retained, but the proposal would clarify that the recreation space required under the Quality Housing program can count toward this requirement.

Floor area ratio – Zoning today specifies a higher FAR (by approximately 20%) for “non-profit residences for the elderly” as compared to other residences in most low- and medium-density zoning districts. These provisions were established to promote the use and recognize its low-impact nature as compared to other residences. However, this pattern does not extend to all zoning districts where affordable senior housing is permitted and where it is constructed. This includes high-density districts (R8 through R10) and a number of medium-density contextual zoning districts that did not exist when the original framework was put in place more than 40 years ago. In order to support the creation of affordable senior housing in neighborhoods throughout the city, ZQA would provide a higher FAR for “affordable independent residences for seniors” in those zoning districts, and maintain the existing higher FARs where they currently exist. As shown in Table 0-1, the new floor area ratios would generally be 20 percent higher than what is permitted for other residences, in line with the existing framework, and generally consistent with the FAR permitted through the Inclusionary Housing program.

Unit density controls – Zoning regulates the maximum number of units permitted in a building through a “dwelling unit factor,” by which total floor area is divided to determine the maximum number of units permitted. Today, “non-profit residences for the elderly” are granted a different, generally lower, factor than other residences in some low- and medium-density districts, but it is inconsistent. Allowing higher unit counts is consistent with the fact that low-income seniors typically live in smaller dwelling units, reflecting their smaller household size, incomes, and the desirability of simplified housekeeping. However, the lower dwelling unit factors only exist in certain zoning districts, and even these are not always consistent with current best practices or the standards of various regulating agencies. Under ZQA, affordable senior housing would not be subject to a dwelling unit factor, allowing other regulations and programmatic needs to control unit density and appropriate unit sizes for this use. This would allow for a broader range of unit sizes, and for more affordable and more appropriately sized units for seniors, which are offset by the availability of community spaces.

Table 0-1: Existing and proposed maximum FAR for Affordable Independent Residences for Seniors

	Non-profit residences for the elderly	Residential	Proposed for Affordable Independent Residences for Seniors	Change
Zoning District	Max FAR	Max FAR	Max FAR	
R3-2	0.95		0.95	0.00
R4	1.29		1.29	0.00
R5	1.95		1.95	0.00
R5B	n/a	1.35	1.35	0.00
R5D	n/a	2.00	2.00	0.00
R6	3.90		3.90	0.00
R6A	3.90		3.90	0.00
R6B	2.00		2.20	0.20
R7	5.01		5.01	0.00
R7A	5.01		5.01	0.00
R7B	3.90		3.90	0.00
R7D	5.01		5.60	0.59
R7X	5.01		6.00	0.99
R8	n/a	6.02	7.20	1.18
R8A	n/a	6.02	7.20	1.18
R8B	n/a	4.00	4.00	0.00
R8X	n/a	6.02	7.20	1.18
R9	n/a	7.52	8.00	0.48
R9A	n/a	7.52	8.50	0.98
R9D		9.00	10.00	1.00
R9X		9.00	9.70	0.70
R10		10.00	12.00	2.00

R10A		10.00	12.00	2.00
R10X		10.00	12.00	2.00

Long-Term Care Facilities

Long-term care facilities are a group of uses that provide services to their residents at different levels of care. These include uses like assisted living facilities, nursing homes and certain continuing care retirement communities. Nursing homes offer the highest level of care and 24-hour nursing services, while assisted living facilities are typically independent apartments with optional personal services and support. Continuing care retirement communities combine independent living with assisted living and nursing care services under a single contract that allows residents to move within a facility to increasing levels of care as their needs dictate. All of these facilities can be made up of single or shared apartments or rooms with support spaces. All of these are licensed and regulated by the New York State Department of Health.

Most of the city’s existing facilities were developed in the 1970s when funding sources were at a peak. However, since the 1970s, government funding and support has steeply declined and the construction of new facilities has not kept up with the demands of the city’s aging population. The State Department of Health estimates an unmet need of 8,300 long-term care facility beds in New York City today. The city has half as many assisted living units per capita as other counties in New York State.

Zoning today impedes the creation of these community facility uses by referring to outdated state programs, limiting the as-of-right FAR to less than what is permitted for affordable senior housing or even other community facilities, and imposing layers of land use review that are not required for other uses. These issues make it difficult to renovate or expand existing facilities or provide new ones. ZQA proposes a number of changes to make it easier to construct and maintain these facilities as appropriate in each zoning district in order to help seniors remain in their communities throughout the city. Specifically, the proposal would update:

Definitions – the proposal creates a new defined term, “long-term care facility,” to replace obsolete terms and account for the wide range of care facilities licensed by the State Department of Health. This would be a Use Group 3 community facility use and would replace the current “nursing homes and health-related facilities” use. The broader term will also account for assisted living facilities and continuing care retirement communities, which are not clearly categorized in zoning today. Long-term care facilities will be required to secure the necessary certificate of authority or licensure from the State Department of Health under the applicable state programs for either nursing homes, assisted living facilities, or continuing care retirement communities.

Requirements for Nursing Homes – Zoning today requires certifications and special permits to develop or renovate nursing homes. The certification requirement (current Section 22-42) applies both to new buildings and enlargements or substantial renovations of existing buildings, and requires that applicants demonstrate that the concentration of nursing home beds in the community district will not exceed the citywide average. If the construction of the nursing home would increase the concentration in the Community District above the citywide average, then the applicant must also apply for a City Planning Commission special permit (Section 74-90), and demonstrate that the new facility would not negatively impact traffic or neighborhood support services. These requirements were put in place in the 1970s to address concerns about excessive levels of nursing home construction in limited areas of the city. Today, the State’s licensing process for nursing homes includes a Certificate of Need requirement, intended to limit investment in duplicative or unnecessary facilities and services, and now serves a similar purpose to the 1970s-era requirement in the Zoning Resolution. These zoning requirements now create an unnecessary obstacle for renovating or building new nursing home facilities by increasing costs, uncertainty, and the time needed for review. Therefore, in order to make it easier to provide these uses, ZQA would remove these requirements and instead allow all “long-term care facilities” in R3 through R10 districts, including nursing homes, as-of-right.

Floor area ratios – While community facility uses are generally permitted a higher as-of-right FAR than residential uses are in non-contextual residence districts, nursing homes are today only permitted the residential FAR associated with non-Quality Housing buildings. A special permit (Section 74-902) is required to use the higher permitted community facility FAR. The permit was created in the 1970s to consider whether the higher FAR would be out of context or would negatively impact neighborhood support services. Since then, 49 facilities have applied for this special permit, and all have been approved by the City Planning Commission. However, the permit adds costs, uncertainty, and time which make it more difficult to develop and maintain these facilities. To enable these facilities to be provided at an FAR commensurate with that allowed for housing, ZQA would allow the higher floor area ratio permitted for “affordable independent residences for seniors” (as described above) to all “long-term care facilities” in R3 through R10 districts as-of-right, as shown in Table 0-2. Long-term care facilities are similarly low-impact uses with a great deal of space devoted to support spaces such as clinical services and common areas. The higher, community facility FAR would remain available to these uses only by special permit.

R1 and R2 districts – In these low-density, single-family zoning districts, long-term care facilities would only be permitted through discretionary actions intended to ensure the facility is compatible with the area’s character. For large campus-like sites over 10 acres, a City Planning Commission authorization would be required (Section 22-42). For smaller sites, a Commission special permit (Section 74-901) would be necessary.

Table 0-2 Existing and proposed maximum FAR for Long Term Care facilities

	Existing FAR for Community Facility: UG 3 (Nursing Homes and Health Related) per 24-11 or 24- 111	Proposed FAR for Affordable Independent Residences for Seniors and Long-Term Care facilities	Change
District	Max FAR	Max FAR	
R3-2	0.50	0.95	0.45
R4	0.75	1.29	0.54
R5	1.27	1.95	0.68
R5B	1.27	1.27	0.00
R5D	2.00	2.00	0.00
R6	2.43	3.90	1.47
R6A	3.00	3.90	0.90
R6B	2.00	2.20	0.20
R7	3.44	5.01	1.57
R7A	4.00	5.01	1.01
R7B	3.00	3.90	0.90
R7D	4.20	5.60	1.40

R7X	5.00	6.00	1.00
R8	6.02	7.20	1.18
R8A	6.02	7.20	1.18
R8B	4.00	4.00	0.00
R8X	6.00	7.20	1.20
R9	7.52	8.00	0.48
R9A	7.50	8.50	1.00
R9D	9.00	10.00	1.00
R9X	9.00	9.70	0.70
R10	10.00	12.00	2.00
R10A	10.00	12.00	2.00
R10X	10.00	12.00	2.00

Mixing of Residences and Care Facilities

Contemporary facilities for seniors, in New York and nationwide, often look to provide a mix of uses on the same site so as to allow a "spectrum of care" for residents. This allows seniors to stay within the same facility (and neighborhood) as they age, by providing independent living, assisted living, and nursing home levels of care in the same building. Existing zoning is based on older models for senior facilities, where different uses were isolated in separate buildings. These current rules are unclear and make the mixing of uses difficult.

To make it easier to mix affordable senior housing and long-term care facilities on the same zoning lot in line with today's best practices, ZQA would allow both uses the same maximum FAR and require that they utilize the same building envelope in certain low-density districts, and the "Quality Housing" building envelope in medium- and high-density districts (as described further in the next section). To further bring zoning into line with contemporary best practices, ZQA includes other changes to make it easier to mix these uses together, as well as with other residential and related community facility uses. These include changes to

The applicability of the Quality Housing program – The Quality Housing program includes requirements for recreation space and modest floor area incentives for amenities like laundry rooms and daylight in shared corridors. These requirements are mandatory in contextual R6 through R10 districts and for buildings in non-contextual districts that follow the optional Quality Housing regulations. However, while community facilities in these situations are required to follow the Quality Housing bulk regulations, it is unclear how these provisions are supposed to apply to community facility uses with residential attributes like long-term care facilities, or philanthropic or non-profit institutions with sleeping accommodations (NPISAs). ZQA would clarify that buildings containing these uses can calculate the various requirements and permitted floor area deductions available under Quality Housing based on the overall combined floor area. For example, if there is daylight in a corridor that provides access to long-term care uses and residential uses, the whole corridor could be included and not just the part that is specifically a residential use.

Mixing restrictions – While nursing homes and NPISAs are currently permitted FAR that is comparable to what is permitted for residential uses, in R6 and R7-1 districts, zoning further restricts the amount of community facility use permitted on a zoning lot that contains residential uses. While the permitted FAR for a stand-alone nursing home would be 2.43 (in R6) or 3.44 (in R7-1), in a building with residential floor area, the nursing home would be restricted to 1.0 FAR. This restriction was intended for other types of community facilities for which substantially higher FARs are allowed in these districts than is allowed for residences, but is needlessly restrictive for long-term care facilities and NPISAs, which are harmonious with and function similarly to residential uses, and would be allowed as-of-right only the same FAR available to affordable independent residences for seniors. To better accommodate use mixing, the restriction applicable in R6 and R7-1 districts would be made applicable only to other types of community facility uses.

Number of units – Zoning regulates the maximum number of units permitted in a building today through a dwelling unit factor; however, it is unclear today how this should be calculated in buildings that have a mix of residential and community facility uses. These rules would be modified so that the number of regular residential units is calculated by first excluding the floor area of affordable senior housing, long-term care facilities, and NPISAs. This would provide clarity on the mixing of uses and ensure that the maximum number of regular residential units is not distorted by the provision of these other uses.

Special districts – The provisions for a number of special districts state that “non-residential” uses cannot be located on the same floor or above residential uses. These regulations inadvertently restrict community facility uses from being mixed with residential uses, which is in line with today’s best practices, and which is permitted by underlying zoning regulations. As such, ZQA proposes to modify these various special district requirements to match their original intent to only restrict the location of commercial and residential uses.

Affordable Senior and Long-term Care Facility Building Envelopes

As described above, zoning allows a higher maximum FAR for affordable senior housing and long-term care facilities as a way to promote the uses in neighborhoods throughout the city. However, some zoning rules that regulate the size and shape of buildings make it difficult to develop that full permitted floor area in a high-quality building. In order to make it easier to develop these uses, ZQA proposes a series of modifications to the building envelope controls that apply to these two uses. The proposed changes are different in different zoning districts, as described below.

R6 through R10 contextual districts – As shown in Table 0-3, ZQA would accommodate the higher FAR permitted for both these uses (generally about 20 percent higher than for ordinary residences) by permitting limited additional height for buildings that provide affordable senior housing or long-term care facilities in these zoning districts, where building envelopes include a maximum building height and (through ZQA; see ‘Building Envelopes and Number of Stories’ below) number of stories. For buildings that provide at least 20 percent of their floor area as either affordable senior housing or long-term care facilities, the proposal would:

- Permit a higher maximum height and number of stories to allow the full development of the permitted FAR in a high-quality building form. The additional height would only be permitted in districts that allow a higher maximum floor area ratio for these uses than for other residential uses (generally, districts other than “B” districts). The additional height is based on the volume necessary to accommodate the higher permitted FAR for the use and differs in each zoning district, but in 95 percent of the city’s contextual districts this results in an increase in height not exceeding 1 or 2 stories (10 to 20 feet).
- Allow increases in the maximum base heights in some zoning districts to maintain the current proportionality of the building envelope, which often serves to conceal the additional height above the base from street-level view.
- Allow for the development of shared accessory spaces for affordable senior housing on the ground floor in the rear yard area, so as to allow for more efficient buildings. This would only be permitted in districts other than “B” districts. This matches the flexibility already afforded to commercial or community facility uses or accessory off-street parking today.

- Remove an impediment to the creation of affordable senior housing or long-term care facilities on narrow sites by removing the special height restrictions placed on narrow lots (those that are less than 45 feet wide). Zoning today generally restricts the height on these sites to the width of the abutting street. The proposal would allow them to be developed to the maximum height permitted by the contextual envelope available in that zoning district.

Table 0-3: Proposed maximum heights for Inclusionary Housing and Affordable Independent Residences for Seniors and Long-Term Care Facilities with Qualifying Ground Floors (Contextual Districts)

MAXIMUM HEIGHTS FOR IH, AIRS and LTC: CONTEXTUAL DISTRICTS			
Zoning District	Maximum Base Height	Maximum Overall Height	Maximum Number of Stories
R6A	65'	85'	8
R7A	75'	105'	10
R7D	95'	125'	12
R7X (AIRS only)	105'	145'	14
R8A	105'	145'	14
R8X	105'	175'	17
R9A	125'	175'	17
R9X	145'	205'	20
R10A	155'	235'	23

R6 through R10 non-contextual districts – In non-contextual districts, two sets of building envelope controls exist: a “height factor” option, which allows tall buildings which are set back from the street and surrounded by open space; and a contextual Quality Housing option, which encourages buildings closer to the street and subjects them to height limits as shown in Table 0-4. To receive the higher floor area permitted for affordable senior housing and long-term care facilities, the proposal would require they utilize the applicable Quality Housing option, subject to the same modifications described above for R6 through R10 contextual districts. However, sites located close to infrastructure that poses a significant barrier condition, like highways or elevated train lines, would be permitted a more flexible, alternative Quality Housing building envelope, so that the units in the affordable senior housing or long-term care facility can be shifted away from this infrastructure. In addition, today, sites with existing buildings are only able to utilize the optional Quality Housing regulations if the existing buildings on the site comply with the contextual height and setback requirements. ZQA would allow sites with affordable senior housing or long-term care facilities to comply based on the higher permitted heights described above.

Table 0-4 Proposed maximum heights for Inclusionary Housing and Affordable Independent Residences for Seniors and Long-Term Care Facilities with Qualifying Ground Floors (Non-Contextual Districts)

MAXIMUM HEIGHTS FOR AIRS and LTC: NON-CONTEXTUAL DISTRICTS			
Zoning District	Maximum Base Height	Maximum Overall Height	Maximum Number of Stories
R6 (narrow street)	45'	55'	5
R6 (wide street w/in Manhattan Core)	55'	65'	6
R6 (wide street outside Manhattan Core)	65'	85'	8
R7 (wide street w/in Manhattan Core)	65'	75'	7
R7 (narrow street)	65'	75'	7
R7 (wide street outside Manhattan Core)	75'	105'	10
R8	105'	145'	14
<u>Zoning District</u>	<u>Maximum Base Height</u>	<u>Maximum Overall Height</u>	<u>Maximum Number of Stories</u>
<u>R6</u>	<u>65</u>	<u>85</u>	<u>8</u>
<u>R7</u>	<u>75</u>	<u>105</u>	<u>10</u>
<u>R8</u>	<u>105</u>	<u>145</u>	<u>14</u>

R3-2, R4 and R5 non-contextual districts – In these low-density multi-family districts, affordable senior housing is permitted a higher FAR, but affordable senior housing is restricted to the district’s maximum height of 35 feet as-of-right, with lower maximum perimeter wall heights (community facilities, such as nursing homes, are not subject to this height limit today). These height restrictions make the construction of apartment buildings served by elevators – an indispensable feature for senior housing – impractical. In environments of this density, both within the city and in nearby communities, these uses are typically developed as elevator buildings that are 4 to 6 stories in height (45 to 65 feet). Buildings providing affordable senior housing must therefore apply for a City Planning Commission authorization to be granted a building envelope that accommodates this 4-6 story form. While the Commission has

never turned down such an application, these requirements add costs and time to the project, as described in Chapter 1. To make it easier to construct affordable senior housing in these districts, ZQA would permit them to be developed using a special as-of-right building envelope that would permit a maximum height of 45 feet close to the street and a maximum height of 65 feet for portions of lots more than 25 feet from the street. Long-term care facilities would also be subject to this new building envelope. Yard requirements would continue to apply. The current Commission authorization would remain for sites that require additional flexibility.

Inclusionary Housing Building Envelopes

In specifically designated medium- and high-density areas, the Inclusionary Housing program promotes mixed-income housing. Like affordable senior housing and long-term care facilities, buildings participating in the Inclusionary Housing program are allowed a higher FAR than is permitted for other types of housing. However, for Inclusionary Housing areas in contextual zoning districts, zoning doesn't provide enough room for this floor area all to fit in a high-quality building. This results in less participation in the existing Inclusionary Housing program, and therefore less affordable housing. ZQA would address this problem by allowing buildings that provide on-site affordable housing through the Inclusionary Housing program to utilize the more flexible building envelope permitted for affordable senior housing and long-term care facilities (described above). More specifically, the proposal would:

- Permit a higher maximum height and number of stories to allow the full development of the permitted FAR in a high-quality building form. The additional height is based on the volume necessary to accommodate the higher permitted FAR through participation in the program, and differs in each zoning district, but in most contextual Inclusionary Housing districts this results in an increase in height permitting an additional 1 or 2 stories (10 to 20 feet).
- Allow increases in the maximum base heights in some zoning districts to maintain the current proportionality of the building envelope, which often serves to help hide the additional height above the base.
- Allow for the development of shared spaces on the ground floor in the rear yard area, so as to allow for more-efficient buildings. This would only be permitted in districts other "B" districts. This matches the flexibility already afforded to commercial or community facility uses or accessory off-street parking today.
- Remove an impediment to the creation of affordable housing on narrow sites by removing the special height restrictions placed on narrow lots (those that are less than 45 feet wide). Zoning today generally restricts the height on these sites to the width of the abutting street. The proposal would allow them to be developed to the maximum height permitted by the contextual envelope available in that zoning district.

Parking Requirements for Affordable Housing

Existing requirements for accessory off-street parking make it harder to meet the city's need for affordable housing. Off-street parking, particularly in structured facilities, is quite expensive to construct – costing as much as \$30,000 to \$50,000 per space. Residents of affordable housing cannot pay the fees necessary to recoup the cost of constructing these spaces, approximately \$200-\$300 per month, and in many instances these provided spaces sit empty, as the limited number of low-income residents who do own cars park them on street. In less-dense areas, parking may be provided as surface parking that costs less to build, but nonetheless takes up considerable space that might otherwise be used for housing, open space, or other uses. In addition, data collected by the Department of City Planning and verified by affordable housing providers show that lower-income households own fewer cars, with low-income seniors owning extremely few. This is particularly true for locations in the city that are well served by transit. By imposing a cost that cannot be covered by project revenues, these requirements for parking therefore make the financing of affordable housing more difficult and they reduce the amount of affordable housing that can be built with available funding. ZQA therefore proposes modifications to the existing parking requirements for affordable housing in certain portions of the city, as described further below.

Zoning today generally recognizes the lower car ownership rates of affordable housing residents with a lower parking requirement for affordable senior housing and other forms of affordable housing. About half as many parking spaces

are required for affordable housing as for other forms of housing. Buildings where only a small number of spaces are required can waive out of parking requirements altogether. The parking requirements for affordable senior housing are today set even lower (about 1/3 the rate for other forms of housing). However, affordable senior housing does not currently have a waiver option. No parking is required for any housing in the Manhattan Core (Manhattan Community Districts 1-8, except for Roosevelt Island) or Long Island City, and no parking is required for affordable housing in Downtown Brooklyn.

ZQA proposes to modify parking requirements for affordable housing particularly in those areas that are served by a variety of public transportation options, and are generally within one-half mile of a subway station. These areas, described as the “Transit Zone” in the proposal, have car ownership rates that are among lowest in the city and encompass some of the city’s denser residential neighborhoods. Within this Transit Zone, parking for new affordable senior housing and affordable housing would become optional. This would also be true for new units that satisfy the affordable housing requirements of the Inclusionary Housing program. Existing affordable senior housing developments would be allowed to remove existing parking 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. In addition, through a separate BSA special permit, new buildings could apply to reduce or eliminate their parking requirements to facilitate a mixed-income development (Section 73-433), provided there would not be an adverse effect on the surrounding area. Comparable modifications would be permitted by the City Planning Commission as part of a General Large Scale Development special permit.

Outside of the Transit Zone, parking requirements for new affordable senior housing would be lowered to 10 percent, to reflect car ownership rates the Department’s analysis found at existing developments. However, developments requiring a small number of spaces would be able to waive out of the requirement, which is already allowed for other types of housing (for example, in R6 districts, a maximum of 5 spaces can be waived). Existing affordable senior housing buildings outside the transit zone could reduce their parking amounts to the 10 percent figure if spaces are not needed, through a new Board of Standards and Appeals (BSA) special permit. Parking requirements for other affordable housing in multi-family zoning districts outside the Transit Zone would remain unchanged.

The proposal includes no changes to the as-of-right parking requirements for market-rate housing.

C. CHANGES FOR QUALITY

In order to encourage better buildings that contribute to the fabric of their neighborhoods, ZQA proposes a series of modifications to the rules for housing in medium- and high density zoning districts. These changes predominantly modify the Quality Housing regulations that are required in contextual zoning districts and are optional in non-contextual districts.

These regulations were established in 1987 to promote housing that fit better within the city’s medium- and high-density neighborhoods than the previous “tower-in-the-park” model. They generally require buildings to be located close to the street, and include requirements for street walls and specific maximum heights. These rules have generally worked well to enable the creation of buildings that are mostly consistent with the general form of the surrounding neighborhood fabric. However, development under these rules has also demonstrated their shortcomings. These regulations have remained largely unchanged since they were first put in place and have not been updated to keep pace with other changing regulations, the rise of green technologies and other best practices for residential design and construction, and the increasing prevalence of irregular building sites. Because of these issues, these zoning controls now tend to limit design flexibility and too often result in buildings that are flat or dull, fail to enliven the pedestrian environment, and lack the variation and texture typical of older apartment buildings.

The proposal would maintain the essential contextual rules for residential buildings in medium- and high-density districts that work well today, but would make modifications to:

- Encourage better ground-floor retail spaces and residential units with adequate ceiling heights raised off of the street

- Change rules that lead to flat, dull apartment buildings, to accommodate and encourage façade articulation, courtyards, and other elements that provide visual variety and make the pedestrian experience more interesting
- Better address irregular site conditions that are not well considered by zoning rules today

Specific changes are detailed in the sections below, starting with ground floors and rising to upper levels of the building, followed by regulations affecting unit size and configuration, and rules for irregular site conditions.

Ground Floors

The main interface between buildings and the public realm of the sidewalk takes place at the ground level. ZQA proposes a series of changes to the Quality Housing bulk regulations to promote better, more active ground floors in both residential and mixed-use buildings. Key to this is ensuring that enough space exists in the building envelope to provide a ground floor with sufficient height. For buildings with residential units on the ground floor, this would allow the units to be raised above street level, as is common in older apartment buildings. For buildings with retail or other uses on the ground floor, it would allow sufficient height to provide a usable, high-quality space entered from the sidewalk at grade. Under the current Quality Housing requirements in medium- and high-density districts, both of these possibilities are discouraged by the current building envelope, which forces trade-offs between designing buildings that would contribute to their neighborhood at ground level, and accommodating the full permitted FAR.

To address this, ZQA would allow the maximum height of Quality Housing buildings to be increased by 5 feet if the second level of the building begins at a height of at least 13 feet. The proposed allowance would be applicable in all contextual zoning districts except R7B and R8B, their non-contextual equivalent and commercial equivalent districts, which already allow sufficient height for these features. This additional height would allow for a raised ground floor residential unit or a better ground floor retail space, while retaining sufficient flexibility to accommodate construction issues above the ground floor, such as the need for limited additional height for transfer beams at setbacks. While the elements of the proposal relating to building quality are generally applicable in R6 through R10 districts, this height allowance would also be extended to the R5D zoning district to encourage better ground floors in that district.

Another factor making it more difficult to provide raised residential units at ground level in today's buildings is the need to provide accessibility. To accommodate this, the proposal would allow interior ramps in the residential lobby a floor area exemption of 100 square feet for each foot the ground floor is raised above curb level. (Changes to the street wall and court regulations described in the next section would be sufficient to accommodate a ramp on the exterior of the building.)

To better promote active ground floors, ZQA also tries to simplify and improve the ground-floor use requirements that exist in many special districts and certain commercial zoning districts, which vary in small but numerous ways. These requirements typically include minimum depth requirements to promote usable ground floor spaces, requirements for transparency and limits on the width of ground floor lobbies, and parking wrap requirements. Today, these requirements all slightly differ from one another, making compliance with them challenging for practitioners. In order to promote better retail spaces, the proposal would replace this myriad of confusing regulations with a new set of model ground floor requirements based on the regulations applicable in the Special Enhanced Commercial District.

Street Walls

After the ground floor itself, the main way a building interacts with the public realm is through its street wall – generally that area of the building between the ground and the top of the building's base. Older buildings typically had a great variety of building articulation in the street wall including bay windows, court yards, and other architectural features. Quality Housing regulations today include rules that regulate where the street wall can be located, how much design flexibility is permitted for building articulation, and what kind of articulation (like courts) is permitted.

While these regulations have achieved a degree of consistency in streetwalls, there are certain instances where the existing regulations are producing results that contradict their original intent. Sometimes the existing rules are forcing the street wall to be lined up with non-contextual buildings, or are instead allowing buildings to be built at the property line where small setbacks may be more in keeping with the surrounding context. In other instances, the allowances for building articulation are unclear, while in others they restrict more traditional design features, all of which inadvertently make building facades appear flat or dull when compared to older buildings. ZQA proposes a series of modifications to these various street wall regulations to better ensure that buildings can contribute positively to their neighborhood context. More specifically, the proposal would modify:

Line-up provisions – The Quality Housing street wall regulations include separate street wall requirements for medium-density contextual districts, high-density contextual districts, and for the “B” districts. For medium-density districts, ZQA proposes to modify the existing line-up provisions, which allow buildings to be located no closer to the street line than any building within 150 feet, to instead require buildings to locate their street wall in relation to only directly adjacent buildings (similar to the rule in “B” districts). The current provision inadvertently allows buildings close to corners to line up with corner buildings when the rest of the buildings on the block are set away from the property line. The proposal would also adjust the maximum setback from the property line to 10 feet (from 15 feet), so that buildings in these districts are not inadvertently required to line up with non-contextual buildings set far back from the street (such as buildings constructed under the alternate front setback provisions of height factor zoning). In these zoning districts and in “B” districts, greater clarity is provided as to how line-up provisions are determined for adjacent buildings with architectural features like bay windows. Finally, in the high-density districts, the proposal includes street wall requirements beyond 50 feet of a wide street, where no street wall requirements currently exist.

Articulation – In order to provide greater clarity as to how a street wall can be articulated, ZQA includes new rules for building articulation. Window recesses and structural expression would be permitted within depths or projections of 12 inches from the street wall. Deeper recesses or projections, for larger architectural features like bay windows and building courts, would be allowed for a limited percentage of the street wall’s overall width.

Court regulations – in order to permit more flexibility for courts and courtyards, which are typical features of older apartment buildings in the city, ZQA would create more flexible court regulations for buildings in R6 through R10 districts that would support the availability of light and air. For outer courts, the proposal would modify the required width-to-depth ratio to 1:1 for courts less than 30 feet wide, and allow courts that are 30 feet or wider to have no depth restrictions. It would also create a new class of small (inner and outer) courts to accommodate courts with non-legally required windows, such as those found in kitchens or bathrooms.

Commercial districts – High-density commercial districts generally require new buildings on a wide street to be located directly on the street line. While this requirement has supported an active retail environment, it has also produced unnecessarily flat buildings. ZQA would provide some limited flexibility to allow for ground-level articulation along wide streets. In high-density commercial districts, the proposal also includes street wall requirements beyond 50 feet of a wide street, where today no street wall requirements exist. The proposal would also require that wholly residential buildings in commercial districts comply with the more stringent street wall regulations of commercial districts, rather than those of the comparable residential district, and would remove the special line-up provision for narrow buildings in commercial districts that inadvertently forces these buildings to line up with adjacent buildings even when this is contradictory to the prevailing condition of the commercial environment.

Corner Buildings

Older apartment buildings in the city on corner lots tend to “wrap” the corner, providing a consistent street wall along both street frontages. Zoning today makes it difficult, if not impossible, to match this condition in new buildings. ZQA seeks to address this issue to allow for better corner buildings.

Typical “wrapped” corner buildings were effectively made unbuildable by the 1987 Quality Housing regulations, which limited the lot coverage on corners to a maximum of 80 percent. (Traditional corner buildings generally have lot coverages of 85 to 90 percent.) As a result, recent buildings on corners tend to front on only one street and leave open spaces along their lot lines, effectively breaking the street wall in many neighborhoods. The 1987 Quality

Housing proposal did not identify a rationale for prohibiting corner buildings exceeding a coverage of 80 percent; rather, it was not believed that anyone would try to build traditional corner buildings again.

Since 1987, DCP has updated these corner provisions in many Special Districts to allow for more traditional corner lot buildings, but has never done so for the citywide Quality Housing regulations. Therefore, to allow better corner buildings in R6 through R10 districts, ZQA proposes to increase the maximum permitted corner lot coverage for “Quality Housing” buildings from 80 percent to 100 percent within 100 feet of a corner. All currently applicable court and yard regulations would continue to apply. The coverage requirements for other interior lots would remain unchanged.

In addition, today, corner lots in medium and high-density districts located next to lower-density districts (R1 through R6B) have to comply with an additional “transition rule,” which makes wrapping the corner difficult. Today, within 25 feet of the lower-density district, the maximum height of a building is limited to the maximum permitted height of the lower-density districts – typically 35 feet. The intention of the rule was to provide a transition between the lower- and higher-density districts, but since the permitted height in this 25-foot-wide area is quite low, and leads to inefficient structures, many buildings simply front on one street and leave an open area between the two buildings that again breaks the street wall in many neighborhoods. As a result, this provision also tends to emphasize the height difference between the lower and higher density districts, rather than providing an effective transition. To address this, ZQA proposes to allow the portions of buildings within that 25-foot zone to reach the maximum base height of the zoning district, or a height of 75 feet, whichever is less. This would better allow buildings to “wrap” the corner and provide for a more balanced transition between buildings.

Setback Requirements

Above the maximum base heights in Quality Housing buildings, specified minimum setbacks are required in the front and rear of the building before it can continue to rise to its maximum permitted height. The intent of these setback requirements was to keep as much of the building’s upper bulk away from the street and surrounding areas, and to mimic the front setbacks found in older apartment buildings. However, as currently written, these separate requirements are inadvertently working in concert to force many residential buildings to be built directly at the property line so as to avoid the required rear yard setback. This is particularly an issue for residential buildings where a ground-level setback with planting would be more appropriate and in keeping with its context. The current requirements are also inadvertently making buildings less efficient and more costly to construct.

Today, the front and rear setbacks of Quality Housing are measured differently. The front setback rules require upper stories above the maximum base height to set back 15 feet from the street wall of the building base on narrow streets and 10 feet on wide streets. Since this is measured from the street wall, even if the entire building is set back 5 feet or 10 feet from the street line to create a separation from the sidewalk, the minimum 10-foot or 15-foot setback is still required. This creates a strong disincentive to set the building back at ground level to provide planting and improved streetscapes, because upper stories can be seriously constrained by the limited depth imposed by the setbacks on both sides. Rear yard setbacks require upper stories above the contextual base to set back 10 feet from the rear yard line, which is 30 feet from the rear lot line on an interior lot. Since the location of the rear yard setback is fixed, shifting the building toward the street can also eliminate the need for a setback and the additional costs it entails – at the expense of the streetscape and the quality of ground floor units.

In order to remedy these complementary problems, ZQA first proposes to remove the rear yard setback requirement for Quality Housing buildings. The typical 30-foot rear yard (often totaling 60 feet of open area, where two 30 foot yards abut each other) would continue to ensure adequate light and air to rear-facing portions of buildings. Secondly, in order to accommodate a separation between the sidewalk and the building (and reduce costly structural reinforcing below the setback) ZQA would allow the front setback to be reduced by one foot for every foot that the building is set back from the property line. A setback of 5 feet must be provided from the street wall, to maintain architectural articulation. For example, a building on a narrow street located on the street line would continue to require a 15 foot setback, whereas a building that was set back from the sidewalk by 5 feet would be able to reduce the upper level setback to 10 feet from the street wall (5 foot setback at grade + 10 foot upper level setback = 15 foot total setback).

The combination of these provisions would allow buildings to provide greater separation and plantings between ground floor units and adjoining sidewalks, and would allow upper story units to be designed with greater variety, cost effectiveness and efficiency.

Building Envelopes and Number of Stories

Buildings in contextual zoning districts, and other Quality Housing buildings, are subject to base and maximum height provisions that define the overall shape of a building. These regulations are generally sufficient to allow high-quality residential buildings, but in some instances improvements to the regulations are warranted to further their original intent. More specifically, the proposal would make adjustments to:

Maximum Base heights – Buildings in contextual districts are subject to both minimum and maximum base heights intended to ensure the building relates well with the sidewalk and surrounding context. However, the maximum base heights in some districts end in a zero, allowing an average of 10 feet per story, which makes it difficult to accommodate an active ground floor (as described in Section 1) since these spaces typically require more than 10 feet of height. As a result, many buildings skimp on ground-floor or upper-floor ceiling heights, or drop commercial ground floors below grade to accommodate higher ceilings, which can disrupt the quality and continuity of the street environment. In order to better accommodate more active ground floors, the maximum base heights applicable in some zoning districts would be increased by 5, consistent with the changes to maximum overall height described above.

Stories - The maximum height requirements are all measured in feet, but the current rules offer little guidance as to the number of stories that can be developed in a new building. In order to better ensure that buildings cannot use the additional flexibility created through this proposal to create additional floors, for instance by decreasing ceiling heights, ZQA adds a maximum number of stories that can be constructed in a contextual zoning district. The proposed number of stories differs in each zoning district based on the maximum permitted height, but generally corresponds with the maximum height, accommodating additional height for the ground floor – thus the maximum number of stories permitted in an R7B district (max height 75 feet) would be seven stories.

Maximum height in R9 and R10 districts - In the highest-density contextual districts, it is difficult for buildings to fit their full permitted floor area in a well-designed building. The existing building envelope offers little room for articulation and many resultant buildings have flat, dull facades and deep floor plates. To promote better buildings in these limited, high-density districts, ZQA would increase the applicable maximum building heights by 5 or 10 additional feet, as necessary to accommodate comparable design flexibility as compared to other districts. The maximum number of permitted stories in these districts would be based on these adjusted heights.

Optional Quality Housing bulk regulations – In non-contextual districts, two sets of building envelope controls exist. First, a “height factor” option that allows tall buildings set back from the street and surrounded by open space, and a contextual Quality Housing option that encourages buildings closer to the street and subjects them to maximum base and overall heights. These Quality Housing base and overall heights are mostly similar to the heights permitted in comparable contextual districts, but are sometimes slightly misaligned, reflecting their creation at different times. ZQA generally seeks to better align the “Quality Housing” optional regulations on wide streets with the comparable “A” zoning districts, and align the narrow street regulations with the comparable “B” zoning districts, as they typically have the same permitted FAR. For example, a building on a wide street in an R6 district utilizing the Quality Housing option has the same FAR as that of an R6A district, and so the proposal gives it the same zoning envelope option. The proposal would also match the maximum number of stories and the allowance for additional height to facilitate improved ground floors.

Study Areas – When the Quality Housing program was established in 1987, certain non-contextual areas of the city were restricted from using the new building controls. Instead, the existing tower-in-the-park zoning regulations were the only permitted building form. Many of these “study areas” have since been rezoned to contextual districts and had this restriction removed, but it is still applicable in some limited geographies. The proposal would fully remove this restriction on the contextual Quality Housing option.

Special Districts – In some Special Districts, the building envelope controls mimic the controls of a comparable contextual zoning district. For consistency, when the Special District does not include any special FAR or building envelope rules, ZQA would adjust the maximum building envelopes to bring them in line with the changes proposed for the Quality Housing option.

Table 0-5: Existing and proposed maximum heights for contextual districts

HEIGHT CHANGES FOR ALL BUILDINGS IN CONTEXTUAL DISTRICTS				
Zoning District	Base Height		Overall Height	
	Existing Max Height	Proposed Max Height	Existing Max Height	Proposed Max Height (stories)
R6B	40'	45' (4 stories)	50'	55' (5 stories)
R6A	60'	65' (6 stories)	70'	75' (7 stories)
R7B	60'	65' (6 stories)	75'	75' (7 stories)
R7A	65'	75' (7 stories)	80'	85' (8 stories)
R7D	85'	85' (8 stories)	100'	105' (10 stories)
R7X	85'	95' (9 stories)	125'	125' (12 stories)
R8B	60'	65' (6 stories)	75'	75' (7 stories)
R8A	85'	105' (10 stories) <u>95' (9 stories)</u>	120'	125' (12 stories)
R8X	85'	95' (9 stories)	150'	155' (15 stories)
R9A (narrow street)	95'	105' (10 stories)	135'	145' (14 stories)
R9A (wide street)	95'	105' (10 stories)	145'	155' (15 stories)
R9X	120'	125' (12 stories)	160'	175' (17 stories)
R10A (narrow street)	125'	135' (13 stories)	185'	195' (19 stories)
R10A (wide street)	125' <u>150'</u>	155' (15 stories)	210'	215' (21 stories)

Unit Size and Configuration

While the provisions of ZQA focused on quality primarily relate to improving the height and setback regulations for medium- and high-density buildings, the proposal also includes some changes that affect the interior configuration of buildings. These changes are intended to rationalize currently inconsistent regulations.

Zoning today regulates the number of units that are permitted in a residential building through a “density factor” calculation. The maximum number of units is determined by dividing the permitted residential floor area by a specified factor. This factor starts out quite high in the lowest-density zoning districts and gradually drops to 680 square feet in R6 and R7 districts, allowing for incrementally higher concentrations of dwelling units as overall permitted density increases. Thus, a 6,800 square foot residential building in an R6 district is permitted a maximum of 10 units (6800/680) all of which can be of varying sizes. However, after the R6 and R7 districts, the factor increases again to 740 for most R8 and R9 districts and to 790 in R10 and remaining R9 districts. Additionally, the Quality Housing regulations require no single residential unit be smaller than 400 square feet.

Some housing advocates have pointed out that the 400 square foot requirement limits the ability to provide some smaller units in a building, balancing them out with larger units to better serve a more-varied population. ZQA therefore would remove this 400 square foot minimum unit size requirement to provide greater flexibility in the sizes of units. The Building Code and other regulations would effectively limit the minimum size of any unit, and the “density factor” requirement would continue to limit the total number of units that can be provided in a building.

In addition, ZQA would change the increasing density factors in R8 through R10 districts to make them consistent with what is already required in R6 and R7 districts – 680 square feet. Though most buildings today are providing larger units in these high density areas and are well below the maximum number of units they are permitted to build today, there is no rationale for requiring larger average unit sizes today in the city’s highest density residential districts. This change would allow buildings in these districts greater flexibility to provide a somewhat smaller average unit size if they choose to do so.

Zoning today includes a number of different regulations affecting windows in residential units. The “Quality Housing” program and a few special districts, such as the Special Union Square District, require residential windows to be made of double-paned glass. These were meant to improve the quality of spaces for tenants at the time these regulations were enacted, but are now a minimum standard needed to comply with energy standards in the City’s Building Code. Additionally, these double-paned glass requirements also may make it difficult to provide windows of higher standards, like triple-paned glass. Therefore, ZQA proposes to remove these various double-pane window requirements.

Additionally, in Special Mixed Use (MX) districts, zoning today requires special sound-attenuated windows for any residential units. The requirements were designed to address MX districts located next to loud places like highways, but as written, the windows are required in any MX district, even in places where such noise conditions don’t exist. These requirements have been found to be add unnecessary cost in locations where the windows are not needed. To better account for the varied conditions of the city’s MX districts, the proposal would allow the City’s Office of Environmental Remediation to modify the sound-attenuated window requirement based on site conditions through a process similar to what already exists for sites with (E) designations.

Irregular Site Conditions

There is a wide variety of site conditions that exist in the city today - shallow lots, angled streets, varying topography, or sites with multiple buildings - to name a few. While the Manhattan grid results in many regular sites, irregular conditions prevail in many locations in the outer boroughs. Most zoning rules that shape residential buildings were designed with regular site conditions in mind – lots were assumed to be rectangular, with little topography or other irregularity. Because of this, construction on these irregular lots is not well considered in zoning, often making it unnecessarily difficult, and leading to buildings that are forced directly onto the property line with little room for design articulation. ZQA proposes a series of modifications to zoning rules for R6 through R10 districts to better address these irregular site conditions and allow for better buildings on them.

Shallow lots – Zoning rules for rear yards and lot coverage were designed with the assumption that most lots in the city are 100 feet deep. Over time, some limited changes were made to address much-shallower lots (ranging between 50 and 70 feet deep), but the dimensions in between must continue to utilize regulations based on an assumption of 100-foot lot depth. This causes many problems for lots that are only slightly shallow (90-95 feet deep), and generally forces new buildings to be located directly on the street line. ZQA proposes a comprehensive framework that adjusts rear yard and lot coverage requirements in concert with lot depth. Shallow lots would be permitted to provide a shallower rear yard with the change in the requirement based on the depth of the lot. The permitted coverage on interior lots would be permitted to increase in relationship to this. The proposed changes would result in more regular buildings that are more consistent with existing, older buildings.

Acutely-angled sites – Quality Housing rules that require street walls along entire street lines in high-density commercial districts offer little flexibility for sites that are located on acutely-angled streets that cut into the more typical rectangular grid. This sometimes forces inefficient building configurations and poor street-level conditions in the building. ZQA would provide greater flexibility in street wall location for buildings that are located on acutely-angled sites.

Sloping sites – Similar to shallow lots, zoning today provides some flexibility for steeply- sloping sites, but makes no accommodations for sites with more limited topography changes. Today, sites that have slopes of greater than 10 percent can utilize a sloping base plane to determine maximum base and building heights. ZQA proposes to modify this allowance to 5 percent, to better address these topographic conditions.

Distance between buildings – The rules that regulate the minimum distance between multiple apartment buildings on a single are from the original 1961 Zoning Resolution, and are in keeping with the large-scale tower-in-the-park developments of the time. Under today’s rules, multiple buildings on a single lot that are not connected must be separated by a minimum of 60 feet (the width of a typical narrow street). In some instances, these vast separations make it difficult to construct new, efficient buildings on a lot with existing structures. ZQA would reduce this 60 foot separation requirement to 40 feet to be in line with the required separation in the New York State Multiple Dwelling Law.

BSA special permit – Lastly, ZQA proposes a new BSA special permit for Quality Housing buildings on irregular sites, to allow limited modifications to the rules that shape residential buildings to address more unusual constrained site conditions that cannot be addressed as of right. Where it finds that practical difficulties exist and that relief would not have an adverse effect on surroundings, the BSA would be able to modify a limited number of requirements, including lot coverage and streetwall location requirements, to address difficult site conditions. In addition, in order to accommodate the needs of developments including predominantly affordable housing, buildings with more than 50 percent of their residential floor area devoted to affordable housing would have additional flexibility to address difficult site conditions.

D. OTHER CHANGES

In addition to the proposed changes described above, ZQA includes modifications to the language of the Zoning Resolution to make its provisions clearer to the reader and remove obsolete terms. Specifically, the proposal removes a series of obsolete uses including “domiciliary care facilities” and “sanitariums,” and removes references to “rooming units”, which are no longer permitted by State or other City law. The proposal also includes a major reorganization of the residential bulk regulations found in Article II, Chapter 3 in order to separate the regulations for R1 through R5 districts from the regulations for R6 through R10 districts, and better organizes the various FAR and height and setback controls for these medium- and high-density zoning districts. More limited organizational changes are made to the community facility bulk regulations of Article II, Chapter 4, and the commercial zoning district regulations found in Article III, Chapters 2 through 5.

E. ANALYTICAL FRAMEWORK

ANALYTICAL APPROACH TO THE EIS

This document uses methodologies, and follows and supplements the guidelines set forth in the *CEQR Technical Manual*, where applicable. These are considered to be the most appropriate technical analysis methods and guidelines for environmental impact assessment of projects in the city.

In conformance with standard CEQR methodology for the preparation of an EIS, this EIS contains:

- A description of the proposed project and its environmental setting;
- The identification and analysis of any significant adverse environmental impacts of the proposed project;
- An identification of any significant adverse environmental impacts that cannot be avoided if the proposed project is developed;
- A discussion of reasonable alternatives to the proposed project;
- An identification of irreversible and irretrievable commitments of resources that would be involved in the proposed project should it be developed; and
- The identification and analysis of practicable mitigation to address any significant adverse impacts generated by the proposed project.

Consistent with *CEQR Technical Manual* guidelines, the Proposed Action is analyzed in this EIS as a “generic action,” because there are no known developments that are projected and, due to its broad applicability, it is difficult to predict the sites where development would be facilitated by the Proposed Action. According to the *CEQR Technical Manual*, generic actions are programs and plans that have wide application or affect the range of future alternative policies. Usually these actions affect the entire city or an area so large that site-specific description or analysis is not appropriate. To produce a reasonable analysis of likely effect of the Proposed Action, 27 representative development prototypes have been identified, as described below in Section 2.H of this chapter. The With-Action scenario therefore identifies the amount, type, and location of development that is expected to occur by 2025 as a result of the Proposed Action. The No- Action scenario identifies similar development projections for 2025 absent the Proposed Action. The incremental difference between the two scenarios serves as the basis for the impact analyses.

This environmental review also considers any potential impacts resulting from the cumulative changes across New York City or in specific neighborhoods as a result of the Proposed Action, as well as those associated with the proposed discretionary actions, discussed as a conceptual analysis.

METHODOLOGY FOR ANALYSIS

Development affected by the proposal is projected based on trends since 2000. While projections are typically modeled after trends of the previous decade, the look-back period here has been extended to 15 years to capture a broader sample of affordable and senior housing developments across the city. Accordingly, unless otherwise noted, development assumptions in the future with and without the action mirror recent historical development patterns.

As described in the *CEQR Technical Manual*, generic analyses are conducted using the following methodology:

- Identify Typical Cases: provide several descriptions similar to those in a localized action for cases that can reasonably typify the conditions and impacts of the entire proposal.
- Identify a Range of Conditions: A discussion of the range of conditions or situations under which the action(s) may take place, so that the full range of impacts can be identified.

As this is a generic action with no specific development sites identified as a result of the Proposed Action, quantifying the effect of the proposal on development is impossible. While each component of this proposal is designed to act in combination with others to facilitate more cost-effective development, this proposal is not in-and-of-itself expected to *induce* development where it would not have occurred absent the Proposed Action (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing). However, as discussed in the screening analysis, certain components of the proposal may have potential density

effects where the Proposed Action would facilitate more units on an individual site over what would be expected under the No Action scenario. Owing to the generic nature of this action, there are no known or projected as of right development sites identified as part of a Reasonable Worst Case Development Scenario. While the specific number and location of additional units facilitated by the Proposed Action cannot be predicted, attempts have been made to determine whether any clusters of increased development might be expected as a result of the Proposed Action.

As part of identifying a reasonable worst case development scenario, the initiatives outlined in *Housing New York* are assumed to be active in the Future With and Without the Proposed Action. The pace of development over the previous 15 years expected to accelerate in the future; Zoning for Quality and Affordability is expected to allow for housing development with fewer constraints.

The only attempt to quantify the effect of the Proposed Action is when development is made possible as a result of the Proposed Action, rather than made easier. This is expected to occur on existing affordable senior housing sites in the Transit Zone where, in the future with the Proposed Action but *not* in the future without the Proposed Action, development would be possible. In all other cases development is expected both with- and without the Proposed Action. The specific type, size, and shape of development would be different.

In some cases, the Proposed Action only affects a certain category of development sites, such as irregular lots, or zoning districts that are mapped in only a few neighborhoods across the city. In these cases, the potential for clustering of development as a result of the Proposed Action is considered more closely. Elsewhere throughout the city, development sites are assumed to be widely dispersed – reflecting a reality that contributes to the challenges of new housing production in New York City today.

By making it easier and more cost effective to develop under the existing zoning framework, ZQA is expected to intensify existing development patterns as outlined in the new buildings analysis in Chapter 1, Project Description. The zoning districts where the most development has occurred over the previous 15 years are expected to see the most development in the Future With and Without the Proposed Action. This proposal is not expected to affect the marketability of a building in any single zoning district over another and thus is not expected to alter general market forces within any single neighborhood. The ZQA proposal is not in-and-of-itself expected to induce development on sites where development would not have otherwise occurred. Nor is the type of development expected to differ in the future With versus Without the Proposed Action. However, in the aggregate, more housing units are expected to be developed citywide as a result of building flexibility and cost savings facilitated by this proposal.

The effectiveness of this proposal and all of the components within would rely heavily on the other components of the Mayor’s Housing Plan. Absent additional funding, a mandatory inclusionary housing program, 421-a reform, and a host of other initiatives called for in *Housing New York*, the effects of Zoning for Quality and Affordability would be minimal. For the purposes of this environmental review and in order to provide a reasonable worst-case scenario under the Proposed Action, the other components of the Mayor’s Housing Plan are assumed to be active during ZQA’s projected development period.

ANALYSIS YEAR

CEQR requires analysis of the project’s effects on its environmental setting. Since typically proposed projects, if approved, would be completed and become operational at a future date, the action’s environmental setting is not the current environment but the environment as it would exist at project completion and operation, in the future. Therefore, future conditions must be projected. This prediction is made for a particular year, generally known as the “analysis year” or the “build year,” which is the year when the proposed project would be substantially operational.

For generic actions, where the build-out depends on market conditions and other variables, the build year cannot be determined with precision. In these cases, a ten year build year is generally considered reasonable as it captures a typical cycle of market conditions and generally represents the outer timeframe within which predictions of future development may usually be made without speculation. Therefore, an analysis year of 2025 has been identified for this environmental review.

F. PRINCIPAL CONCLUSIONS

Land Use, Zoning, and Public Policy

No significant adverse impacts on land use, zoning, or public policy are anticipated in the future with the Proposed Action. The Proposed Action would not directly displace any land uses in any of the affected zoning districts so as to adversely affect surrounding land uses, nor would it generate land uses that would be incompatible with land uses, zoning, or public policy. As the Proposed Action would not change the underlying zoning and permitted uses, it would not create land uses or structures that would be incompatible with the underlying zoning or conflict with public policies applicable to the affected districts or surrounding neighborhoods.

The Proposed Action would result in an overall increase in residential and community facility uses throughout the city, dispersed across the affected districts, when compared to conditions in the future without the Proposed Action. The Proposed Action would modify zoning regulations related to building envelopes, parking, and, in limited instances, FAR, in a manner that is intended to promote affordable housing development, improve housing quality, and create pedestrian-friendly streets.

Socioeconomic Conditions

The Proposed Action would not result in significant adverse socioeconomic impacts. The following summarizes the conclusions for each of the five CEQR areas of socioeconomic concern.

Direct Residential Displacement

The modest amounts of additional height and, in some cases, additional FAR, are not considered substantial enough to induce the redevelopment of an existing building, and thus would not directly displace any residential population.

Direct Business Displacement

A preliminary assessment concludes that the Proposed Action would not result in significant adverse impacts due to direct business displacement. The Proposed Action is not expected to induce development on sites that currently provide employment and is thus not expected to displace any businesses or employees.

The Proposed Action aims to encourage higher quality ground floor retail spaces as part of mixed use residential buildings, enabling greater opportunities for businesses to enter local markets.

Indirect Residential Displacement

A preliminary assessment concludes that the Proposed Action would not result in significant adverse impacts due to indirect residential displacement.

The Proposed Action is not in-and-of-itself expected to induce development where it would not have occurred absent the Proposed Action (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing). In the aggregate, the Proposed Action is expected to facilitate more housing units in conjunction with other major city initiatives aimed at housing production; at the very local level, the changes are not expected to result in a substantial new population. New York City is already very densely developed, and there are limited new development sites, thus any clusters of such new developments are also unlikely. Therefore, the Proposed Action would not have an effect that would exceed the CEQR thresholds for potential impacts relating to indirect residential displacement.

Indirect Business Displacement

A preliminary assessment finds that the Proposed Action would not result in significant adverse impacts due to indirect business displacement. The proposed project would not introduce new uses to a zoning district, and therefore would not introduce a new trend or residential population that could alter economic patterns.

Adverse Effects on Specific Industries

A screening-level assessment concludes that the Proposed Action would not result in any significant adverse impacts due to effects on specific industries. No businesses are expected to be directly displaced by the Proposed Action, nor are the proposed changes expected to reduce employment or impair the economic viability of any of the affected community facility industries.

Community Facilities and Services

Direct Impacts

The Proposed Action would not result in direct impacts to community facilities. The Proposed Action would not result in physical alteration or displacement of any community facilities, therefore no direct effects to existing community facilities are expected as a result of the Proposed Action.

Indirect Impacts

The Proposed Action would not result in significant adverse indirect impacts on community facilities. Based on the CEQR Technical Manual screening methodology, detailed analysis of public schools, child care, health care centers, fire and police services are not warranted, although they are discussed qualitatively. As described below, the Proposed Action would not result in a significant adverse impacts on community facilities.

Public Schools

The Proposed Action would not result in significant adverse impacts to public schools. Projects that would add new residential units under the Proposed Action that would be designed exclusively for seniors or single adults (HPD supportive housing), which account for a substantial percentage of the incremental increase in dwelling units, need not assess public school impacts. While it is possible that borough-wide increases would exceed the thresholds outlined in Table 6-1 of the *CEQR Technical Manual*, any potential impact is not expected to be significant, as the Proposed Action is not expected to generate substantial new non-senior units at a local level.

Libraries

The Proposed Action would not result in significant adverse impacts to libraries. Based on the increments demonstrated in the prototypical analyses, the population is not expected to increase by more than five percent in any catchment area, and therefore, no detailed analysis is warranted.

Child Care Services

The Proposed Action would not result in significant adverse impacts to child care services. According to the *CEQR Technical Manual*, a significant adverse child care impact may result, warranting consideration of mitigation, if a Proposed Action would increase the study area's utilization rate by at least five percentage points and the resulting utilization rate would be 100 percent or more. Projects that would add residential units designed exclusively for seniors or single adults (HPD supportive housing), which account for a substantial percentage of the incremental increase in dwelling units, need not assess child care impacts. While it is possible that borough-wide increases would exceed the thresholds outlined in Table 6-1 of the *CEQR Technical Manual*, any potential impact is not expected to be significant, as the Proposed Action is not expected to generate substantial new non-senior units at a local level.

Police, Fire, and Health Care Services

The Proposed Action would not result in significant adverse impacts to police, fire, and health care services. The *CEQR Technical Manual* recommends a detailed analysis of indirect impacts on police, fire, and health care services in cases where a Proposed Action would create a sizeable new neighborhood where none existed before. The affected areas are zoning districts citywide where residential and community facilities are permitted today, and would continue to be under the Proposed Action. They are neighborhoods already served by existing police, fire, and health care services. Therefore, the Proposed Action would not create a neighborhood where none existed before, and a detailed analysis of indirect effects on these community facilities is not warranted.

Open Space

Direct Effects

The Proposed Action would not result in any significant adverse direct impact on open space resources. The Proposed Action would not result in the physical loss of, or alteration to, existing public open space resources. The Proposed Action, however, would potentially result in incremental shadows being casted on sunlight sensitive features of existing open spaces. The duration and coverage of incremental shadows would be limited, and therefore would not constitute a significant adverse impact on open space resources.

Indirect Effects

The Proposed Action would not result in any significant adverse indirect open space impacts. Based on the preliminary assessment, the open space ratio in each of the Study Areas had an incremental decline of less than 1% between the No-Action scenario and the With-Action scenario. The Proposed Action would not result in significant increase in demand for existing open space facilities, and would not noticeably diminish the ability of an area's open space to serve the future population.

Shadows

The Proposed Action would potentially result in significant adverse shadow impacts. In accordance with the methodology outlined in the *CEQR Technical Manual*, a detailed shadow analysis was conducted to assess the extent and duration of the incremental shadow resulting from the Proposed Action. The detailed shadow analysis concluded that the Proposed Action would potentially result in incremental shadows being cast on sunlight sensitive features of historic resources and public open spaces based on prototypical analysis. Although the duration and coverage of incremental shadows would be limited, the Proposed Action could potentially result in significant adverse shadow impacts under limited conditions as described in the analysis. Even though none of the prototypes showed significant adverse shadows impacts, some provisions of the Proposed Action could potentially result in shadow impacts under certain circumstances where sunlight sensitive features of public open spaces and historic resources are directly located adjacent to potential development.

Historic and Cultural Resources

Archaeological Resources

The Proposed Action would potentially result in significant adverse impacts to archaeological resources. The archaeological resources assessment concluded that the Proposed Action could result in additional and/or deeper in-ground disturbance that could occur on sites where archaeological remains exist; however this is expected to be limited to a few provision of the Proposed Action.

In particular, the provision to remove unnecessary corner lot coverage restrictions would allow future developments on undeveloped corner lots and create larger building footprints with increased potential for additional in-ground disturbance in the future. The provision to allow future buildings to be located closer to the street line would also create potential for additional or deeper in-ground disturbance. In the future with the Proposed Action, developments on shallow lots would be permitted to reduce the depth of the required rear yard. Since shallow lots and shallow through lots are found consistently across all neighborhoods in all five boroughs, it is not possible to disregard the possibility of additional in-ground disturbance.

The proposal to reduce minimum distance between buildings could enable infill development on sites with lot and floor area allowances, and potentially cause additional in-ground disturbance. The elimination or reduction of existing and future parking requirements for affordable housing is also likely to facilitate additional development resulting in potential new in-ground disturbance. In the future with the Proposed Action, Long Term Care Facilities would be given additional FAR, and potentially result in greater heights, larger building footprints, and greater potential for in-ground disturbance.

While the potential impacts of the provisions described above are expected to be limited, it is not possible to conclude where and to what extent additional in-ground disturbance might occur. As such, the possibility of significant impacts on archaeological resources cannot be eliminated.

Architectural Resources

The Proposed Action would not result in any physical (direct) impacts on architectural resources. The Proposed Action is not in-and-of-itself expected to induce development where it would not have occurred absent the Proposed Action (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing). There would be no increment change in the potential for properties that are NYCLs or in New York City Historic Districts, or non-designated eligible sites, to be directly impacted between the Future No-Action and With-Action conditions. Privately owned properties that are NYCLs or in New York City Historic Districts would also be protected under the New York City Landmarks Law that requires LPC review and approval before any alteration or demolition can occur. Since the Proposed Action is not in-and-of-itself expected to induce new construction activities where these would not have occurred absent the Proposed Action (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing), the Proposed Action would not result in any significant adverse construction-related impacts to non-designated eligible sites. In addition, any designated NYCL or S/NR-listed historic buildings located within 90 linear feet of a projected or potential new construction site would be subject to the protections of the New York City Department of Building's (DOB's) Technical Policy and Procedure Notice (TPPN) #10/88, ensuring that any development resulting from the Proposed Action would not result in any significant adverse construction-related impacts to designated historic resources.

The Proposed Action would not result in any significant adverse visual or contextual (indirect) impacts to architectural resources; however it would result in incremental shadows being cast on sunlight-sensitive features of historic resources. The duration and coverage of incremental shadows would be limited, and therefore, would not constitute a significant adverse impact on historic resources.

Urban Design and Visual Resources

The Proposed Action would promote new development that is consistent with existing uses, density, scale and bulk, and would not result in buildings or structures that would be substantially different in character or arrangement than those that currently exist in the neighborhood.

The Proposed Action would result in new buildings that are taller than would be permitted under the existing framework. Buildings without affordable housing in high density areas (R6 and higher) would be permitted 5 to 15 feet of additional height, or up to one additional story, to accommodate design best practices and allow for more flexibility in terms of building layout. Senior housing, and buildings qualifying under the existing voluntary Inclusionary Housing or future Mandatory Inclusionary Housing program would be permitted an additional height generally of 1 or 2 stories, except in R10A districts on narrow streets, which would be permitted up to an additional 4 stories. The increase in permitted height for buildings with certain types of affordable housing is proposed in order to accommodate their full permitted floor area as well as the better design standards promoted for all buildings. The provision to remove unnecessary corner lot coverage restrictions would increase the likelihood of development on corner lots with larger building footprints, resulting in an increased potential for additional in-ground disturbance in the future.

Where only 5 feet of additional height is proposed, the height would be permitted only for buildings providing at least 13 feet between the ground floor and the 2nd floor; in districts where more than 5 feet is proposed, the building may only achieve the full proposed height by building a qualifying ground floor. This ensures that the taller buildings are offset by better ground floor retail spaces and an improved sidewalk experience, with increased building articulation, including attributes like elevated ground floor residential lobbies, courtyards, and limited setbacks that allow for more planting along the sidewalk. In combination, the proposed changes are expected to result in more interesting buildings for pedestrians on the sidewalk, and better living spaces for building residents.

The Proposed Action would result in very little new development that would not have occurred in the future without the Proposed Action, with the exception of infill development permitted on the existing parking lots accessory to affordable senior housing. Even where some additional FAR is being permitted in the Future with the Proposed Action, the increase is not expected to be great enough to change local development markets. It is not possible to determine where the effects of the Proposed Action would result in a slight increase in development that would not have otherwise occurred without the Proposed Action.

Therefore, no significant adverse impacts related to urban design and visual resources are anticipated as a result of the Proposed Action.

Natural Resources

The Proposed Action would not result in significant adverse impacts to natural resources. In accordance with the methodology outlined in the *CEQR Technical Manual*, a screening analysis was conducted to assess the potential of the Proposed Action to affect natural resources. The analysis concluded that even though, more development is expected to occur as a result citywide, the Proposed Action itself would not induce development on sites where natural resources exist and development would not have otherwise been possible. The Proposed Action would not eliminate and/or change the existing State or local protections.

Hazardous Materials

The Proposed Action would potentially result in significant adverse hazardous materials impacts. In accordance with the methodology outlined in the *CEQR Technical Manual*, hazardous materials assessment was conducted. The assessment concluded that the Proposed Action could result in additional in-ground disturbance that could occur on sites where hazardous materials exist.

However, the extent of the potential impact is expected to be limited. The Proposed Action itself is not expected to induce development on sites where development would not have otherwise been possible (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing, as discussed in Chapter 11), thereby limiting the potential for additional in-ground disturbance.

The provision to allow future buildings to be located closer to the street line would create potential for additional or deeper in-ground disturbance. In the future with the Proposed Action, developments on shallow lots would be permitted to reduce the depth of the required rear yard. Since shallow lots and shallow through lots are found consistently across all neighborhoods in all five boroughs, it impossible to disregard the possibility of additional in-ground disturbance.

The proposal to reduce minimum distance between buildings could enable infill development on sites with lot and floor area allowances, and potentially cause additional in-ground disturbance. The elimination or reduction of existing and future parking requirements for affordable housing is also likely to facilitate additional development resulting in potential new in-ground disturbance. In the future with the Proposed Action, Long Term Care Facilities and Affordable Independent Residences for Seniors would be given additional FAR, and potentially result in greater in-ground disturbance. While the potential impacts of the provisions described above are expected to be limited, it is not possible to predict where and to what extent additional in-ground disturbance might occur and if any of the development sites with potential in-ground disturbance would contain any hazardous materials. Therefore, the Proposed Action has the potential to result in hazardous materials impacts. These potential impacts would be unmitigated.

Water and Sewer Infrastructure

The Proposed Action would not result in significant adverse impacts on water and sewer infrastructure. In accordance with the *CEQR Technical Manual*, a screening analysis was conducted. Since the Proposed Action is a “Generic Action” and there are no specific development sites, to produce a reasonable analysis of likely effect of the

Proposed Action, 27 representative development prototypes have been identified and used for analysis, as described in Chapter 2, Analytical Framework.

Water Supply

The Proposed Action would not result in significant adverse impacts on water supply. The screening analysis concluded that the effects of the Proposed Action would not be great enough to warrant a preliminary analysis of water supply, and therefore would not result in significant adverse impacts to water supply.

Wastewater and Stormwater Conveyance and Treatment

The Proposed Action would not result in significant adverse impacts on wastewater and stormwater conveyance and treatment. The preliminary assessment shows that the incremental development that may occur at any one prototypical development site would fall well below the CEQR thresholds except for the two prototypes. However, the increment is insignificant to result in any significant adverse impacts on wastewater and stormwater conveyance and treatment.

Solid Waste and Sanitation Services

The Proposed Action would not result in any significant adverse impacts to solid waste and sanitation services. In accordance with the methodology outlined in the *CEQR Technical Manual*, a screening analysis was conducted to assess the potential of the Proposed Action to affect demand for solid waste and sanitation services.

The Proposed Action is a “Generic Action,” and there are no known potential or projected development sites and, due to its broad applicability, it is difficult to predict the sites where development would be facilitated by the Proposed Action. To produce a reasonable analysis of likely effect of the Proposed Action, 27 representative development prototypes have been identified. Based on the prototypical analysis, the incremental development that may occur at any one prototypical development site is 0 to 99 residential units which is not a substantial amount of development to raise the need for a solid waste and sanitation services assessment. As indicated above, according to the *CEQR Technical Manual*, it takes approximately 2,500 residential units for a project to exceed this threshold for a detailed analysis. None of the 27 prototypes analyzed would result in a net increase of more than 50 tons of solid waste per week. As such, the Proposed Action would not result in any significant adverse impacts to solid waste and sanitation services; and a detailed analysis is not warranted.

Energy

The Proposed Action would not result in a significant adverse impact on energy systems. In accordance with the *CEQR Technical Manual*, a screening analysis of the potential for the Proposed Action to affect demand for energy has been provided based on prototypical development sites. The screening analysis concluded that the incremental development that may occur at any one prototypical development would not be significant enough to affect energy systems.

Transportation

The Proposed Action would not result in a significant adverse impact on transportation. The *CEQR Technical Manual* provides a tiered analysis methodology to determine the potential for significant transportation related impacts. Since the Proposed Action is a “Generic Action” and there are no specific development sites, to produce a reasonable analysis of likely effect of the Proposed Action, 27 representative development prototypes have been identified and used for analysis, as described in Chapter 2, Analytical Framework.

Nine of the 27 prototypes are projected to result in no increases in density and thus do not need to be analyzed for transportation impacts. A total of 12 of the 27 prototypes are projected to result in increases in density but would result in net incremental development levels that are less than the minimum thresholds requiring a transportation

assessment as defined in the *CEQR Technical Manual* and therefore do not have the potential to cause significant transportation impacts.

A total of six of the 27 prototypes do not screen out of the potential for traffic and parking impacts based on net incremental development levels described above. Based on the screening procedures analyses presented in the *CEQR Technical Manual*, these prototypes are projected to generate vehicle, pedestrian, and transit trip levels that are below the thresholds that could cause significant transportation impacts. Accordingly, development levels represented by these six remaining prototypes do not have the potential to cause significant transportation impacts.

It is possible that two or more of the prototypes could be developed in close proximity to one another. Based on the development densities and the peak hour trip generation characteristics associated with each of the prototypes, it was determined that none of the 27 prototypes (developed individually, or in reasonable combinations with one another), are expected to result in impacts to the transportation network.

Air Quality

The Proposed Action would not result in any significant adverse air quality impacts.

Mobile Sources: The Proposed Action would not result in significant adverse air quality impacts due to mobile sources. Based on the traffic screening criteria provided in *CEQR Technical Manual*, the Proposed Action would not exceed the thresholds for requiring a mobile source air quality analysis, and therefore, no further analysis is warranted.

Stationary Sources: The Proposed Action would not result in any significant adverse air quality impacts due to stationary sources. Based on the prototypical analysis, 4 of 27 prototypes require detailed analysis and 22 of 27 prototypes require screening analysis. One prototype does not require any analysis because the action would introduce no change in floor area or bulk between the No-Action and the With-Action scenarios. The prototypical analysis showed that there would be no potential significant adverse air quality impacts from fossil fuel-fired heat and hot water systems associated with any prototype.

Greenhouse Gas Emissions

The Proposed Action would not be inconsistent with the City's Greenhouse Gas (GHG) and climate change goals. Since the Proposed Action would not facilitate development greater than 350,000 square feet on a single development site or involve other energy intense projects, there would be no significant adverse GHG emissions or climate change impacts as a result of the Proposed Action.

Noise

The Proposed Action would not result in significant adverse noise impacts due to operations of any potential development. The Proposed Action has the potential to introduce new sensitive receptors closer to existing train operations on elevated train tracks, therefore, the Proposed Action would potentially result in significant adverse noise impacts.

In accordance with the City Environmental Quality Review (CEQR) Technical Manual, screening analysis was conducted. The screening analysis concluded, based on prototypical development sites that two of the 27 prototypes have the potential to result in significant adverse noise impacts.

Prototypes 8 and 20 each model two No-Action scenarios that assume Long term care facilities or Affordable Independent Residents for Senior developments that utilize the existing height factor envelope, and the existing non-contextual envelope, and compares them to the With-Action envelope. This analysis identifies a noise impact associated with the shifting of bulk closer to the elevated rail line in the With Action scenario over the No Action height factor scenario. Although the height factor envelope provides a less desirable building model for the Affordable Independent Residences for Seniors, making development pursuant to height factor less likely than one with a Quality Housing envelope, there is the potential for a significant adverse noise impact.

Public Health

The Proposed Action would not result in significant adverse impacts on public health. As described in preceding chapters of this Environmental Impact Statement, the Proposed Action would not result in significant adverse impacts in air quality, water quality, and noise due to noise generated by any potential development. The Proposed Action would potentially result in significant adverse impacts on hazardous materials and noise due to train operations on elevated tracks; therefore, screening analysis was conducted. The screening analysis concluded that while the Proposed Action has the potential result in unmitigated adverse impacts in hazardous materials due to potential for additional in-ground disturbance, and noise due to train operation on elevated tracks, the potential for these impacts to occur is expected to be limited to significantly affect public health. Therefore, no further analysis is warranted.

Neighborhood Character

The Proposed Action would not result in significant adverse impacts on neighborhood character. A screening analysis of neighborhood character concluded the Proposed Action would not result in significant adverse impacts on the following technical areas that comprise the elements that make up neighborhood character: land use, urban design and visual resources, socioeconomic conditions, and transportation. While the Proposed Action would result in significant adverse impacts with respect to noise, shadows and historic resources, the combined effects would not raise the potential to significantly impact neighborhood character.

Construction

The Proposed Action would not result in significant adverse construction impacts. Based on CEQR Technical Manual guidelines, where the duration of construction is expected to be short-term (less than two years) detailed construction assessment is not warranted. Based on the screening analysis, the Proposed Action is not expected to result in any development where the duration of construction would be over two years.

Alternatives

~~As described in Chapter 1, "Project Description," the Proposed Action are necessary to facilitate the development of more housing, and especially more affordable housing, citywide. Each component of the proposal, acting in isolation and more often in concert with one another, would enable the less costly and more efficient construction of housing units in buildings that conform to contemporary best practices and fit in with existing neighborhood contexts. The No Build Alternative would not meet the goals and objectives of the proposed project. The BSA Special Permit for Public Parking Facilities up to 150 Spaces in Residence Districts would not reduce or eliminate any unmitigated significant adverse impacts identified as part of this environmental review. Compared to the Proposed Action, the Removal of Basic Height Increases Alternative would be less likely to result in significant adverse shadow impacts, but the potential for significant adverse impacts would remain. As with the Proposed Action, shadow impacts under this alternative could not be mitigated. With height increases only for Inclusionary Housing and Affordable Independent Residences for Seniors, the Removal of Basic Height Increases Alternative would be less effective in meeting the goals and objectives of the Proposed Action.~~

No Build Alternative

The No Build Alternative assumes no discretionary actions and that the Proposed Action would not be implemented. The Proposed Action's anticipated potential significant adverse impacts on shadows, hazardous material, historic resources, and noise would not occur under the No Build Alternative. In this alternative, the existing zoning constraints that hamper the development of housing, and specifically affordable housing, would remain in place. The No Build Alternative would not meet the goals and objectives of the Proposed Action, which is to enable less costly and more efficient housing to be developed across all five boroughs of the city.

BSA Parking Special Permit Alternative (Allow Public Parking Facilities up to 150 Spaces in Residence Districts)

The BSA Special Permit Alternative would allow a means to develop additional off-street parking by discretionary action, in areas where the supply of parking is particularly constrained. This Special Permit would create a mechanism for the market to respond to demand for off-street parking, rather than the current situation in which the cost of developing off-street parking is bundled into the cost of developing affordable housing. The alternative would promote the goals and objectives and address some community concerns that the proposed provision to eliminate parking requirements for new income-restricted developments within the Transit Zone may exacerbate an already constrained parking supply. However, the alternative would not reduce or eliminate the Proposed Action's potential significant adverse impacts identified in the FEIS, including shadows, hazardous materials, historic resources, and noise.

Removal of Basic Height Increases Alternative

This Alternative would remove the basic height increases proposed under the Proposed Action which would reduce, but not eliminate, the Proposed Action's potential significant adverse impacts on shadows, and would not fully achieve the goal and objectives of the proposal. Under this alternative, it is likely that buildings would locate the bulk elsewhere where it's permitted on site, resulting in fewer ground floor setbacks, boxier buildings, and deeper floor plates that may result in different but slight shadows that would not otherwise be expected.

Additionally, reducing the permitted heights for a new building without Inclusionary Housing units or AIRS would, to a very limited extent, reduce the likelihood of incremental shadows being cast on sunlight-sensitive features of architectural resources and/or existing open spaces.

This Alternative would not reduce or eliminate the Proposed Action's potential significant adverse impacts on hazardous materials, historic resources, or noise identified in the FEIS.

Modification of Proposed Allowable Heights for Affordable Independent Residences for Seniors (AIRS) in R3-2 and R4 Districts Alternative

Under this alternative, the increase of 10' of height for new AIRS buildings in an R3-2 or R4 district would allow a building of up to 45', reducing the potential for the Proposed Action to have significant adverse impacts on shadows. Some new Affordable Independent Residences for Seniors would be able to fit their permitted FAR into a building with 45' permitted height, but others would still require a CPC Authorization in order to achieve a workable zoning envelope. Because this alternative would still require many AIRS in R3-2 and R4 districts to seek an authorization, it would not fully achieve the goals and objectives of this proposal.

Increasing the permitted heights for a new Affordable Independent Residences for Seniors building in R3-2 and R4 Districts by 10' over the No-Action scenario would, to a very limited extent, reduce the potential for the Proposed Action to have significant adverse shadow impacts including shadows being cast on sunlight-sensitive features of architectural resources and/or existing open spaces. This Alternative would not reduce or eliminate the Proposed Action's significant adverse impacts on hazardous materials, historic resources, or noise, which are unrelated to the height of Affordable Independent Residences for Seniors.

Modified Text Amendment Alternative

The Modified Text Amendment Alternative addresses comments received since the issuance of the Draft Environmental Impact Statement. Compared to the Proposed Action, this alternative would result in lower height increases for developments on narrow streets in contextual R9 and R10 districts. This alternative would also eliminate the proposed allowance of rear yard encroachment for certain residential accessory uses on narrow streets, eliminate the proposed provision to allow certain long-term care facilities in R1 and R2 districts by Authorization rather than Special Permit, and set a minimum unit threshold for a building to utilize the more generous Inclusionary Housing zoning envelope. Given the similarity in overall development potential of the Modified Text Amendment Alternative and the Proposed Action, the potential significant adverse impacts of the Modified Text Amendment Alternative would be similar to those of the Proposed Action.

The Modified Text Amendment Alternative would likely reduce the potential for significant adverse impacts on shadows, including the likelihood of incremental shadows being cast on sunlight-sensitive features of historic

resources and/or existing open spaces. However, it would not entirely eliminate the potential for significant adverse shadow impacts, nor would it eliminate or reduce the potential for significant adverse impacts on historic resources, hazardous materials and noise identified in the FEIS. Like the Proposed Action, the Modified Text Amendment Alternative would result in a modest increase in the overall amount of housing, and especially affordable and affordable senior housing, citywide. It would not alter major development patterns, but would make it easier to build more and better quality housing at a lower cost and with less public subsidy. Like the Proposed Action, the Modified Text Amendment Alternative would result in no significant adverse impacts in land use, zoning, or public policy, socioeconomic, community facilities, open space, urban design and visual resources, natural resources, water and sewer infrastructure, solid waste and sanitation services, energy systems, transportation, air quality, greenhouse gas emissions, public health, neighborhood character, or construction.

Mitigation

Shadows

The Proposed Action would potentially result in significant adverse shadow impacts. As described in Chapter 7, Shadows, based on the prototypical analysis, the duration and coverage of incremental shadows would be limited. The analysis showed that none of the prototypes would result in significant adverse shadows impacts; however, there is potential for significant adverse shadows impacts under certain circumstances where sunlight sensitive features of public open spaces and/or historic resources with sunlight sensitive features are directly located adjacent to potential development. Therefore, the Proposed Action would potentially result in incremental shadows being cast on sunlight sensitive features of historic resources and public open spaces based on prototypical analysis. Since there are no known development sites at this time, no practical mitigation measures could be identified. Therefore, the Proposed Action would result in unavoidable adverse shadows impacts.

Historic and Cultural Resources

Architectural Resources

The Proposed Action would not result in any physical (direct) impacts on architectural resources.

Archaeological Resources

The Proposed Action would potentially result in significant adverse impacts to archaeological resources. The archaeological resources assessment concluded that the Proposed Action could result in additional in-ground disturbance that could occur on sites where archaeological remains exist. If such in-ground disturbance were to occur on sites that have the potential to yield archaeological remains, depending on the location of the resources on the site, the depth and location of building foundations, and the extent and location of grading activities, significant adverse impacts could occur. However, the extent of the potential impact is expected to be limited, because the Proposed Action itself is not expected to induce development on sites where development would not have otherwise been possible (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing which is discussed below) which would limit the potential for additional in-ground disturbance. Even though more development is expected to occur citywide only certain provisions of the Proposed Action have the potential to result in increased in-ground disturbance as described in Chapter 11, Historic and Cultural Resources. While the potential impacts of the provisions are expected to be limited, it is not possible to predict where and to what extent additional in-ground disturbance might occur and if any of the development sites with potential in-ground disturbance would contain any archaeological resources. Since there are no known development sites at this time, no practical mitigation measures could be identified. Therefore, the Proposed Action would result in unavoidable adverse impacts to archaeological resources.

Hazardous Material

The Proposed Action would potentially result in significant adverse hazardous materials impacts. In accordance with the methodology outlined in the *CEQR Technical Manual*, hazardous materials assessment was conducted. The assessment concluded that the Proposed Action could result in additional in-ground disturbance that could

occur on sites where hazardous materials exist. However, the extent of the potential impact is expected to be limited, because the Proposed Action itself is not expected to induce development on sites where development would not have otherwise been possible (with the exception of one component allowing as-of-right development over certain existing parking lots for affordable senior housing which is discussed below) which would limit the potential for additional in-ground disturbance. Even though more development is expected to occur citywide, only certain provisions of the Proposed Action have the potential to result in increased in-ground disturbance as described in Chapter 11, Hazardous Materials. While the potential impacts of the provisions are expected to be limited, it is not possible to predict where and to what extent additional in-ground disturbance might occur and if any of the development sites with potential in-ground disturbance would contain any hazardous materials. Since there are no known development sites at this time, no practical mitigation measures could be identified. Therefore, the Proposed Action would result in unavoidable hazardous materials impacts.

Noise

The Proposed Action would not result in significant adverse noise impacts due to operations of any potential development. The Proposed Action has the potential to introduce new sensitive receptors closer to existing train operations on elevated train tracks, therefore, the Proposed Action would potentially result in significant adverse noise impacts.

In accordance with the City Environmental Quality Review (CEQR) Technical Manual, screening analysis was conducted. The screening analysis concluded, based on prototypical development sites that two of the 27 prototypes have the potential to result in significant adverse noise impacts.

Prototypes 8 and 20 each model two No-Action scenarios that assume Long term care facilities or Affordable Independent Residents for Senior developments that utilize the existing height factor envelope, and the existing non-contextual envelope, and compares them to the With-Action envelope. This analysis identifies a noise impact associated with the shifting of bulk closer to the elevated rail line in the With Action scenario over the No Action height factor scenario. Although the height factor envelope provides a less desirable building model for the Affordable Independent Residences for Seniors, making development pursuant to height factor less likely than one with a Quality Housing envelope, there is the potential for a significant adverse noise impact. There are no practical mitigation measures identified and therefore, the Proposed Action would result in unavoidable noise impacts due to train operations on elevated train tracks.

Conceptual Analysis

The conceptual analysis of the proposed discretionary actions concludes that future applications that utilize the proposed discretionary actions have the potential to result in the same significant adverse impacts as the proposed action, specifically historic resources, shadows, hazardous materials, and noise. Because the potential for significant adverse impacts is dependent on site-specific conditions, it is difficult to predict the potential for impacts in the absence of specific applications.

It is not possible to predict whether discretionary actions would be pursued on any one site in the future, and each action would require its own ULURP approvals. Any time a discretionary action is applied for it would be subject to its own environmental review.

Unavoidable Significant Adverse Impact

According to the City Environmental Quality Review (CEQR) Technical Manual, unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is infeasible.

As described in Chapter 7 - Shadows, Chapter 8 - Historic Resources, Chapter 11 - Hazardous Materials, and Chapter 18 - Noise, the Proposed Action would result in potential significant adverse impacts with respect to shadows, historic resources, hazardous materials, and noise. However, as presented in Chapter 23, Mitigation, no practicable mitigation measures were identified which would reduce or eliminate these impacts. Therefore, the Proposed Action

would result in the potential for unavoidable adverse impacts with respect to shadows, historic resources, hazardous materials and noise.

Growth Inducing Aspects of the Proposed Action

The City Environmental Quality Review (CEQR) Technical Manual indicates that an analysis of the growth-inducing aspects of a Proposed Action is appropriate when an action:

- Adds substantial new land use, new residents, or new employment that could induce additional development of a similar kind or of support uses, such as retail establishments to serve new residential uses; and/or
- Introduces or greatly expands infrastructure capacity.

As discussed in Chapter 1, “Project Description,” the proposal is a generic action with no particular development sites. Although the specific number and location of additional units resulting from the proposal cannot be derived, the Proposed Action is expected to induce new development and affect the overall amount or type of development in a neighborhood on a limited basis. Most components of this proposal are not expected to induce development on a lot where development would not also be expected to occur as part of the No Action scenario. Under the text amendment, underlying zoning districts would not be changed and the construction of residential and commercial uses would only be facilitated where permitted under current zoning districts. With a marginal increase in housing units, the type and distribution of development across the city is expected to intensify existing development patterns and facilitate development in zoning districts where the most development has occurred over the previous 15 years. Moreover, this proposal would not affect the marketability of a building in any single zoning district over another and thus would not alter general market forces within any single neighborhood. Therefore, the Proposed Action would not result in secondary impacts.

Irreversible and Irretrievable Commitments of Resources

There are several resources, both natural and built, that would be expended in the construction and operation of any development that may result of the Proposed Action. These resources include the building materials used in construction of the project; energy in the form of natural gas, petroleum products, and electricity consumed during construction and operation of the building; and the human effort required to develop, construct, and operate various components of any potential development. They are considered irretrievably committed because their reuse for some other purpose would be impossible or highly unlikely. The Proposed Action constitutes an irreversible and irretrievable commitment of potential development sites as a land resource, thereby rendering land use for other purposes infeasible.



COMMUNITY BOARD NO. 1

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HON. ERIC L. ADAMS
BROOKLYN BOROUGH PRESIDENT



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DISTRICT MANAGER

HON. STEPHEN T. LEVIN
COUNCILMEMBER, 33rd CD

HON. ANTONIO REYNOSO
COUNCILMEMBER, 34th CD

December 2, 2015

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

**RE: Zoning for Quality & Affordability
Text Amendments.
ULURP No. N160049ZRY**

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 Zoning for Quality and Affordability Text Amendments (ULURP No. N160049ZRY).

At the regular meeting of Brooklyn Community Board No. 1 held on December 1, 2015, the board members reviewed the report from the Land Use, ULURP & Landmarks Committee (dated 11-10-15) and supported the committee's recommendations regarding the text amendments.

Kindly be advised that Brooklyn Community Board No. 1's membership voted to conditionally approve the Zoning for Quality & Affordability Text Amendments proposal with the following recommendations:

- (1) The city would be given adequate power to extend the time that the senior residences must remain affordable; and

(2) There would not be a decrease in the allowance of distance between buildings. The committee felt there should be 60' between buildings, especially where there is significant overlap; and

(3) The parking requirements for senior housing would be decreased at most by 50%. There would not be any decrease in the parking requirements for affordable units.

The vote was as follows: 26 "YES"; 1 "NO"; 0 "ABSTENTIONS".

Working for a Better Williamsburg-Greenpoint.

Sincerely,

A handwritten signature in cursive script that reads "Dealice Fuller".

Dealice Fuller
Chairperson

DF/mbw

cc: Brooklyn Borough President Eric L. Adams
Council Member Stephen Levin
Council Member Antonio Reynoso



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COUNCILMEMBER, 34th CD

(Revised 12-1-15)
November 10, 2015

LAND USE, ULURP & LANDMARKS (subcommittee) COMMITTEE REPORT

TO: Chairperson Ms. Dealice Fuller
and CB #1 Board Members

FROM: Ms. Del Teague, Committee Chair
Ms. Alma Savoia, Committee Co-Chair

RE: Land Use Committee Meeting

The Land Use, ULURP and Landmarks (subcommittee) Committee met as on Tuesday, October 27, 2015, 6:30 PM, at the CB #1's District Office, 435 Graham Avenue, Brooklyn, NY 11211.

ATTENDANCE: Present - Teague; Argento; Barros; McKeever; Rabbi Niederman; Neustein; Rabbi Perlstein; Viera, Weidberg; Weiser. Absent - Savoia; Dybanowski; Franczoz; Hoffman; Sofer; Solano.

AGENDA:

1. BSA – SPECIAL PERMIT APPLICATION: (BSA Cal. No. 173-1157 Kent Avenue, Brooklyn, NY 11249 (Block 2349 Lot 15)) – an application to permit the operation of a physical cultural establishment (“PCE”) within the existing building at the premises located within an MX-(M1-2/R6A) zoning district. Representative: Jordan Most/Sheldon Lobel PC. (Previously Postponed)

This is the second presentation to permit the operation of this physical establishment. The matter had been postponed because of the committee's concerns regarding whether notice had been extended to the building's residents and whether the applicant was taking adequate sound-proofing precautions.

Frank St. Jacques presented. He provided evidence that a notice was posted in the lobby on October 12, 2015 informing the residents of the committee's meeting. No one appeared in opposition to the application.

Mr. St. Jacques also described the work being done by the applicant with consultants to assure adequate sound attenuation, which is aided by the fact that a natural barrier between the gym and the residents will be created by the retail use of the first floor.

Mr. St. Jacques also informed us that the applicant is willing to provide a discounted membership rate to seniors who reside in CB1.

Recommendation: The committee voted unanimously in favor of the application.

2. **BSA – VARIANCE REQUEST: (BSA Cal. No. 159-15-BZ – 157) 260 Norman Avenue/315-325 Kingsland Avenue, Brooklyn, NY 11222 (Block 2657 Lot 9)** – an application for a variance to allow the legalization of the existing residential use, on a portion of the ground floor, and the entire second and third floors of the above referenced premises. Representative: Ellen Hay/Slater & Beckerman PC. (Previously Postponed)

Ray Levin presented. The building will have 7 residential units with commercial use of the first floor.

The committee expressed concern that we received a letter from James A. Moras, Section Chief, Remedial Bureau, Division of Environmental Remediation, informing us that there is significant tetrachlorethene contamination (common as a dry cleaning solvent) below the site and in the area near the site. Mr. Moras advised that it is unlikely that occupants will be exposed to site-related contamination via drinking water, since area homes are supplied with public water and contaminants are below the ground surface. However, he has as yet no sub-slab vapor data to assess the potential for soil vapor intrusion. Further tests are planned on this issue.

Mr. Levin explained that there had been a dry cleaner in the building 40 years ago. He stated that he has a study showing there was no indication of significant vapors inside the building. Notwithstanding this finding, the applicant will create a vapor barrier to prevent any potential future soil vapor intrusion. Furthermore, he pointed out that there will not be residential use of the first floor, providing an additional protective barrier to the residents.

The committee also expressed concern that the owner did not apply for loft law protection for the tenants.

Recommendation: The matter was tabled on consent to the next committee meeting for:

1- Information from OER regarding any further investigation; and

2- A chance for the applicant to consult with a Loft Law attorney, and to come back to present on whether the landlord was required to apply when the tenants were still in the building and whether it would be appropriate to apply now that the tenants have vacated.

Vote- 8 in favor of the recommendation; 1 against

3. **BSA – SPECIAL ORDER CALENDAR (SOC: BSA APPLICATION NO. 220-04-BZ) - 500 DRIGGS AVENUE, BROOKLYN, NY 11211 (BLOCK 2305 LOT 18)** - This is an application for an extension of term of the previously granted Physical Culture Establishment special permit and a waiver of the Rules of Practices and Procedure to allow the filing of this application after the permitted filing period. Applicant Representative: Sheldon Lobel/Sheldon Lobel PC. (Heard at the Public Hearing 10-14-15)

Frank St. Jacques presented. This application had been previously approved. There is a new owner approved by the BSA.

Recommendation: The committee voted unanimously in favor of the application.

4. **DCP – ZONING FOR QUALITY AND AFFORDABILITY PROPOSAL, AND THE MANDATORY INCLUSIONARY HOUSING (MIZ) PROPOSAL** by Vanessa Espaillat Bonnelly (DCP), Alex Sommer (DCP), and Syed Ahmed (DCP). (Heard at the Public Hearing 10-14-15)

Mandatory Inclusionary Zoning

The committee was advised that the mandatory inclusionary housing proposal is not expected to have a significant effect on CB1, because only newly re-zoned sites will be affected. Most of our re-zoning has already been done.

In addition, only buildings with more than 10 units will be affected.

Affected developments will have to provide permanent affordable units with either:

(1) 25% of the development with an average AMI of 60%; or

(2) 30% with an average AMI of 80%.

Re: Integration vs. Segregation

In order for the developer to qualify for the 421-a tax credits the units must be on-site and integrated, **unless the development is on a larger site that can accommodate several buildings, in which case the affordable units can be segregated into a separate building.**

The developers also have the option of segregating affordable units and placing them off-site in the same community board, but the 421-a tax credits will not be available in that case.

~~Furthermore, in buildings with between 11–25 units, the developer can satisfy the mandate by paying an as yet undetermined amount of money into a housing fund to be used for affordable housing.~~

~~The committee reiterated to the presenters the board's commitment to integrated housing. In addition, the committee expressed its concern that the current 50% community preference has not met the community's anti-displacement needs.~~

~~**Recommendation:** The committee voted to approve with the conditions that there would be an increased 75% community preference for the affordable units and there would be no segregation of the affordable and market rate units.~~

~~**Vote**— 7 in favor of the recommendation; 1 against~~

****** At the regular CB #1 Board Meeting held on December 1, 2015 the members voted to not support the committee's recommendation. The vote of the board was: 25 "YES"; 2 "NO"; 0 "ABSTENTIONS" to not support the recommendation. ******

Quality and Affordability Zoning-

In sum the committee was concerned that :

- (1) The city was not being given adequate power to extend the time that the senior residences must remain affordable;
- (2) The decrease in the allowance of distance between buildings (particularly affecting NYCHA campuses and senior housing) would allow for sub-standard light and air quality. The committee felt there should be 60' between buildings, especially where there is significant overlap; and
- (3) The elimination of parking requirements for senior housing and affordable units would have a negative impact on the residents, staff, and surrounding areas. The committee also felt the concept that residents in affordable units do not, or perhaps, should not own cars was demeaning and not fact - based.

The committee did recognize that most senior developments are not utilizing 100% of the allotted parking spaces.

Recommendation: The committee voted to approve with the conditions that:

- (1) The city would be given adequate power to extend the time that the senior residences must remain affordable;
- (2) There would not be a decrease in the allowance of distance between buildings. The committee felt there should be 60' between buildings, especially where there is significant overlap; and

(3) The parking requirements for senior housing would be decreased at most by 50%. There would not be any decrease in the parking requirements for affordable units.

Vote - 5 in favor of the recommendation; 1 against

****** At the regular meeting of CB #1 held on December 1, 2015, the members voted to support the committee's recommendation. The vote was as follows: 26 "YES"; 1 "NO"; 0 "ABSTENTIONS". ******

5. NYC LCP - PROPOSED LANDMARK DESIGNATION FOR WILLIAMSBURG TRUST CO. BUILDING (UKRANIAN CHURCH IN EXILE/HOLY TRINITY CATHEDRAL) 177 South 5th Street, Brooklyn, Block: 02446 Lot: 0063.

The city has had this item on its backlog list, and now asks the board to recommend whether to landmark the building.

Based on the pastor's hardship testimony in which he asked the board to vote to deny landmarking, and the absence of evidence contradicting or discrediting the pastor, the committee voted to deny landmarking.

Vote - 4 in favor of the recommendation; 2 against

****** At the regular meeting of CB #1 held on December 1, 2015, the members voted to not support the recommendation at this time and to send it back to the committee for further fact finding. The vote was as follows: 28 "YES"; 0 "NO"; 0 "ABSTENTIONS". ******



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. M^oRAE
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. M^oRae

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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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
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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.

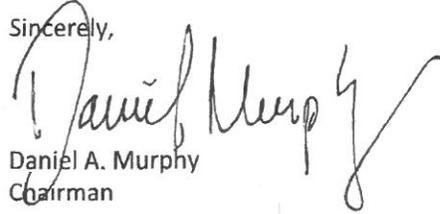
It was also discussed that affordable units could be built offsite and bunched, concentrating poverty.

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

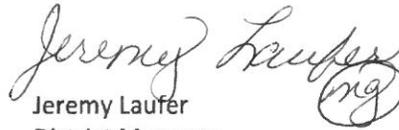
majority of our Board Members believe that they would not achieve these goals in our community. In fact, some argued that they would further the pace of gentrification.

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

1291 ST. MARKS AVENUE • BROOKLYN, NEW YORK 11213

TEL.: (718) 467-5620 • FAX: (718) 778-2979

Eric Adams
Borough President

November 25, 2015

Nizjoni Granville
Chairperson

Robert Matthews
Chairperson Emeritus

Michelle T. George
District Manager

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
New York, NY 10271

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.

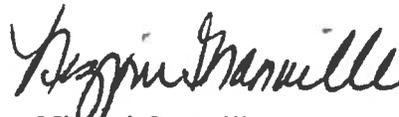
Conditions for Supporting ZQA

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.*



Community Board Ten

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DEC 3-2015
29079

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Vice Chairperson
RONALD GROSS
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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.



Community Board Ten

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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.

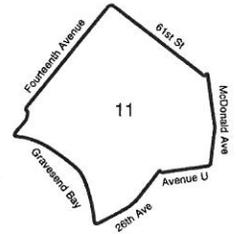
Community Board Ten

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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.



THE CITY OF NEW YORK
COMMUNITY BOARD No. 11
2214 BATH AVENUE
BROOKLYN, NEW YORK 11214



WILLIAM R. GUARINELLO
Chairman

November 16, 2015

MARNEE ELIAS-PAVIA
District Manager

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

Re: N 160049 ZRY
Zoning for Quality and Affordability
Text Amendment

Dear Mr. Weisbrod:

At the general meeting of Community Board 11, held on November 12, 2015, a resolution was unanimously adopted approving the Zoning for Quality and Affordability Text Amendment with the following modifications:

ZR 12-10 Affordable Independent Residence for Seniors should not be limited to a 30-year occupancy without the opportunity to review, extend the opportunity for City subsidies to maintain senior housing other than permitting conversion to market-rate housing.

ZR 22-22 – Uses Permitted by Special Permit by the City Planning Commission – Discretionary approval should be extended from R1 and R-2 to the contextual zoning districts for long term care facilities in R4A and R5A detached home districts as of right. In seeking 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 Special Permit for Long Term Care Facilities – Opposes the blanket finding that use, scale and placement of long-term facilities would not alter the essential character of the neighborhood in the R4A and R5A detached home districts.

There needs to be adequate buffering from adjacent residences in detached home districts. Such facilities should only be granted by Special Permit of the City Planning Commission upon input from the Community Board.

ZR 23-44 (b)(9) Permitted obstructions in required Yard Equivalents in R6A and R7A Districts

Opposed to the height enlargement in R6A and R7A districts along narrow street widths where resulting loss of rear lots are probable.

ZR23-693 Special Height Limitations Special provisions applying adjacent to R1 through R6B Districts for R6-R10 districts

CB-11 opposes the proposal 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 or 55 feet) for R6B Districts to a height of 75 feet. Such modification goes totally against the intent of the many neighborhood-wide contextual preservation-based rezoning where the community supported increased density in appropriate locations.

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

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. *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. 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 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

Opposed to the elimination of the as of right reduction in its entirety.

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

Opposed to any reduction in the parking space requirements or increase in any waivers.

Appendix 1: Transit Zone

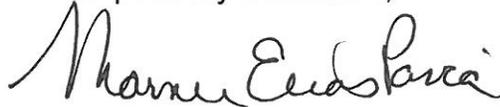
CB 11 opposes the inclusion of the district in a transit zone. The designation of transit zones does not adequately reflect the need for parking and the current parking situation due to development and illegal curb cuts/front yard parking.

Furthermore, City Planning should undertake a study to determine the scope and impact of illegal curb cuts and front yard parking.

Regarding ZR 101-51 (a) Minimum Parking Requirements for Off-Street Parking Regulations

Opposed to the parking reduction by maintaining minimum parking requirements for structures within its boundaries.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Marnee Elias-Pavia". The signature is fluid and cursive, with the first name being the most prominent.

Marnee Elias-Pavia
District Manager

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
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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
Zoning for Quality and Affordability (ZQA) N 160049 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?

Zoning for Quality and Affordability

The proposed increases in building heights enabled by ZQA violate the understanding that convinced CB14 to endorse the 2005 Midwood Rezoning initiative, which included mapping of new low- and moderate-density contextual districts where modest increases in bulk were exchanged for imposition of contextual limits on building heights. In contrast, the community board's understanding was that, in non-contextual zones, existing height and bulk limits would remain in place, pending any subsequent rezoning action.

Similar expectations influenced the community board to approve the 2009 Flatbush Rezoning. Now ZQA is proposing that new multiple dwellings located in contextual districts, and medium-density Quality housing buildings in non-contextual districts, could be 5' higher than the heights on which on the 2005 and 2009 rezoning actions were based.

CB14 believes that this height increase would be a step towards eliminating the protections achieved in 2005 and 2009.

The increased height limit would have to be used in conjunction with elevation of the 2nd story of the building to 13' above grade. (This would yield either a first floor elevated up to 5' above grade or with a higher ceiling than is required under current zoning.)

The first option would improve the privacy of first floor residents by elevating windows above sidewalk sightlines. The second option would facilitate the use of first floor spaces for medical and dental offices, schools, houses of worship, etc., in residential districts, and retail spaces where commercial use is permitted. As an economic stimulus, the developer would receive a zoning floor area exemption of 100 square feet for each foot a lobby ramps up to reach an elevated first floor.

Community Board 14 feels this allowance is excessive.

Community Board 14 does not foresee significant adverse environmental impacts ensuing from the 5' building height increase, or from the proposed rules regarding facades, front yards, and setbacks. But these changes should not be viewed in isolation. The 5' height limit increase would be added to any other height increases tied to affordability (see below).

Affordability: Height Limits

ZQA would encourage the construction of affordable housing in both Voluntary and Mandatory Inclusionary Housing districts and affordable senior housing outside of Inclusionary zones by raising height limits for such housing by another 10' (one story) in an R6A zone (e.g., portions of Midwood and Flatbush) or another 20' (two stories) in an R7A zone (e.g., portions of Flatbush and Parkville, and along Ocean Avenue in Flatbush

and Midwood). Nursing homes and assisted living residences would benefit by being increased to the permitted floor area and same height limits as affordable senior housing.

The stated rationale for the proposed height increases is to facilitate construction using existing allowable bulk limits. In addition, dwelling unit size rules would be relaxed, permitting smaller apartments.

Rear Yards

ZQA would relax rear-yard restrictions in Inclusionary Housing zones: Specifically, it would:

Allow for the development of shared spaces on the ground floor in the rear yard area, so as to allow for more-efficient buildings. This would only be permitted in districts other [than] “B” districts. This matches the flexibility already afforded to commercial or community facility uses or accessory off-street parking today.

This allowance would permit an increase in marketable floor area. It also would reduce the amount of ground-floor open space available for planting.

These changes would enable buildings, and eventually, neighborhoods, to accommodate more people. The Department of City Planning says it can’t predict how much population growth would ensue from new construction under ZQA in Brooklyn Community District 14; Brooklyn Borough Hall expects growth in CD14 to be minimal.

Although there is not much vacant property in CD14, the incentives offered by ZQA might prove sufficiently attractive to encourage land-banking in contemplation of tear-downs and new construction. Admittedly, this is very speculative (pun intended).

CB14 believes that the height increases and rear-yard uses proposed by ZQA in R6A and R7A zones are excessive. Lesser height increases can accommodate the allowed bulk. The justification for the proposed extension of common spaces into rear yards, “to allow for more-efficient buildings,” is a more palatable way of saying “to reduce construction costs.” While this would please developers, it would further reduce the amount of open space available for planting.

Affordable Independent Residences for Seniors

Community Board 14 agrees with the proposal to eliminate the distinction between non-profit residences for the elderly and similar for-profit residences, by defining both as affordable independent residences for seniors (AIRS).

According to DCP’s expanded description of ZQA, “The new floor area ratios would generally be 20 percent higher than what is permitted for other residences.” DCP’s 20% figure is inaccurate. The actual change would be closer to 25%.

CB14 believes that this 25% should not be added to any other bulk increase authorized under ZQA or MIH. Moreover, CB14 wishes to retain unit density controls for AIRS.

Long-term Care Facilities: Nursing Homes and Assisted Living Facilities

New York State law and regulations acknowledge numerous distinctions between the various classes of long term care facilities, primarily based on the level of care associated with each. Nursing homes, which provide the most intensive care and require the highest staffing levels, can have the greatest impact on a surrounding residential community, and impose different demands on municipal services and infrastructure support than do assisted living residences. These differences, reflected in the 2014 City Environmental Quality Review (CEQR) Technical Manual, merit different approaches to the assessment of site-specific impacts.

Under ZQA, a new definition, “long-term care facility (LTCF),” would replace “nursing home” and “assisted living residence,” subjecting them to the same set of land use rules.

Brooklyn CB14 disagrees with this proposal.

Discretionary Actions and Bulk

Currently, nursing homes are entirely prohibited in R1 and R2 districts. In other districts (R3 and higher), they require a CPC certification asserting that not enough of them have been built within the last three years “to threaten the land use balance in the community.” ZQA would eliminate the blanket R1-R2 prohibition for LTCFs, replace it with a R1-R2 Authorization requirement, and would eliminate the certification requirement elsewhere. This would make nursing homes as-of-right in R3 and higher districts.

DCP’s published rationale for eliminating a discretionary authorization requirement in R3 and higher zones is that the State certificate of need (CON) process already evaluates nursing home concentration issues. However, the CON does this on a community district basis. It does not provide for “site-specific review of projects with potential land use impacts or policy implications,” which remains the province of the municipality. It is this latter level of review which enables discovery (and stipulation of remediation) of impacts on neighborhood character, transportation, parking, infrastructure, emergency access, and sanitation storage and conveyance. These protections, provided by CEQR, would not apply if nursing homes were built as-of-right.

Neither would be some of the protections referenced in Section 74-90 of the Zoning Resolution. Specifically, paragraphs (a) and (b) stipulate that nursing home certification requires:

- (a) that the architectural landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography of the surrounding area; [and]

(b) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made;

The substitute section, 74-903, modifies and narrows these protections:

(b) In order to grant such a special permit for #community facility floor area ratio# or #community facility bulk#, as applicable, the Commission shall find that:

(1) the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area; and

(2) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

CB14 strenuously objects to these changes.

An unfortunate side effect of these changes could be the erosion of a useful (partial) definition of neighborhood character.

The community board's concerns are amplified by the magnitude of the proposed as-of-right floor area ratio (FAR) limits for LTCFs. Notably, under ZQA, in R5 and R4 districts, LTCF FAR would be increased by 54% and 72%, respectively. This could result in out-of-scale development and provide an incentive to concentrate such facilities in R5 and R4 districts, notably in Midwood, changing their character. The decision to grant these bulk increases should be discretionary.

Brooklyn CB14 believes that the proposal to make LTCF construction as-of-right in all R3- and higher districts should be modified to preserve the public's right to know about the potential adverse environmental impacts of such a project if it exceeds base FAR levels for residential use.

The community board is similarly concerned that as-of-right status for long-term care facilities in R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached districts could yield different building typologies and hasten changes in neighborhood character, if such uses were to occur on block fronts that are predominantly developed with detached homes. Such use could cause a residential zone to acquire some of the characteristics of a commercial zone. The community board wishes such blocks to retain their residential character.

The community board seeks that LTCF use in R3 and higher detached and semi-detached districts be pursuant to a Special Permit or City Planning Commission (CPC) Authorization as a means to provide standards of findings and community board input, and that the CPC have the authority, according to either an Authorization or Special

Permit, to approve the placing of long-term care facilities in these detached home districts.

In addition, for CD14's R5 zone in Midwood, which consists primarily of detached homes, the community board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program for block faces on which 70 per cent or more of the zoning lots on the block face and its opposing block face are occupied by one-, two-, or three-family detached or semi-detached residences, that would trigger special permit review. The community board believes that this provision would reduce the likelihood that vacated homes on such streets are demolished to develop long-term care facilities and other out-of-context facilities.

Parking

The relaxation of parking requirements proposed for affordable and senior units, and the parking requirements stipulated for LTCFs, are based on several premises:

- Automobile ownership is lower among those who are elderly or low-income;
- The elderly travel less than others;
- Persons who live within the Transit Zone (less than a half-mile away from a subway station) have less need to own cars than those who live more than a half-mile away.
- Consultants and session workers at LTCFs can use public transportation.

Specifically, DCP's expanded ZQA description says:

“Within this Transit Zone, parking for new affordable senior housing and affordable housing would become optional. This would also be true for new units that satisfy the affordable housing requirements of the Inclusionary Housing program. Existing affordable senior housing developments would be allowed to remove existing parking 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. In addition, through a separate BSA special permit, new buildings could apply to reduce or eliminate their parking requirements to facilitate a mixed-income development”

But:

- DCP has not demonstrated that there are a significant number of unused accessory parking spots associated with multiple dwellings in CD14. The unit of analysis reported in DCP's assessment was not Community District specific.
- The criteria for eligibility to occupy ZQA's affordable housing units permit higher incomes than those that were used by DCP to predict low-income car ownership.

- A half-mile walk to a subway may prove unmanageable for elderly residents. So may be the stair climbing required for access to trains at stations lacking elevators.
- More elderly drive than used to. According to the CDC, nationally, “There were almost 36 million licensed older drivers in 2012, which is a 34 percent increase from 1999.”
- Commuter parking is at a premium in CD14. CD14 is a convenient park-and-ride location for drivers coming from southern Brooklyn and the Rockaways. Anecdotal evidence suggests that such drivers park on CD14 streets and ride the subway into Manhattan or downtown Brooklyn.
- Long-term care facilities are staff-intensive. Although full-time staff can use mass transit to commute to and from work, session workers and consultants frequently must drive between clients residing at different locations. LTCF use should increase a building’s accessory parking requirements, not decrease them. Provision for visitor parking must be maintained.
- ZQA’s increase in the number of allowable dwelling units eventually could lead to increased population density, and, barring dramatic changes in transportation patterns, to an increased demand for parking spaces. This would offset any reduction in parking needs attributable to lower car ownership by seniors.

Brooklyn Community Board 14 believes that ZQA’s proposed reductions in parking requirements are excessive and simplistic. The use of a dichotomous boundary to determine parking requirements, i.e., within or outside of a Transit Zone, can obscure neighborhood-specific features that affect the ability of residents and visitors to use mass transit.

CB14 believes that the proposal to make all R3 and higher LTCF use as-of-right has the potential to prevent community board input on the parking needs associated with such use.

The Board recommends that the parking requirements contained in ZQA be substantially modified to reflect these concerns.

Other Issues

The Referred Application and related documents occasionally are confusing and contain arguable statements. For example, the Introduction to ZQA (LR Item 3, Zoning for Quality and Affordability, N 160049 ZRY, Page 4) reads as follows (*italics added*):

Floor area ratios – While community facility uses are generally permitted a higher as-of-right FAR than residential uses are in non-contextual residence districts, nursing homes are today only permitted the residential FAR associated with non-Quality Housing buildings. A special permit (Section 74-902) is required to use the higher permitted community facility FAR. The permit was created in the 1970s to consider whether the higher FAR would be out of context or would negatively impact

neighborhood support services. Since then, 49 facilities have applied for this special permit, and all have been approved by the City Planning Commission. However, the permit adds costs, uncertainty, and time which make it more difficult to develop and maintain these facilities. *To enable these facilities to be provided at an FAR commensurate with that allowed for housing, ZQA would allow the higher floor area ratio permitted for “affordable independent residences for seniors” (as described above) to all “long-term care facilities” in R3 through R10 districts as-of-right.* Long-term care facilities are similarly low-impact uses with a great deal of space devoted to support spaces such as clinical services and common areas. *The higher, community facility FAR would remain available to these uses only by special permit.*

It is the experience of CB14 that the review procedure inherent in discretionary actions such as special permits provides an early opportunity to discover ways to improve a project. The argument that special permits for all 49 facilities were approved begs the question of whether the special permit process triggered any useful review and mitigation of environmental and logistical issues.

The two italicized sections appear to contradict one another. Moreover, the sentence between these sections contains an arguable premise, i.e., that “long-term care facilities are...low-impact uses...”

As discussed above, CB14 believes that such uses can have substantial environmental impacts. Although this is but a single section, it raises questions about the reliability of the information in the ZQA application.

* * *

Conclusions

Brooklyn Community Board 14 (CB14) strongly supports the publicly-stated goal of MIH and ZQA: to increase the amount of affordable housing in NYC. However, MIH and ZQA contain many provisions that are unrelated to this goal, or have the potential to eviscerate essential zoning protections.

Will ZQA work to increase affordable housing?

Perhaps in absolute terms but it also has the potential to reduce the percentage of affordable housing overall.

Will ZQA change the character of the community district’s neighborhoods?

Yes. It would increase population density by enabling buildings in contextual zones to increase bulk to allowable maximums. It would enable even more bulk by allowing ground-floor construction in rear yards. It would add incremental bulk by granting over-

generous floor area allowances in conjunction with lobby ramp construction. It would yield taller buildings with smaller rear yards. Both of the latter changes would tend to hurt the district's tree population. It would exacerbate competition for on-street parking.

Will ZQA create challenges for service delivery and necessary infrastructure?

Yes. With the possible exception of some new mass transit construction, the history of development in NYC typically shows that infrastructure lags far behind residential construction.

Will ZQA affect the public's ability to participate in the City's land use process?

Yes. It would enable construction of large buildings as-of-right, including long-term care facilities. These would be exempt from detailed environmental review. The CEQR scoping process, which typically allows community boards to hold public hearings prior to rendering comment, would be eliminated for as-of-right construction.

Summary

ZQA would

- Marginally increase population density;
- Create development incentives that could change the character of some CD14 neighborhoods, notably those encompassing R4 or R5 zones;
- Reduce the ability of elected officials and community boards to evaluate and achieve mitigation of adverse environmental impacts of certain developments;
- Exacerbate transportation problems for seniors and others;
- Vitiating the implied protections that underpinned the community's support for the 2005 Midwood and 2009 Flatbush rezoning actions.

For these and other reasons, Brooklyn Community Board 14 recommends substantial modifications to ZQA. The Board cannot endorse ZQA in its present form.

Application #: **N160049ZRY**

CEQR Number: 15DCP104Y

Project Name: **Zoning for Affordability and Quality**

Borough(s): Brooklyn

Community District Number(s): 15

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 #C100000ZSQ"
 - 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 Department of City Planning proposing a set of targeted changes to zoning regulations to support the creation of new affordable housing and encourage better residential buildings.

Applicant(s): Department of City Planning		Applicant's Representative: Beth Lebowitz Dept of City Planning 22 Reade Street New York, NY 10007	
Recommendation submitted by: Brooklyn Community Board 15			
Date of public hearing: October 27, 2015		Location: 2001 Oriental Blvd., U112 Brooklyn, NY 11235	
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: October 27, 2015		Location: 2001 Oriental Blvd., U112 Brooklyn, NY 11235	
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:	# Against: 41	# Abstaining:	Total members appointed to the board: 50
Name of CB/BB officer completing this form	Title	Date	
Theresa Scavo	Chairperson	10/28/2015	

ERIC ADAMS
Brooklyn Borough President

VIOLA D. GREENE-WALKER
District Manager



THE CITY OF NEW YORK
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BETTIE KOLLOCK-WALLACE
Chairperson

E-mail: bk16@cb.nyc.gov
Website: www.brooklyn16.org

November 30, 2015

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

Re: N160049ZRY
Zoning for Quality and Affordability 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, 24-against, and 4-abstentions with a total membership of 44.

I. ZR 22-22 and ZR 22-23 Maximum Size of Dwelling Units

Brooklyn Community Board #16 is concerned that the dwelling unit size minimum has been eliminated from affordable independent residences for seniors. While this revision is intended to create affordable residences specifically for seniors, eliminating this maximum can lead to small units that are unsuitable for living and substandard designs for a particularly vulnerable population. *The Community Board seeks to include some minimum guidelines for developing affordable independent residences for seniors.*

II. ZR 22-42a City Planning Commission Special Permit for Long-Term Care Facilities

Brooklyn Community Board #16 is concerned that the Commission can authorize long-term care facilities as long as the proposed facility “will not impair the essential character of the surrounding area” and that “an adequate buffer exists.” These terms are subjective until able to be defined and do not make for guidelines that will be easily followed. *The Community Board seeks a definition of “essential character” or a process in which the CPC will define the*

essential character of a surrounding area, and a more elaborate explanation on the meaning of an "adequate buffer."

III. ZR 23-153 For Quality Housing Buildings & ZR 23-156b.2 Special lot coverage provisions for certain interior or through lots

Brooklyn Community Board #16 is concerned that corner lots in R6-10 districts will have 100%, up from the previous 80%. Using the entire corner lot for residential developments will result in building designs and room layouts that will decrease the quality of life for residents, especially concerning air and light. *The Community Board seeks to maintain the 80% lot coverage maximum of developments on corner lots.*

IV. ZR 23-632b Required side and rear setbacks

Brooklyn Community Board #16 is concerned with the elimination of rear yard setbacks for affordable independent residences for seniors. As opposed to other buildings or structures, affordable senior residences have been singled out to not need rear yard setbacks. This extra provision of light and space in rear yards are equally important for senior residences. *The Community Board seeks to maintain the rear yard setback of one half the height of the building that will be applied to other residential districts.*

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

Brooklyn Community Board #16 is concerned that the reference for measure of a building's ground floor height is not an accurate measurement for all buildings. Using the adjoining sidewalk as a reference to measure up the minimum 13 feet does not reflect the differences in building designs, especially of ground floors that do not begin at grade with the sidewalk. *The Community Board seeks to establish the measurement from the ground floor's legal base plane or some equivalent standard.*

VI. ZR 23-664a 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

Brooklyn Community Board #16 is concerned that the increase in maximum height and number of stories in order to accommodate more affordable housing is too significant an increase to be considered Quality Housing in context. Many buildings in Ocean Hill are within a contextual district; the maximum heights and number of stories allowed will be out of place, especially along Eastern Parkway, where buildings are mostly low-rise. Furthermore, allowing C4-5D density along Atlantic Avenue will create a tunnel effect on an already very dark area and create unsafe conditions. *The Community Board seeks to lower the maximum allowed height and number of stories within Contextual Districts.*

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

Brooklyn Community Board #16 is concerned that the maximum allowed height of developments within 25 feet of R1-R6B Districts will be increased from 35 feet to 75 feet. This revision is contradictory to the efforts and intentions of contextual districts and is not an appropriate change for the context of Ocean Hill. *The Community Board seeks to eliminate this revision to the ZQA text amendment and revert back to a 35 feet height maximum for developments within proximity of R1-R6B Districts.*

VIII. ZR 23-665a Additional Regulations: R6-R10

Brooklyn Community Board #16 is concerned that any existing buildings in these districts may be enlarged by up to one story or 15 feet without regard to street wall location requirements. Developments on new or existing buildings should remain within context of the neighborhood. This provision will allow buildings to add another story without concern for the heights of existing buildings. *The Community Board seeks to require an approval or permit process before allowing for the additional one-story or 15foot enlargement of existing buildings.*

IX. ZR 23-671 Special provisions for zoning lots directly adjoining public parks

Brooklyn Community Board #16 is concerned that the special provisions for zoning lots directly adjoining public parks is only applicable to those parks that are less than 75% paved. Callahan-Kelly is Ocean Hill's only source of open space within the rezoning area and the density of development proposed around the park is not appropriate for the area. *The Community Board seeks to apply these special zoning provisions to public parks and vital open space resources regardless of percentage that is paved.*

X. ZR 23-692 Height Limitations for narrow buildings or enlargements

Brooklyn Community Board #16 is concerned that the text allows for increase in height simply based off the height of an existing adjacent building. This means that buildings may continue to grow to a certain height that could be completely out of context with the street, based on the highest existing building on the street. *The Community Board seeks to redefine the height limits set on narrow and wide streets, not based on the height of the existing tallest building.*

XI. ZR 23-711 Standard minimum distance between buildings

Brooklyn Community Board #16 is concerned that decreasing the minimum spacing between residential buildings from 60 feet to 40 feet will encourage developments that will decrease quality of life for existing and new residents. This change will encourage more housing with less spacing in between, resulting in less light and open air space for residents. *The Community Board seeks to maintain the minimum 80 feet between buildings, particularly for any "wall to window" and "window to window" conditions.*

XII. ZR 25-251 Required Accessory Off-Street Parking Spaces for Income-restricted housing

units ZR 25-252 Required Accessory Off-Street Parking Spaces for Affordable Independent Residences for Seniors

Brooklyn Community Board #16 is concerned with the elimination of required off-street parking spaces for these residences, and particularly for new affordable residences for seniors. Not all seniors are able to take public transit and some rely on personal vehicles for transportation. Elimination of parking spaces may increase competition for parking around the developments. The "Transit Zone" does not apply to all residents of the neighborhood. *The Community Board seeks to maintain a minimum of at least fifty percent of the original requirement for accessory off-street parking spaces for new income restricted housing units and affordable independent residences for seniors.*

XIII. ZR 73-433 Reduction of parking spaces to facilitate affordable housing ZR 73-434 Reduction of existing parking spaces for income-restricted housing units ZR 73-435 Reduction of existing parking spaces for affordable residences for seniors

Brooklyn Community Board #16 is concerned with the elimination or reduction of required off-street parking spaces. The text is not specific in defining "undue adverse effects" on the surrounding area. The text should give particular consideration to residents who still own cars and need parking, especially for seniors and disabled persons. *The Community Board seeks to clarify the text for site-specific circumstances, similar to the "factors to be considered" in section 73-434. BSA should consider the needs of the surrounding residents and their options for public transportation before allowing reduction or elimination of parking.*

XIV. Appendix I: Transit Zone

Brooklyn Community Board #16 is concerned with the interpretation of CD16 as a transit zone. While many public transit lines (subways, buses, Access-A-Ride, etc.) run through the district, they are not accessible to everyone. Subway stations are not accessible to the disabled and buses and their operating lifts are not reliable. *The Community Board seeks to redefine the definition of a "Transit Zone" and add community-specific information regarding transit and transportation. The north of LIRR Bay Ridge Freight Line to west of Rockaway Avenue to south of Linden Boulevard should be removed from the transit zone.*

Very truly yours,



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

4112 Farragut Road, Brooklyn, NY 11210

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Lebrun E. Burnett
First Vice Chair

Rodrick F. Daley
Second Vice Chair

June Persaud
Treasurer

Jorge Tait
Secretary

Sherif Fraser
District Manager

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 are a ration and bulk 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

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OFFICE OF THE
CHAIRPERSON

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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: Zoning for Quality and Affordability

WHEREAS: The New York City Department of City Planning (DCP) has proposed a zoning text amendment entitled Zoning for Quality and Affordability (ZQA); and

WHEREAS: ZQA would allow additional height and unit count, with streetscape and design improvements, with no increase in FAR, and would only be applicable in contextual zoning districts in eastern Tribeca and western Civic Center as well as certain portions of the Lower Manhattan Special District (C6-2A) and Tribeca Special Mixed Use District (Areas 1 and 3); and

WHEREAS: ZQA has three major goals: promote senior housing, reduce parking requirements for affordable housing and support the creation of Inclusionary Housing; and

WHEREAS: To promote senior housing, ZQA would update use regulations to allow a spectrum of affordable senior housing and care facilities, as well as flexibility for mixing of uses and allowing limited additional floor area ratio (FAR) and height (1-2 stories in an estimated 95% of cases); and

WHEREAS: In order to encourage participation in the Inclusionary Housing Program (IHP), ZQA would update height and setback regulations to allow limited additional height (1-2 stories in an estimated 95% of cases); and

WHEREAS: ZQA would also create a transit zone within a half-mile of a subway station that does not require parking for affordable housing; and

WHEREAS: DCP expressly represented that, under the ZQA proposal, there would be:

- No additional market-rate floor area;
- No provisions that encourage tear-downs;
- No elimination of any contextual zoning district, or re-mapping of any zoning district;
- No reduction or alteration of the Landmarks Preservation Commission's oversight and review in historic districts or landmarked buildings;
- No reduction in the amount of green or open spaces required for buildings; and
- No dramatic changes in development in any neighborhood.

WHEREAS: The changes proposed in ZQA would only be applicable in a very small portion of CD1 in Tribeca, the Civic Center and portions of the Lower Manhattan Special District (C6-2A) and Tribeca Special Mixed Use District (Areas 1 and 3); and

WHEREAS: All of the applicable C6-2A areas in the Lower Manhattan Special District are overlaid by the South Street Seaport Historic District, and most of the applicable areas in the Tribeca Special Mixed Use District are overlaid by the Tribeca Historic Districts; 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 ZQA and strongly supports enabling the development of permanent city-wide affordable housing; and

BE IT
FURTHER
RESOLVED

THAT: CB1, however, opposes the ZQA 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 ZQA:

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 ZQA 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. CB1 is concerned that there is no requirement for DCP to return to community districts to give an update on the progress of ZQA after the program would be implemented;
5. CB1 more generally does not believe a one-size-fits-all approach to zoning is necessarily a proper approach in a city as large and diverse as New York City;
6. CB1 is concerned this program takes away zoning input and decisions from each of the community districts including CB1;
7. There is concern this program may encourage out-of-context development and result in taller, bulkier and out-of-context buildings;
8. CB1 is concerned with the impact of eliminating the "Sliver Law" under ZQA when affordable housing is part of the project;

9. CB1 is also concerned with the impact ZQA could have if changes in the Voluntary Inclusionary Housing and R10 programs are not considered at the same time, including tightening loose off-site provisions, requiring that a greater percentage of square footage be set aside for affordable units, obtaining additional affordable housing where there is “double-dipping” by way of a 421-a benefit, and strengthening community review requirements;
10. The creation of senior housing under ZQA is not permanent, even though height and FAR increases are;
11. This program does not encourage creation of mixed-income neighborhoods;
12. 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; and
13. This program does not fight displacement or secure adequate tenant anti-harassment protections in the event that ZQA has the effect of encouraging redevelopment of an existing residential building.

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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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 19, 2015, CB#2, Manhattan (CB#2-Man.), adopted the following resolution:

Zoning for Quality and Affordability (ZQA) Presentation by the staff of Department of City Planning to review the impact of the proposed citywide zoning text amendment: Zoning for Quality and Affordability (ZQA).

Whereas

1. Zoning for Quality and Affordability (ZQA) is a proposal for a citywide text amendment affecting the height and bulk of buildings in residential zones.
2. In an effort to increase development of inclusionary housing and to improve the design of buildings in contextual zones, ZQA generally allows for taller buildings and more utilization of floor area allowances.
3. ZQA seeks to encourage more affordable senior housing by encouraging unit types that correlate with available programs and by reducing costs to developers (for example, by reducing parking requirements).
4. ZQA will allow permanent height increases to senior housing developments that will not be permanently affordable.
5. Because it is a citywide zoning text change, in-depth analysis of environmental impacts is not required, even though the changes will allow larger developments in areas where current limits were established under ULURP and after detailed negotiations with community boards, borough presidents, and council members.

6. Because the Department of City Planning opted to alter existing zones rather than offer ZQA as an additional option, the “zoning toolbox” available to neighborhoods will be reduced and in many cases restrictions providing for appropriately-scaled development will no longer be available.
7. While CB2 strongly supports the goals of improving housing quality and increasing the acceptance rate by developers of bonuses for inclusionary housing, no evidence has been provided that the solutions offered will effectively address the problem.
8. DCP has offered only anecdotal evidence--essentially complaints from “practitioners”--to justify the proposed height increases of up to 31%for inclusionary developments.
9. Similarly, no study was performed to demonstrate that allowing housing- related uses in rear yard obstructions will increase uptake by developers of opportunities for inclusionary developments.
10. There is no way to know that the result of these changes will not be the same amount of affordable housing, but in taller buildings with no rear yards.
11. New rear yard obstructions are potentially very harmful in built-up areas with mixed building types, and also may increase run-off flow into the sewer system.
12. Zoning provisions preventing sliver infill buildings were put in place after recognition of the significant harm these buildings do to the built environment.
13. CB2 appreciates the attention to detail and clarity of responses provided by DCP during extensive presentations and sessions with the CB2 Land Use Committee and Board leadership.

Therefore it is resolved that CB2, Man.:

1. Supports the goal of increasing inclusionary housing, but strongly opposes the proposed text changes because they will result in taller buildings without any environmental review and without any evidence that more inclusionary housing will be developed.
2. Opposes height increases in existing zones until a study is completed that demonstrates that the increases will result in additional inclusionary housing.
3. Would only support the enactment of ZQA’s zoning rule changes if they were additions to the existing zoning text (i.e. text for new zoning districts that do not currently exist) as opposed to replacing the existing districts whole cloth. This would allow the new rules which DCP is putting forward to move forward through ULURP on a case-by-case, community by community basis.
4. Supports efforts to create opportunities for contextual buildings with improved presentation at the street level.
5. Opposes allowances for rear yard obstructions outside commercial zones;
6. Opposes any changes that will allow development of “sliver” buildings.

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



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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 for the citywide text amendment, Zoning for Quality and Affordability N 160049 ZRY

WHEREAS Community Board 3 has considered the text amendment for Zoning for Quality and Affordability N 160049 ZRY which has a goal of addressing affordability in senior housing and care facilities, providing inclusionary housing buildings and changes rules regarding streetscape, courtyards and other elements and improving ground floor retail; and

WHEREAS CB3 passed a resolution in July 2015 opposing Zoning for Quality and Affordability (quoted below); and

WHEREAS there have been no substantive changes in the proposal since that July 2015 resolution; so

THEREFORE BE IT RESOLVED Community Board 3 denies the text amendment for Zoning for Quality and Affordability N 160049.

VOTE: Resolution regarding Quality and Affordable Housing Proposal, July 2015

WHEREAS CB 3 highly values the need for the creation of affordable housing in our community, quality design in new construction, and the preservation of neighborhood character in new development, and

WHEREAS the Department of City Planning has put forward the 'Zoning for Quality and Affordability' proposal, a complex plan which would change many aspects of the regulations governing development in our neighborhood, and which purports to improve quality in design and increase the production of affordable and senior housing, while maintaining neighborhood character, and

WHEREAS the proposal takes a "one-size-fits-all" approach of changing regulations, especially height limits, in contextual zones across the city, without regard to specific neighborhood conditions or character, and

WHEREAS the contextual zoning districts and their height limits in CB 3 were arrived at after years of work, careful examination of local conditions, and considerable compromise to balance the concerns of

all affected parties, limiting development potential and height for new development in some areas while raising it in others, and

WHEREAS the current contextual zoning height limits for our neighborhoods already allow Development which is generally of a greater height than what is typical of the neighborhood, and

WHEREAS the proposed changes would unnecessarily increase the allowable height of new development in our R7-A and R7-A-equivalent zones for purely market rate housing, and increase it considerably for inclusionary developments (80% market rate, 20% affordable), and

WHEREAS the proposed changes would also increase the allowable height of new development in our other contextual zoning districts by smaller but nevertheless significant amounts, and

WHEREAS the proposed changes would also increase the allowable height of new Quality Housing developments in non-contextual zones significantly, and

WHEREAS the rationale for the proposed changes in height limits for market rate housing is that it would make for better, higher quality new developments and allow market rate developers to always access the full allowable FAR, and

WHEREAS CB 3 does not see how such changes would result in better quality new developments, and does not agree that zoning should be changed to ensure that every developer is able to utilize the maximum possible FAR in every single development, and

WHEREAS the rationale for the proposed changes in height limits for inclusionary developments is that the current height limits discourage more developers from opting into the inclusionary program, and these changes would result in the creation of more affordable housing units, and

WHEREAS there is little evidence to indicate that height limits alone determine whether some developers chose to opt into the inclusionary program and produce affordable units, but rather financing, bureaucratic hurdles, and economies of scale, which this proposal does not address, are main determinants, and

WHEREAS the proposed changes do not make participation in the inclusionary program mandatory, and do not increase the required amount of affordable housing above the current 20%, and

WHEREAS CB 3 sees no benefit in increasing the allowable height of purely market rate developments, and

WHEREAS CB 3 sees no direct evidence that changing the height limits will result in an increase in the production of affordable housing in our neighborhoods, and believes that even if it did, the proposed increases in allowable height are extremely generous for developments which would only include 20% affordable housing, and

WHEREAS if increasing height limits does incentivize the creation of affordable housing, then it would seem that granting some of that height increase for purely market rate housing actually *decreases* that incentive, by making some of that benefit available without having to provide any affordable housing, and

WHEREAS the proposed changes in allowable height for senior affordable housing only requires that a (sometimes quite small) percentage of the developments in which they are located are actually senior

affordable housing, while the remainder can be general market rate housing, and still benefit from the full proposed height increase, and

WHEREAS CB 3 believes that maintaining the scale of new development in our neighborhood is a critical goal, and that the proposed changes would significantly damage those efforts while offering comparatively little or no public benefit in return, so

THEREFORE BE IT RESOLVED that CB 3 urges that all height increases for purely market rate housing in contextual zones and for Quality Housing in non-contextual zones be eliminated from the plan, and

THEREFORE BE IT FURTHER RESOLVED that CB 3 urges that the proposed height increases for affordable housing in contextual zones and for Quality Housing developments in non-contextual zones a) be contingent upon concrete statistical evidence which shows that such changes would actually increase the amount of affordable housing produced, b) should be the minimum amount necessary to produce such affordable housing, and c) should only be applicable for developments which include more than 20% affordable housing, which is a relatively minimal public benefit for such a dramatic proposed giveaway of additional height and for loss of sky, light and air, and

THEREFORE BE IT FURTHER RESOLVED that CB 3 urges that the proposed height increases for senior housing should also a) be contingent upon evidence which shows that such changes would actually increase the amount of affordable senior housing produced, b) should be the minimum amount necessary to produce such housing, and c) should only be made available to developments which are 100% senior affordable housing or senior affordable housing-related, not for developments which are as little as 10% senior affordable housing, as would currently be allowed under the proposal.

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

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Christine Berthet
Chair

Jesse R. Bodine.
District Manager

November 30, 2015

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

Re: **Zoning for Quality and Affordability**
N160049ZRY (proposed zoning text amendment)

Dear Chair Weisbrod,

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 abstention and 0 present but not eligible **recommended to deny unless** the following modifications changes are made to the proposed Zoning for Quality and Affordability zoning text amendment (ZQA).

Background and Context

The Community Board has long understood the importance of affordable and senior housing in the communities of Chelsea, Hudson Yards and Clinton/Hell's Kitchen. Our concerns are based on 40 years of community planning and the creation of four Special Zoning Districts.

Special Clinton District

Adopted by the Board of Estimate¹ in 1973, the Special Clinton District ("SCD") was one of the first Special Purpose Districts created. The SCD allowed dense residential and commercial to proceed in the Perimeter Areas (along 8th Avenue and West 42nd Street) while establishing a Preservation Area, with specific height limits, in the neighborhood's core (west of 8th Avenue to west of 10th Avenue, from West 43rd to West 56th Streets) Notably, the SCD was the first district to feature a zoning bonus for the creation of affordable housing as well as the first to include protections against tenant harassment. The SCD's tenant anti-harassment provisions (requirements for Certificates of No Harassment (CONH)) prevented owners from altering or

¹ Until 1990, the Board of Estimate was the precursor body to the City Council for final approval of zoning actions.

demolishing building in which harassment had been documented. That provision has been an ongoing deterrent against wholesale tenant displacement.

The Chelsea Plan—rezoning of East Chelsea

Adopted as a rezoning by City Council in 1996, the Chelsea 197-a Plan the community was community initiative to craft compromises and trade-offs to balance the competing needs for development and preservation in East Chelsea, a 64-block area between 14th and 34th Streets west of Sixth Avenue. The Chelsea Plan was a set of recommendations for zoning changes intended to create housing opportunities and to balance new development with the preservation of neighborhood context. The Plan embraced contextual zoning, establishing requirements for streetwalls, height and setback and building heights. These provisions were carefully calibrated on 6th, 7th and 8th Avenues and the side streets dependent on upon the built context which ranged from lofts and 6 to 8 story apartment buildings to 5 to 3 story tenements and brownstones.

Special Hudson Yards District

Adopted by the City Council in 2005, the Special Hudson Yards District (SHYD) was created to foster commercial and residential development west of 8th Avenue from West 30th to West 41st Streets in a former manufacturing zone. The SHYD allows the highest density of commercial development of any district in the City of New York. It established a series of zoning mechanisms and bonuses to create revenue for the city's Hudson Yards Infrastructure Corporation service bonds used primarily for the construction of #7 line subway extension and its station on West 34th Street. After negotiations with the MCB4 and the City Council, the SHYD was amended to include provisions for affordable housing production and development, through Inclusionary Housing, demolition restrictions and anti-harassment provisions (requirements for Certificates of No Harassment (CONH) in the final zoning text. In 2009, The SHYD was amended to include the Western Railyards (WRY), the site of the failed football stadium plan. That amendment included further provisions for affordable housing both on and off site. During both zoning actions, height, set back and court and streetwall provisions were carefully calibrated among all subdistricts in the SHYD.

Special West Chelsea District

Adopted by the City Council in 2005, the Special West Chelsea District (SWCD) was created to facilitate the Highline Park and foster commercial and residential development in Chelsea west of 10th Avenue from West 23rd to West 15th Streets in a former manufacturing zone. The SWCD also established a series of zoning mechanisms for transfer of development rights for properties encumbered by the Highline. After negotiations with the MCB4 and the City Council, the SHYD was amended to include provisions for affordable housing production and development, through Inclusionary Housing, demolition restrictions and anti-harassment provisions (requirements for Certificates of No Harassment (CONH)) in the final zoning text. During both zoning actions, height, set back and court and streetwall provisions were carefully calibrated for all subdistricts in the SWCD

Application

The City proposes city-wide amendments to the Zoning Resolution that 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

Elements of the Application

Senior Housing

Affordable Senior Housing

- Change name of the zoning definition “non-profit residence for the elderly” to “affordable independent residence for seniors”
- Allow approximately 20% more floor area for “non-profit residences for the elderly” in R8 through R10 districts and numerous medium density contextual districts
- Increase permitted unit density in “affordable independent residence for seniors”

Long-Term Care Facilities

- Create a new definition for “long term care facilities” and add this designation to Use Group 3, Community Facilities
- Allow all “long-term care facilities” in R3 through R10 districts, including nursing homes, as-of-right
- Extend proposed FAR increase for “affordable independent residences for seniors” to “long term care facilities” in districts R3 through R10 as-of-right
- Require special permits for development of “long-term care facilities” in R1 and R2 districts

Mixing of Residence and Care Facilities

- Clarify calculations for requirements and floor area deductions under Quality Housing
- Allow use of residential FAR caps for mixed developments with residential units and Non-profit Institutions with Sleeping Accommodations and Long-Term Care Facilities, instead of typical reduced FAR for mixed use facilities in order to provide a ‘spectrum of care’ for senior residents
- Clarify calculation of dwelling unit factor in buildings with residential and community facility uses
- Remove restriction that community facilities cannot be on the same floor or above residential uses in special districts. Maintain restriction for commercial uses

Height and Setback Modifications

Affordable Senior Housing and Long-term Care Facility Building Envelopes

- Increase permitted FAR by approximately 20% in R6 through R10 districts for affordable senior housing and long term care facilities
- Permit greater height and number of stories for uses other than residential where higher FAR is permitted for buildings with 20% or greater affordable senior housing and long term care facility uses
- Increase base height to conceal increase in overall additional building height
- Permit shared accessory spaces for affordable senior housing in rear yards and ground

floors in districts other than “B” districts

- Remove the height restriction of the width of abutting street and change to maximum permitted by the contextual envelope for narrow buildings (less than 45 feet)
- In R6 through R10 non-contextual districts, permit a more flexible “alternative Quality Housing building envelope” for sites where infrastructure creates barrier

Inclusionary Housing Building Envelopes

- Permit greater maximum height for full use of FAR available through the IH program
- Increase base height to conceal increase in overall additional building height
- Permit shared accessory spaces in rear yards and ground floors in districts other than “B” districts
- Remove the Sliver Law height restriction of the width of abutting street and change to maximum permitted by the contextual envelope for narrow buildings (less than 45 feet)

Ground Floors

- Increase ground floor height to allow buildings with residential units on the ground floor to elevate unit windows above street level and to allow for the addition of retail spaces which require heights greater than the maximums currently in place.
- Increase maximum height of Quality Housing buildings by 5 feet if the second floor begins at 13 feet or higher in all contextual zoning districts except R7B and R8B
- Allow a floor area exemption of up to 100sf for ramps in a residential floor lobby

Street Walls

- For medium density contextual districts, require buildings to locate their streetwall only in relation to directly adjacent buildings
- Reduce maximum setback from 15 feet off of the property line to 10 feet
- Clarify line-up provisions for buildings with architectural features such as bay windows in “B” districts
- Add street wall requirements beyond 50 feet of a wide street in high density districts
- Permit window recesses and structural expression within one foot from the street wall
- Allow deeper projections for a limited percentage of the street wall’s overall width
- In R6 through R10 districts, modify required width to depth ratio to 1:1 for courts less than 30 feet and remove restrictions for courts wider than 30 feet
- Add streetwall requirements beyond 50 feet of a wide street in high density commercial districts
- Wholly residential buildings must comply with more stringent streetwall commercial regulations in commercial districts
- Remove special line-up provision whereby narrow buildings in a commercial district have to line up with adjacent buildings so that they may better conform to conditions in the area.

Corner Buildings

- Increase maximum permitted lot coverage to 80% to 100% for buildings within 100 feet of a corner in R6 through R10 districts
- Allow portions of buildings in a high density district that are also within 25 feet of a low

density district to build either a maximum height of 75 feet or the maximum base height of the zoning district, whichever is less

Setback Requirements

- Remove rear yard setback requirements from Quality Housing buildings
- Reduce required front setback above base height by 1 foot for every foot it is set back from the property line, but maintain a 5 foot minimum setback

Building Envelopes and Number of Stories

- Increase maximum base height in some districts by 5 feet, consistent with maximum overall height increase
- Establish a maximum number of stories that can be built in a zoning district in concert with maximum building height
- Increase maximum building height by 5 to 10 feet in R9 and R10 districts
- Align Quality Housing optional regulations on wide streets with comparable “A” districts and narrow street regulations in “B” districts
- Allow for Quality Housing option building envelope in former study areas in non-contextual areas
- Adjust building envelopes in Special Zoning Districts where special building envelope and maximum FAR rules are not explicitly stated so that the maximum building envelopes are in line with the changes proposed for Quality Housing.

Unit Size and Configuration

- Remove 400sf minimum apartment size to provide greater unit type flexibility and allow unit density factor to govern
- Reduce density factor in R8 through R10 districts to 680sf
- Remove various double-paned window requirements from Zoning Resolution as they restrict use of higher efficiency window and are already mandated by building code
- Allow the Office of Environmental Remediation to modify sound-attenuated window requirements based on site conditions

Irregular Site Conditions

- Adjust rear yard and lot coverage requirements to allow for shallower rear yards and higher lot coverage
- Provide greater flexibility for street walls on acutely angled lots
- Reduce lot slope requirement from 10% to 5% for use of sloping base plane
- Reduce separation of multiple buildings on a single lot from 60 feet to 40 feet
- Create a new BSA special permit for Quality Housing on an irregular lot with additional flexibility for sites with predominately affordable housing

MCB4 Proposed Actions and Recommendations

Senior Housing

The provision of a wide array of housing options for seniors is essential to fostering communities in which seniors can receive a spectrum of services as they age in place. These proposed changes will ensure that senior housing meets the diverse needs and capabilities of our seniors.

MCB4 supports:

Affordable senior housing

Updating the definition of Senior Housing brings current usage into the Zoning Resolution. Promoting affordable housing through increased density in bulk and unit density makes development more financially feasible. However, such incentives to meet the need for affordable housing for seniors must be tempered by neighborhood context. Such bulk and height increases are not appropriate to all districts in a neighborhood. Social needs should not be met at the expense of light and air, livable streets and neighborhood scale.

- *Changing name of the zoning definition “non-profit residence for the elderly” to “affordable independent residence for seniors”*
- *Increased unit density for non-profit residences for the elderly*

Long-Term Care Facilities

Allowing long-term care facilities to be developed, with fewer restrictions, will remove barriers to providing much needed care for seniors in our community. However, such incentives to meet the need for long term care facilities must be tempered by neighborhood context. Such bulk and height increases are not appropriate to all districts in a neighborhood. Social needs should not be met at the expense of light and air, livable streets and neighborhood scale.

- *The new definition in the Zoning Text of long-term care facilities*
- *Allowing all “long-term care facilities” in R3 through R10 districts, including nursing homes, as-of-right*

The mixing of residential and care facilities

This set of changes enables facilities; with mixed uses that address the changing care needs senior have over time, to be developed.

- *Clarification of calculations for requirements and floor area deductions under Quality Housing and calculation of dwelling unit factor in buildings with residential and community facility uses*
- *Allowing use of residential FAR caps for mixed developments with residential units and Non-profit Institutions with Sleeping Accommodations and Long-Term Care Facilities, instead of typical reduced FAR for mixed use facilities in order to provide a ‘spectrum of care’ for senior residents*
- *Removing restrictions prohibiting community facilities not to be on the same floor or above residential uses in special zoning districts. (this restriction will be maintained for commercial uses*

Height and Setback Modifications

MCB4 supports:

Affordable Senior Housing and Long-term Care Facility Building Envelopes

These zoning text changes will enable better use of rear yards and ground floors for senior housing and more flexible building envelopes.

- *Shared accessory spaces for affordable senior housing in rear yards and ground floors in districts other than “B” districts*
- *In R6 through R10 non-contextual districts, permit a more flexible “alternative Quality Housing building envelope” for sites where infrastructure creates barrier*

Inclusionary Housing--building envelopes.

These zoning text changes will enable better use of rear yards and ground floors for senior housing.

- *Shared accessory spaces for affordable senior housing in rear yards and ground floors in districts other than “B” districts*

Ground Floors

These zoning text changes will enable ground floors at lower than street level by exempting a limited FAR for accessible ramps.

- *A floor area exemption of up to 100sf for ramps in a residential floor lobby*

Street Walls

These zoning text changes will enable corner buildings to better fit into their neighborhood context on 7th and 9th Avenues in Chelsea, on 9th Avenue lower Hell’s Kitchen and on 11th Avenue from West 42nd to West 54th Streets.

- *For medium density contextual districts, requiring buildings to locate their streetwall only in relation to directly adjacent buildings*
- *Reducing maximum setback from 15 feet off of the property line to 10 feet*
- *Clarifying line-up provisions for buildings with architectural features such as bay windows in “B” districts*
- *Adding street wall requirements beyond 50 feet of a wide street in high density districts (R8 through R10).*
- *Permit window recesses and structural expression within one foot from the street wall*
- *Allow deeper projections for a limited percentage of the street wall’s overall width*
- *In R6 through R10 districts, modify required width to depth ratio to 1:1 for courts less than 30 feet and remove restrictions for courts wider than 30 feet*
- *Add streetwall requirements beyond 50 feet of a wide street in high density commercial districts*
- *Requiring wholly residential buildings to comply with more stringent streetwall commercial regulations in commercial districts*
- *Removing special line-up provision whereby narrow buildings in a commercial*

district have to line up with adjacent buildings so that they may better conform to conditions in the area.

Corner Buildings

These zoning text changes will enable corner buildings to better fit into their neighborhood context on 7th and 9th Avenues in Chelsea, on 9th Avenue lower Hell's Kitchen and on 11th Avenue from West 42nd to West 54th Streets.

- *Increasing maximum permitted lot coverage to 80% to 100% for buildings within 100 feet of a corner in R6 through R10 districts*
- *Allowing portions of buildings in a high density district that are also within 25 feet of a low density district to build either a maximum height of 75 feet or the maximum base height of the zoning district, whichever is less*

Setback Requirements

These allowances will grant flexibility in setback modifications while also preserving the quality of street life, which is the overarching goal of setback requirements.

- *Removing rear yard setback requirements from Quality Housing buildings*
- *Reducing required front setback above base height by 1 foot for every foot it is set back from the property line, but maintain a 5 foot minimum setback*

Building Envelopes and Number of Stories

Aligning the set of options and regulations that govern the various districts in MCB4 allows for simpler, more accessible guidelines.

- *Aligning Quality Housing optional regulations on wide streets with comparable "A" districts and narrow street regulations in "B" districts*
- *Allowing for Quality Housing building envelope option in former study areas in non-contextual areas*
- *Adjusting building envelopes in Special Zoning Districts where special building envelope and maximum FAR rules are not explicitly stated so that the maximum building envelopes are in line with the changes proposed for Quality Housing.*

Unit Size and Configuration

These zoning text changes will provide for greater flexibility in unit sizes, greater density and allow for a wider array of household sizes in buildings. The window requirements are now embodied Building Code and Office of Environmental Remediation requires flexibility in sound attenuation requirements.

- *Removing 400sf minimum apartment size to provide greater unit type flexibility and allow unit density factor to govern*
- *Reduce density factor in R8 through R10 districts to 680sf*
- *Remove various double-paned window requirements from Zoning Resolution as they restrict use of higher efficiency window and are already mandated by Building Code*
- *Allow the Office of Environmental Remediation to modify sound-attenuated window requirements based on site conditions*

Irregular Site Conditions

These zoning text changes will enable more flexibility to develop shallow and acutely angled lots.

- *Adjust rear yard and lot coverage requirements to allow for shallower rear yards and higher lot coverage*
- *Provide greater flexibility for street walls on acutely angled lots*

MCB4 cannot support the following provisions of the ZQA unless the modifications and conditions below are met:

Affordability Time Limits on Senior Housing

In the City's current proposed ZQA zoning text, there is no permanent affordability restriction for non-profit residences for the elderly or long-term care facilities that are not also Inclusionary Housing.

- *MCB4 recommends that non-profit residences for the elderly or long-term care facilities which receive as of right 20% FAR increases should be permanently affordable. If the additional bulk is permanent, the affordability should be permanent as well.*

Affordable Senior Housing and Long-term Care Facility Building Envelopes

Absent zoning text guaranteeing permanent affordability, **MCB4 cannot support:**

- *Extending proposed FAR increases for “affordable independent residences for seniors” to “long term care facilities” in districts R3 through R10 as-of-right*
- *The proposed increases in floor area in R8 through R10 districts as a method of fostering the development of affordable senior housing.*

Inclusionary Housing Building Envelopes

These provisions curtail MCB4's efforts to ensure that the character of our neighborhoods is preserved and opens the door for out-of-scale developments and sliver buildings. **MCB4 cannot support:**

- **Removing the Sliver Law height restrictions of the width of abutting street and change to maximum permitted by the contextual envelope for narrow buildings (less than 45 feet)**

Building Envelopes and Number of Stories

The changes below will threaten MCB4's efforts to ensure that quality, contextual buildings of adequate scale continue to be built in our neighborhood. **MCB4 cannot support wholesale zoning text changes to:**

- *Increasing maximum base height in some districts by 5 feet, consistent with maximum overall height increase*
- *Establishing a maximum number of stories that can be built in a zoning district in concert with maximum building height*
- *Increasing maximum building height by 5 to 10 feet in R9 and R10 districts*

However, MCB4's support is qualified as noted below.

For the Special Zoning Districts and areas noted below affected by the proposed Zoning Text Modifications in the ZQA, MCB4 requests the City Planning Commission modify the proposed Zoning Text to include to **establish hard Building and Streetwall Height Limits in the:**

- **Special Clinton District**—Subarea C2 in the SCD (11th Avenue, West 43rd and West 44th Streets, 10th 11th Avenues)
- **Special Hudson Yards District**—Subareas D4 & D5 (Hell’s Kitchen Subdistrict) of the SHYD
- **Special West Chelsea District**—West 23rd Street between 10th and 11th Avenues
- **East Chelsea**—an irregular geographic area in East Chelsea from West 14th to West 30th Streets, from the west side of 6th Avenue to the east side 10th Avenue rezoned under the 1996 Chelsea Plan (197-a and 197-c).

Special Clinton District (SCD) –in 2009, as part the rezoning of Western Railyards, the Mayor and the City Council agreed to study rezone West Clinton, a manufacturing area primarily west of 10th Avenue, including 11th Avenue from West 43rd to West 54th Streets and 43rd/44th Street corridor between 10th and 11th Avenues. The goals of such rezoning, which had long been requested by the community, were:

- promoting residential development, with accompanying provisions for affordable housing through Inclusionary Housing
- neighborhood preservation by extending of the Preservation Area in midblocks
- ensuring neighborhood context through heights limits and streetwall requirements

The agreement also called for the rezoning application to be jointly submitted by the Department of City Planning and MCB4.

After a 2 year study process, marked by careful and thoughtful negotiation by both parties, an application was certified and adopted in 2011. The midblocks were put in the Preservation Area with height limit of 66 feet, the east side of 11th Avenue was rezoned to R8A, with height limit of 120 feet and streetwalls between 60 and 80 feet to respect and tie into the adjacent Preservation Area, and the 43rd/44th corridor, provided a transition block between the high density C6-4 corridor on West 42nd and the Preservation Area to the north. The blocks west of 11th Avenue, requested by the community to be rezoned residential, remained manufacturing but with a height limits of 135 feet and use restrictions prohibiting hotel use.

Ever since that action, The Clinton/Hell’s Kitchen community has been vigilant in monitoring compliance to those zoning changes. The proposed ZQA proposes to undo that 2 year effort along with the community and political compromises it represents. MCB4 cannot support such an action.

Instead MCB4 requests that SCD 96-31 be modified to include Zoning Text to establish height and setback limits in Subarea C2 of the SCD consistent with the adopted 2011 West Clinton Rezoning.²

² Attached proposed SCD Zoning text amendment (**Appendix A**)

East Chelsea—MCB4 requests the establishment of Building and Streetwall Height Limits in a geographic area of East Chelsea in areas rezoned under the 1996 Chelsea Plan. The Chelsea Plan, adopted by the City Council in May 1996, was a set of recommendations for zoning changes intended to create housing opportunities and to balance new development with the preservation of neighborhood context within a 64-block area between 14th and 34th Streets west of Sixth Avenue. With the Chelsea Plan the community undertook the task of deciding what compromises and trade-offs best balanced the two competing needs.

East Chelsea was subjected to the same intensive review that West Chelsea received during the subsequent creation of the Special West Chelsea District (SWCD). The designated subareas in the SWCD, which have text-based height limits, are not affected by the proposed ZQA Zoning Text Amendment. However, the areas rezoned³ through Chelsea Plan (197-a and 197-c), would be fully subject to the proposed building height and setback increases.

MCB4 requests that a geographic area⁴, previously rezoned under the Chelsea 197-a Plan (as modified by DCP and adopted as a 197-c rezoning by the City Council on May 22, 1996), establish height and setback limits in the Zoning Text consistent with that 1996 plan.⁵

Special Hudson Yards District (SHYD)—In 2005, after working with MCB4 from 2001, the City Council adopted rezoning of 38 blocks of former manufacturing area on the Westside of Manhattan to create the SHYD. The 196 pages of zoning text are extremely detailed and specific regulations governing the transfer of development rights from the Eastern Railyards, establishing a District Improvement Bonus, providing for subway improvements and sidewalk widening, acquiring park land and new streets and establishing Inclusionary Housing zones. The text even specifically calls out requirements for percentage of glass in storefronts.

A main effort of the Clinton/Hell’s Kitchen community was the preservation of the neighborhood’s main street, 9th Avenue, and the residential tenement midblocks between 9th and 10th Avenues from West 35th to West 41st Streets.

All these efforts were codified in an agreement between the Mayor and City Council, the Hudson Yards Points of Agreement (HYPOA)⁶. In that agreement, the reduction of proposed height and establishment of streetwall requirements to respect the context of the existing 4 and 5 story tenements in those blocks was accomplished through mapping an R8A zone in the Hell’s Kitchen Subdistrict (areas D4 and D5 of the SHYD). The existing tenements were also protected from demolition under 93-91, and therefore will continue to be the built context. Whereas in Special West Chelsea District (SWCD) hard heights were embedded in the zoning text, in the SHYD, Hell’s Kitchen Subdistrict, heights are a function of the underlying zoning.

The R8A zone was a compromise since its height limit of 120 feet well exceeded the heights the 4 and 5 story tenements, at 50 and 60 feet respectively. But the R8A streetwall requirement, at 60 to 80 feet, made reinforced the built context. Two sites, (one on West 39th and 9th, the other

³ Attached affected rezoned areas with height and setback increases (**Appendix B**)

⁴ Attached East Chelsea affected zoning boundary map (**Appendix C**)

⁵ Attached 1996 Chelsea Plan (**Appendix D**)

⁶ HYPOA attached, dated January 10, 2005 (**Appendix E**)

midblock on West 37th) have been completed to date, with two other large sites on West 35th currently under construction. These 4 sites comprise 603 new apartments completed or currently under construction.

Increasing the height limit, even by 5 feet, in district which currently creates buildings twice the size of neighboring buildings, is simply not needed to ensure constructability. Even more damaging to neighborhood context would be the proposed increase in streetwall heights, currently 60 to 80 feet, to 100 feet. Such streetwalls would be double the height of adjacent 5 story tenements, dwarfing them in scale. Such a streetwall height is more appropriate to a loft district, not a medium density residential district, where infill will occur in protected built context.

MCB4 requests that SHYD, 93-542 be modified to include Zoning Text to establish height and setback limits consistent those established in the 2005 Hudson Yards Rezoning.⁷

Special West Chelsea District (SWCD)—Also in 2005, after working with MCB4 from 2003, the City Council adopted a rezoning of 17 blocks of former manufacturing area in West Chelsea Manhattan to create the SWCD. The 96 pages of zoning text are extremely detailed and specific regulations governing the transfer of development rights from the Highline, establishing subdistricts for bonuses or requirements for Highline access or improvements, acquiring park land and establishing Inclusionary Housing zones. The text even specifically calls out Highline adjacency volumes and permitted massings.

The main effort of the Chelsea community was balancing the proposed new development with establishing height limits and street wall requirements to respect the existing neighborhood context along 10th and 11th Avenues and the side streets from West 15th to West 30th Streets. The result was a SWCD with 10 subdistricts each setting forth specific and exacting requirements for massing, height and streetwalls.

All these efforts were codified in an agreement between the Mayor and City Council, the West Chelsea Points of Agreement (WCPOA)⁸. In that agreement, the western portion of West 23rd Street fronting 11th Avenue was rezoned and became part of Subdistrict C to include the height and streetwall requirements of the 11th Avenue corridor. However, the West 23rd Street corridor (from midblock West 22nd to West 24th Streets, 10th Avenue to 150 feet east of 11th Avenue) remained governed only by the underlying zoning. That zoning is a combination of C6-2A and C6-3A zones, R8A and R9A equivalents respectively⁹.

ZQA would increase in the C6-2A zone the streetwalls from the current 60 to 85 feet to 105 feet, an increase of 2 stories, but in the C6-3A only an increase of 3 feet. It would also increase the overall building height in of C6-2A from 120 feet to 125 feet and in the C6-3A from 145 feet to 155 feet, also an increase of 1 story. Again, as part of the overall negotiation on the SWCD, this corridor was left in the underlying zoning, without hard streetwall and height text limits, since the underlying zoning met community context. Changing the underlying zoning changes the

⁷ Attached proposed SHYD Zoning text (**Appendix F**)

⁸ Attached, dated June 20, 2005 (**Appendix G**)

⁹ Attached underlying zoning map, West 23rd Street Corridor (**Appendix H**)

context.

MCB4 requests that SWCD 98-423 and 98-50, be reverted to the original zoning text which includes height and setback limits in the West 23rd Street Corridor established and consistent with the agreements made in 2005 West Chelsea Rezoning.¹⁰

Ground Floors

MCB4 has seen extensive new construction throughout our entire district. A great deal of that construction has included ground floor commercial space, both on avenues and narrow side streets. These spaces have been occupied by all types of businesses (see appendix J), which are successful within the existing building envelopes and height controls. ***The ability to have successful commercial space is a function of the local retail market, not ceiling height.***

Creating higher ceiling heights for commercial spaces will create out of scale first floors to the context of surrounding existing buildings. Context creates one city of different style and periods, zoning should seek to harmonize, not emphasize their difference. MCB4 cannot support:

- ***Increase ground floor height to allow buildings with residential units on the ground floor to elevate unit windows above street level and to allow for the addition of retail spaces which require heights greater than the maximums currently in place.***
- ***Increase maximum height of Quality Housing buildings by 5 feet if the second floor begins at 13 feet or higher in all contextual zoning districts except R7B and R8B***

This proposed text should be deleted from the proposed ZQA.

Conclusion

The proposed ZQA zoning text is flawed at best. 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. The approach is a blunt instrument for different communities whose real estate markets are simply not same. Encouraging residential development, for both market and affordable housing, requires different tools for Jerome Avenue in the Bronx, Atlantic Avenue in Brooklyn or 11th Avenue on the Westside of Manhattan.

The proposed ZQA zoning text ignores the context of decades of rezoning efforts on the Westside of Manhattan in the Chelsea, Hell's Kitchen and Clinton neighborhoods. All of these efforts balanced increased density and preservation of context in order to allow the city to grow while ensuring neighborhood survival and managing change. Since 1969, for nearly 50 years, our communities have worked in depth with rezoning and development proposals. Zoning and planning for the Westside of Manhattan in MCD4 must be developed within that context.

ZQA lumps together needed text changes to encourage the development of affordable senior housing with wholesale changes to contextual zones throughout the city. Its companion proposal, MIH, demands permanent affordability for a zoning bonus for bulk, yet grants the same bonus

¹⁰ Attached proposed SWCD Zoning text (**Appendix I**)

for senior housing with no such requirement. Such a basic contradiction of housing policy seeking permanent affordability makes no sense.

Proposed Changes in height, setback, and streetwall take into account only the current zoning district, not the built context within it. Running throughout the proposed text are the claims that such text changes are needed to allow for successful development. That may be the case in some areas of the city. However, residential development is galloping ahead under the current regulations in West Chelsea and Hudson Yards. It states ground floor commercial spaces cannot be properly developed within the current zoning envelope, when the reality is that on the Westside, recent developments include commercial spaces that are currently occupied by stores paying premium rents.

The proposal needs extensive revision to make it responsive to the diverse needs of the hundreds communities which make up the City of New York.

MCB4 looks forward to continuing discussions with the Department of City Planning, the Manhattan Borough President and the City Council on the proposed Zoning for Quality and Affordability zoning text. With revisions and modifications, taking the historical context of the past 10 years of city and private sector initiated zoning actions into account, MCB4 believes we can all work together to adequately address the needs and concerns of Chelsea, Hell’s Kitchen and Clinton communities of the Westside of Manhattan.

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, US Congress
B. Hoylman, State Senate
A. Espaillat, State Senate
D. Gottfried, State Assembly
L. Rosenthal, State Assembly
C. Johnson, City Council
H. Rosenthal, City Council
V. Been, HPD
L. Carroll, HPD
D. Hernandez, HPD
E. Hsu-Chen, DCP
F. Ruchala, DCP
K. Grebowiec-Hall, DCP

APPENDIX A – Special Clinton District Proposed Text Amendments to ZQA

96-31

Special Regulations in R8 Districts

(a) In R8 Districts, other than R8A Districts, in Western Subarea C2, including #Commercial Districts# mapped within such R8 Districts, the following special regulations shall apply:

(1) the provisions of Sections 96-101 (Floor area regulations) and 96-104 (Height and setback regulations); and

(2) the provisions of Section 96-102 (Lot coverage regulations), except that for all portions of a #zoning lot# located in Other Areas and more than 100 feet from the #street line# of a #wide street#, the maximum #lot coverage# shall not exceed 70 percent of the portion of the #zoning lot# in Other Areas.

(3) Within 100 feet of a #wide street#, the #street wall# of a #building or other structure# shall rise without setback to a minimum height of 60 to maximum 85 feet or the height of the #building#, whichever is less, and a maximum height of 120 feet.

(b) In R8A Districts in Western Subarea C2, including #Commercial Districts# mapped within such R8A Districts, the following special regulations shall apply:

96-32

Special Regulations in R9 Districts

In R9 Districts in Western Subarea C2, the provisions of Section 23-633 (Street wall location and height and setback regulations in certain districts) for R9A Districts shall apply to all #buildings or other structures#. In #Commercial Districts# mapped within R9 Districts in Western Subarea C2, the provisions of Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) for C2-7A Districts shall apply to all #buildings or other structures#.

Notwithstanding the provisions of paragraph (c) of Section 23-011 (Quality Housing Program), in all such R9 Districts and #Commercial Districts# mapped within such R9 Districts, the provisions of paragraph (b) of Section 23-011 shall apply.

(a) Inclusionary Housing Program

- (1) R9 Districts in Other Areas, west of Tenth Avenue, shall be #Inclusionary Housing designated areas# pursuant to Section 12-10 (DEFINITIONS) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

Within such #Inclusionary Housing designated area#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed a base #floor area ratio# of 6.0, except that such base #floor area ratio# may be increased to a maximum #floor area ratio# of 8.0 through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90. However, any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be located within the #Special Clinton District#.

- (2) Optional provisions for #large-scale general developments# within Western Subarea C2

For #developments# or #enlargements# located within the #blocks# bounded by West 51st Street, 11th Avenue, West 53rd Street and 10th Avenue, the special optional regulations as set forth in paragraph (a)(2) of this Section, may modify the provisions of Section 23-952 (Floor area compensation in Inclusionary Housing

APPENDIX A – Special Clinton District Proposed Text Amendments to ZQA

designated areas).

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. However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified as follows. 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 #low income households# and #middle 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)(2), #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) #Uses# in Western Subarea C2 located within a #largescale general development#

- (1) In a C2-5 District mapped within an R9 District within Western Subarea C2, the following #uses#, when located wholly within a #large-scale general development#, shall be considered permitted #uses#:

From Use Group 8:

APPENDIX A – Special Clinton District Proposed Text Amendments to ZQA

Lumber stores, with no limitation on #floor area#

From Use Group 10:

Photographic or motion picture production Studios

From Use Group 12:

Art galleries, commercial

From Use Group 13:

Theaters

From Use Group 16:

Automotive service establishments

From Use Group 17:

Scenery construction.

- (2) #Uses# permitted pursuant to paragraph (b)(1) shall be subject to the #commercial bulk# regulations of Article III, that are applicable to a C2-5 District mapped within an R9 District.
- (3) The supplemental #use# provisions of Section 32-421 shall not apply to #commercial uses# located in a #building# with frontage on West 52nd Street.

(c) #Building# height and #setback#

Within 100 feet of a #wide street#, the #street wall# of a #building or other structure# shall rise without setback to a minimum height of 60 to maximum 102 feet or the height of the #building#, whichever is less, and a maximum height of 145 feet.

(e) (d) Height and setback modification

For any #development# or #enlargement# subject to the provisions of Section 74-681 (Development within or over a railroad or transit right-of-way or yard), the

APPENDIX A – Special Clinton District Proposed Text Amendments to ZQA

City Planning Commission may permit the modification of the applicable height and setback regulations, the open area planting requirements of Section 23-892 (In R6 through R10 Districts), and the permitted obstructions in #rear yard# or #rear yard equivalent# regulations of Section 23-44, provided that:

Appendix B

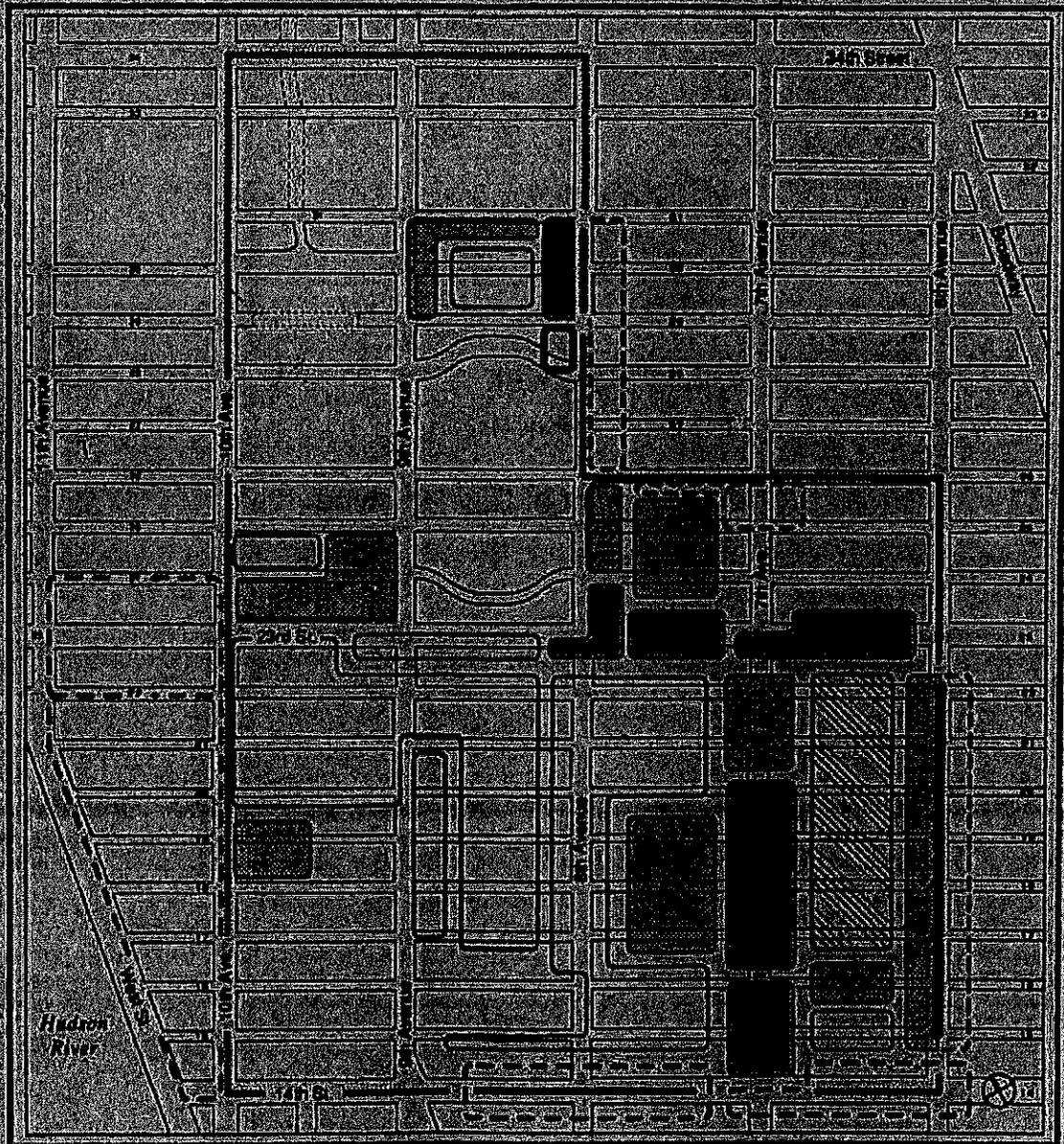
Affected Zones in East Chelsea

Height and Setback Limits to be retained consistent with 1996 Chelsea Plan

Zone	Residential Zone Equivalent	Existing			Proposed by ZQA		
		min base height	Max Base height	Max building height	min base height	Max Base height	Max building height w/Inclusionary or Senior Housing
R8A		60	85	120	105	145	
C1-6A	R7A	60	85	100	75	105	
C6-2A	R8A	60	85	120	105	145	
C6-3A	R9A	60	102	145	125	175	
C6-3X	R9X--wide street	105	120	170	145	205	
	R9X--narrow street	60	120	160	145	205	

The Chelsea Plan

CB 4 Chelsea 197-a Plan:
A Contextual Zoning Proposal to
Create Housing Opportunities



Community Board 4 / Borough of Manhattan • New York City

The Chelsea Plan

**Community Board 4 Chelsea 197-a Plan:
A Contextual Zoning Proposal to
Create Housing Opportunities**



City of New York

Rudolph W. Giuliani, Mayor

Department of City Planning

Joseph B. Rose, Director

Summer 1996

NYC DCP 96-17

INTRODUCTION

Under Section 197-a of the New York City Charter, community boards may propose plans for the development, growth and improvement of land within their districts. Pursuant to the Charter, the City Planning Commission developed and adopted standards and rules of procedure for 197-a plans. Once approved by the Commission and adopted by the City Council, 197-a plans are intended to serve as policy guides for subsequent actions by city agencies.

Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities, as modified by the City Planning Commission, is the second community board 197-a plan to be adopted by the city.

This report provides information for those interested in the plan's policies and recommendations. It may also be of interest to other community boards considering the 197-a process.

This report contains three sections:

1. The City Council resolution, dated May 22, 1996, adopting the plan as modified by the City Planning Commission.
2. The City Planning Commission report, including its consideration and resolution, dated April 10, 1996, approving and modifying the 197-a plan.
3. The proposed *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*, as originally submitted by Manhattan Community Board 4 on April 28, 1994. Maps and tables of information are included for reference.

Section 1

City Council Resolution

**City Council resolution, dated May 22, 1996, adopting
report recommending approval of the 197-a plan as
modified by the City Planning Commission**

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1723

Resolution approving the decision of the City Planning Commission on Non-ULURP No. N 940614 NPM, a Section 197-a Plan for Chelsea (L.U. No. 983).

By Council Members Eisland and Fields

WHEREAS, the City Planning Commission filed with the Council on April 15, 1996 its decision dated April 10, 1996 (the "Decision"), on the Plan, *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*, submitted by Manhattan Community Board 4, pursuant to Section 197-a of the New York City Charter (Non-ULURP No. N 940614 NPM) (the "Plan");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Council held a public hearing on the Decision and Plan on May 16, 1996;

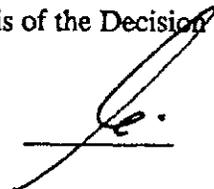
WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Plan; and

WHEREAS, the Council has considered the relevant environmental issues and the negative declaration, issued on August 17, 1995 (CEQR No. 95DCP047M);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-a and 197-d of the City Charter and on the basis of the Decision and Plan, the Council approves the Decision.

A handwritten signature in black ink, appearing to be 'E.' with a flourish, positioned above a horizontal line.

Page 2
N 940614 NPM
Reso. No. 1723 (L.U. No. 983)

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on May 22, 1996, on file in this office.



.....
City Clerk, Clerk of Council

Section 2

City Planning Commission Report

City Planning Commission's consideration and resolution,
dated April 10, 1996, approving and modifying the 197-a plan

CITY PLANNING COMMISSION

April 10, 1996/Calendar No. 23

N 940614 NPM

IN THE MATTER OF a Plan concerning Chelsea, in Manhattan Community District #4, submitted by Manhattan Community Board #4, for consideration pursuant to Section 197-a of the New York City Charter. The proposed plan for adoption is called, "Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities," CB4, borough of Manhattan.

BACKGROUND

In 1986, the Chelsea Preservation and Planning Committee, established by Community Board 4 (CB4), contracted with Columbia University to develop planning recommendations for the Chelsea community. The resulting report, *Chelsea Today, Chelsea Tomorrow: A Plan for Preservation and Development*, formed the basis for the Board's original 197-a Plan, which was submitted to the Department of City Planning (DCP) on July 1, 1987.

On June 11, 1992, in accordance with the City Planning Commission's newly adopted 197-a rules, Community Board 4 notified the Department of its intent to resubmit the Plan with minor modifications. The Chelsea Planning and Preservation Committee revised portions of the Plan and, after a public hearing and adoption by the Board on April 6, 1994, submitted the revised Plan, called *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*, to DCP on April 28, 1994.

PLAN DESCRIPTION

The study area of Manhattan Community Board 4's proposed 197-a Plan comprises 64 blocks bounded generally by Tenth Avenue on the west; 14th Street on the south; Sixth Avenue (from 14th to 26th streets) and Eighth Avenue (from 26th to 34th streets) on the east; and 26th Street (from Sixth to Eighth avenues) and 34th Street (from Eighth to Tenth avenues) on the north. However, the Plan does not address several manufacturing districts and those residential and commercial districts within the study area for which the existing non-contextual zoning designations are considered appropriate. Zoning changes are recommended for slightly more than half of the total study area.

The 197-a Plan states the sponsor's goals: to provide for orderly growth and change; to provide opportunities for new, economically-integrated housing; to preserve the existing low-income housing stock; to prevent significant displacement of residents and businesses; to preserve ethnic and economic diversity; to protect residential areas from commercial intrusion; to preserve the character and visual unity of Chelsea; to preserve the traditional urban form and scale of the community; and to protect the [Chelsea] Historic District and other areas of historic character.

To reach these goals, the Plan suggests a series of changes to the city's zoning map, and two possible zoning text changes. Most of the proposed zoning map changes would replace non-contextual zoning districts with contextual zoning districts at existing and reduced levels of density. In general, the Plan would lower allowable density for the area surrounding and

including the Chelsea Historic District and then step up density going eastward towards Midtown. The Plan would also replace certain commercial zoning districts with residential districts and local commercial overlays. Special zoning is proposed for the existing M1-5M and M1-6 midblock areas between Sixth and Seventh avenues from 18th to 26th streets. On vacant lots and lots occupied by parking facilities in that area, the Plan proposes to permit R10A residential development with a mandatory 30 percent requirement for low- and moderate-income housing.

THRESHOLD REVIEW AND DETERMINATION

Pursuant to Section 3.010 of the 197-a rules, Department of City Planning staff conducted a threshold review of the Plan and, on June 16, 1994, informed Community Board 4 of certain deficiencies with regard to form and content, indicated additional information needed to correct the deficiencies, and provided some of that information to the Board. The Board agreed to add the requested information and did so on August 24, September 20, and October 3, 1994.

On October 24, 1994, the City Planning Commission determined that the Chelsea 197-a Plan met threshold standards with the condition that the Plan's soft site, use conformance, and bulk compliance data and analyses be corrected before proceeding to environmental review. The Plan was revised and resubmitted on February 24, 1995, and environmental review commenced.

ENVIRONMENTAL REVIEW

This application (N 940614 NPM) 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., City Environmental Quality Review (CEQR) Rules of Procedures of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 95DCP047M. The lead agency is the City Planning Commission.

After a review of the potential environmental impact of the proposed action, a Negative Declaration was issued on August 17, 1995. It was determined that the proposed action would have no significant effect on the quality of the environment.

On August 17, 1995, the Plan (N 940614 NPM) was duly referred to Community Board 4 and the Borough President for their review and comment, in accordance with Article 6 of the rules for processing Section 197-a Plans.

COMMUNITY BOARD PUBLIC HEARING

As sponsor of the Plan, Community Board 4, which had previously held two public hearings prior to submitting the plan, exercised its prerogative of not holding a third public hearing, pursuant to Article 6.020 of the rules for processing Section 197-a plans.

At its monthly Board meeting held on October 11, 1995, the Board adopted a resolution

reaffirming its support of the Plan, "as a model for preserving a community and making underutilized areas within it available for providing new affordable housing, and as representing the desires of Chelsea residents."

BOROUGH PRESIDENT RECOMMENDATION

The Borough President of Manhattan considered this application and, in light of the two previous public hearings held by Community Board 4, pursuant to Article 6.021 of the rules for processing Section 197-a plans, elected not conduct a further public hearing on the plan.

On December 19, 1995 the Borough President of Manhattan submitted written comments recommending "rapid adoption and implementation" of the proposed Plan. She also stated, "In order for this process to be meaningful, the Commission must not only adopt the 197-a Plan, but must direct the Department of City Planning to move forward quickly with a 197-c zoning map application for Chelsea."

The Borough President's report states, "The present zoning does not adequately safeguard the long-term identity and stability of Chelsea, or create opportunities for appropriate growth in this successful and diverse community. The zoning permits buildings radically out of scale and character with the present neighborhood. Such inappropriate development can displace residents, businesses and institutions, and erode the historic character that is such an asset to the neighborhood."

She further noted, "The ... Plan would do much to inhibit these negative impacts while providing opportunities for appropriate new development. The Plan encourages the development of new economically integrated housing, while preserving the character of the Chelsea community. The Borough President supports the stated goals of the Plan, and considers the proposed contextual zoning map changes effective tools to implement these goals."

CITY PLANNING COMMISSION PUBLIC HEARING

On January 31, 1996, (Calendar No. 3), the City Planning Commission scheduled February 14, 1996 for a public hearing on this application (N 940614 NPM). The hearing was duly held on February 14, 1996, (Calendar No. 12).

There were 17 speakers in favor of the Plan and one speaker in favor of the Plan with conditions.

The Chairperson of Community Board 4 described the area affected by the Plan's proposals, indicated strong support for the Plan, and introduced the next two speakers who supported the Department's proposal to modify the Plan's detailed zoning recommendations with a "Neighborhood Planning Framework," but were concerned that it not be too general. The former Chairperson of CB4 summarized the history of the Plan's development and reiterated the Plan's goals which she said generally were to preserve the area's diverse physical and cultural heritage and to promote new, particularly affordable, housing in East Chelsea. The

area's built character, she expressed, becomes generally denser starting at the Chelsea Historic District and going east. In "park-poor" Chelsea, she said, "the sky is our park." She noted the cooperative working relationship between representatives of the Community Board and representatives of the Department of City Planning. Referring to the still unresolved issues between the sponsor and the Department (particularly the level of density proposed for Eighth Avenue from the 23rd Street intersection north to 25th Street and the affordable housing proposal for the East Chelsea area), she wished for some way to ensure, not just encourage, development of affordable housing in the southern section of East Chelsea.

The Chairperson of CB4's Chelsea Planning and Preservation Committee stated that Eighth Avenue between 23rd and 26th streets is as much a part of the "psychological heart" of Chelsea as the section below 23rd Street. The concern for this stretch, he said, is as much over base streetwall height as it is over total building height.

A representative of the Manhattan Borough President reiterated her strong support of the Plan, which, she noted, her office helped to produce and update. She urged the Commission to support the Plan, particularly the affordable housing component, whatever the final mechanism identified to achieve that goal.

The City Council Member representing the 3rd Council District noted the many years of volunteer time and work devoted to the production of the Plan, including extensive outreach

to the community. He requested language in the modification which would clearly result in the production of affordable housing units in the East Chelsea area.

A representative of the Assembly Member representing the 64th Assembly District called Chelsea a special place, and urged approval of the Plan. A spokesperson for the U.S. Representative representing the 8th Congressional District noted the Plan's vision of preserving and protecting the character of the area and urged approval.

A representative of the State Senator representing the 30th Senate District was strongly supportive of the Plan and requested in particular that the mixed-income provisions in East Chelsea be approved. A representative of the State Senator representing the 27th Senate District supported the Plan, and noted concerns about the density proposed by the Department for the intersection of Eighth Avenue and 23rd Street, and the need to identify the appropriate mechanism that would result in affordable housing units being built in East Chelsea without the possible displacement of remaining manufacturing uses there.

Three representatives of block associations or councils of block associations spoke in favor of the Plan. One noted concern about the increased level of allowable density on Seventh Avenue, which had been proposed by DCP as a modification of the Plan. Another was particularly supportive of the Plan's proposal to lower the level of allowable density in the area surrounding a row of twelve townhouses on 24th Street, which are designated landmarks. The third was concerned about the increased level of allowable density along

23rd Street proposed by the Department.

A representative of the Historic Districts Council called the Plan a model for other neighborhoods by outlining a preservation and growth strategy for areas not necessarily appropriate for designation as historic districts, but whose varieties of scale may be in need of some level of protection. A representative of the Municipal Art Society's Planning Committee supported the Plan, in particular the protection it offers to the Chelsea Historic District, the allowance of new complementary development in the rest of the neighborhood, particularly the preservation of the low-rise scale along Eighth Avenue south of 23rd Street, and the inclusion of new low-income housing units. She especially noted the productive collaborative effort undertaken by representatives of the sponsors and representatives of the Department of City Planning.

A representative of a Chelsea local Democratic Party club supported the Plan, particularly the inclusionary housing provisions. He noted that the community has previously supported housing initiatives serving the elderly, persons with AIDS, and families with children, etc. A representative of the Metropolitan Housing Council noted the unmet need for low- and moderate-income housing which the Plan seeks to address. A senior block organizer noted the changes in her neighborhood over the years and believes the Plan offers the best hope for retaining an integrated population mix, particularly the Spanish-speaking community.

One speaker spoke in support of the plan but with conditions. The president of the Council

of Chelsea Block Associations reported that while her organization was unable to take a unified stand on the Plan, she herself supported the provisions safeguarding the retention of "sky and air." However, she testified that the Plan does little to encourage exciting new development and that it looks to the past and not to the future. She urged that inclusionary housing provisions be discretionary, not mandatory. She also supported the study proposed for the industrial area west of Tenth Avenue, but requested the inclusion of the industrial area east of Tenth Avenue, in the southwest corner of the study area.

There were no other speakers and the hearing was closed.

Four written statements were received. The Real Estate Board of New York, Inc. (REBNY) commended Community Board 4 for proposing a Plan that includes both preservation and new housing development. The Board believes the Plan is not bold enough and should more aggressively provide opportunities for increasing the supply of new housing as soon as possible. REBNY suggested considering an increase of 1.5 to 3 FAR along Eighth Avenue from 14th to 31st streets and from 14th to 25th streets between Sixth and Eighth avenues. Finally, it noted the success of existing housing programs, such as the 80/20 program, in developing economically-integrated communities, and suggested that inclusionary housing should be an optional bonus, not a requirement.

The 23rd Street Association submitted a statement in support of preserving the character of the Chelsea neighborhood and generally supported many aspects of the Plan. The

Association advocates the proposed modifications to increase allowable density along 23rd Street from Sixth to Eighth avenues, and also recommends increases on Seventh Avenue between 14th and 23rd streets. The Association opposes the elimination of C6 zoning on portions of Seventh Avenue, on Eighth Avenue north of 23rd Street, and on 23rd Street between Seventh and Eighth avenues.

The Chairman of Manhattan Community Board 5, which adjoins the study area, sent a statement which quoted from a Board resolution adopted on February 8, 1996, "that Community Board 5 supports the goals and concepts of the Chelsea 197-a Plan and looks forward to reviewing the Plan in detail after the Department of City Planning prepares a zoning map application to implement these recommendations."

A representative of the 500 Block West 19th St. Block Association wrote in support of the Plan, noting that it seeks to preserve the best of what is without stultifying the best of what may be. In particular, he noted that rezoning West Chelsea, west of Tenth Avenue, to allow residential development, would be a logical, pro-active move that would benefit the whole city.

CONSIDERATION

The Commission has reviewed *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*. It commends the efforts of Community Board 4 and the goals articulated in its neighborhood planning document. The Commission also commends the cooperation between the Plan's sponsors and the Department staff in developing the Neighborhood Planning Framework. The Commission notes that the process helped facilitate the general concurrence of Community Board 4 with all of the modifications made by the Commission, save one.

In general, the 197-a Plan recommends replacing non-contextual zoning districts with contextual zoning districts at existing and reduced levels of density. The Plan also recommends replacing certain commercial zoning districts with residential districts and local commercial overlays. For the existing midblock areas between Sixth and Seventh avenues from 18th to 26th streets, currently zoned M1-5M and M1-6, the Plan proposes that vacant lots and lots occupied by parking facilities be developed at R10A density with a mandatory low-income housing requirement.

Conceptually, the Commission finds broad agreement with several aspects of the Plan that would further the goal of neighborhood preservation by retaining most of the existing manufacturing zoning districts; retaining non-contextual residential zoning districts for those areas where it is appropriate; mapping contextual residential and commercial zoning districts

in most other areas; and complementing the built character of the Chelsea Historic District.

Beyond these areas of broad agreement, the Commission believes that the Plan raises two primary issues of concern: the appropriateness of using a Section 197-a Plan to put forward what is essentially, by virtue of its specificity, a Section 197-c rezoning action; and the appropriateness of some of the proposals themselves. Taken together, the proposed zoning changes, in the Plan as originally submitted, do not do enough to balance the desirable neighborhood preservation goals with opportunities for new housing. Furthermore, while the Commission applauds and supports the 197-a Plan's desire to provide for mixed-income housing, it believes the Plan's proposal for the creation of special zoning in East Chelsea -- to restrict new residential development to certain sites and mandate an inclusionary housing component -- raises significant legal and policy issues.

The purpose and intent of Section 197-a is to provide a community with a mechanism to articulate policy to guide future specific governmental decisions, such as zoning map changes. The specific zoning districts and boundaries proposed in the Chelsea Plan, as originally submitted, present a specific implementation scheme for achieving certain land use goals, which the Charter requires be examined through a 197-c process, which allows for more rigorous technical analysis and environmental review than that required for a 197-a Plan. While the Plan contains considerable data and technical information, the Commission believes the specificity of the recommended zoning changes in the Plan as originally submitted is not appropriate for a 197-a Plan.

In order to respond to the concern of undue specificity, the Commission believes that it is appropriate to modify the Plan with the "Neighborhood Planning Framework" that is appended to the Commission's approval of the Plan. The Framework text articulates policy goals relating to general densities, use and other planning elements for each subarea outlined on the attached map titled, "*Map A: Chelsea Neighborhood Planning Framework.*" This approach would achieve many of the community's goals by providing guidance for future map amendments where compliance and conformance levels could be examined in greater detail allowing for selection of appropriate zoning districts and boundaries. For example, the 197-a Plan proposes R8B with an overlay on Eighth Avenue between 14th and 23rd streets. While the Commission supports contextual zoning at a lower density in this area, it believes that other districts permitting similar density, such as a C1-6A district, should be examined before determining the precise zones. As another example, the 197-a Plan proposes an inconsistent depth for a district proposed along one portion of Eighth Avenue. In this instance, the Framework simply proposes that "contextual zoning at a reduced density" be mapped in that subarea. The specific zoning and boundary determinations would be addressed during follow-up mapping actions, with the Framework serving as a guide.

Major issues which arose in the course of the Department's review of the Plan and their resolution, are addressed below. Community Board 4 adopted a resolution on April 2, 1996 approving all the Framework's modifications to the Plan except one (Subarea 15c, see below). Numbers refer to subarea designations on the attached *Map A: Chelsea Neighborhood Planning Framework.*

The Commission strongly supports the Plan's neighborhood preservation goals, but it believes the Plan needs to do more to provide adequate opportunities for new housing development. The Plan would reduce significantly or retain existing permitted densities in most of the areas between Seventh and Tenth avenues yet expand housing opportunities only for the areas between Sixth and Seventh avenues. The Commission believes that the Neighborhood Planning Framework should modify the Plan in ways that would ensure appropriate opportunities for new housing to serve the community and to address citywide housing needs. Accordingly, the Commission recommends the following areas for moderate density increases: Eighth Avenue from 22nd/23rd to 24th streets (Subarea 15c); 23rd Street between Seventh and Eighth avenues (Subarea 15e); and Seventh Avenue from 16th to 20th streets (Subarea 19e). It recommends more substantial density increases for: 23rd Street between Sixth and Seventh avenues (Subarea 14); Seventh Avenue from 14th to 16th streets (Subarea 17); and possibly Eighth Avenue north of 29th Street (Subarea 16w).

The Commission also believes that the East Chelsea special area (Subarea 18), and three of the future study areas recommended in the Framework (Subareas 22n and 22s: areas west of Tenth Avenue, and Subarea 24: Seventh Avenue between 25th and 26th streets), can offer important opportunities for new housing which would offset density decreases elsewhere in Chelsea. For all of these areas, the Commission believes that, by mapping contextual zoning districts, increased densities can be achieved without impairing neighborhood character.

The 197-a Plan proposes an East Chelsea Special Zoning area to allow new residential

construction on vacant lots and sites occupied by parking lots and parking garages, and to require 30 percent affordable housing in new development. The Commission supports the community's encouragement of mixed-income housing. However, the proposal for providing low-income housing in this area raises serious legal and policy concerns. The sponsors of the Plan believe that their proposal should be seen as an incentive or bonus, since new residential development is not currently permitted. The Commission, however, believes that the inclusionary housing aspect of the proposal amounts to a mandatory requirement, since it would be the *only* way one might develop one's property for new residential use. While the Commission recognizes the citywide need for low-income housing, it believes there is no basis for requiring a select group of property owners to provide this housing in the absence of an established nexus between their development and the need for the housing. Moreover, the Commission is concerned that such mandatory requirements would limit the feasibility of any housing development. The Commission also believes that all property within a defined area should be treated alike, and that permitting residential use on selected parcels is not sound planning policy. Accordingly, the Commission has modified this proposal, through the Neighborhood Planning Framework, to allow residential uses -- in the M1-5M district south of 23rd Street (Subarea 18) -- without distinguishing between vacant and other lots. The Commission notes that the M1-6 area north of 23rd Street between Sixth and Seventh avenues is more industrial in character, and that new residential uses would not be appropriate. South of 23rd Street, however, the M1-5M area is characterized by a substantial residential presence and a relatively low level of industrial employment.

In this East Chelsea area, follow-up mapping actions would determine appropriate densities and address any potential displacement issues. The Commission recommends, in conjunction with the Plan's implementation, that the City, together with the community and other appropriate parties, examine a wide range of mechanisms to promote economically integrated housing, including zoning incentive programs, tax incentives, and governmental policies and funding. The Commission further recommends that the Department establish a task force of appropriate agencies, community representatives, and housing development representatives (profit and non-profit), to examine mixed-income housing strategies for this area. Mapping proposals for this subarea should not be advanced until the task force has developed its recommendations.

The Commission also supports the proposals to study the manufacturing-zoned areas west of Tenth Avenue. It encourages the Department to proceed first with a study of the 23rd Street corridor (Subarea 22n), which serves as a gateway to the waterfront, and then, resources permitting, with a study of the manufacturing-zoned area to the south (Subarea 22s). The Commission recommends that specific boundaries be determined at the time the study and mapping actions are initiated. Another study area (Subarea 24), wholly within CD4 in the area of Seventh Avenue between 25th and 26th streets, was identified subsequent to the Plan's submission, and therefore no data was gathered for it.

Other areas included in the 197-a Plan which abut adjacent community districts are also designated as future study areas. The Commission believes that the appropriate use and

density of these areas should be determined in the course of follow-up studies and formal consultations with the affected Community Boards. These areas include the east side of Eighth Avenue north of 26th Street (Subarea 16e), 14th street between Sixth and Ninth avenues (Subareas 21e and 21w), and the east side of Sixth Avenue between 15th and 22nd streets (Subarea 20e).

The Commission also modifies the Plan to provide several other more modest changes that it believes would more closely reflect the area's built character, a goal of the Plan. For example, the 197-a Plan recommends rezoning from C6-2 to R8B the mid-blocks bounded by Seventh and Eighth avenues and roughly 23rd to 25th streets (Subarea 6). Whereas the compliance rate under R8B would be less than 50 percent, the R8A density level reflected in the Neighborhood Planning Framework would result in a satisfactory compliance level and an appropriate built form. A similar determination and modification was made for the midblock frontages along 16th Street between Sixth and Seventh avenues (Subarea 12n).

The Commission notes that the 197-a Plan recommends a new zoning district -- C6-2AM -- for portions of Sixth Avenue (Subarea 20w) and 23rd Street. The intent of this designation is to provide a contextual zone for the C6-2M district. The Commission believes that contextual zoning is appropriate, but that maintaining the manufacturing preservation component of the C6-2M district is no longer needed in these areas due to the predominance of commercial and residential use.

The Framework has seven categories of recommendations. A brief description of the broad categories and discussion of the Framework's consistency with the Plan and any Commission modification are provided below.

No change proposed at this time: Substantially in agreement with the 197-a Plan proposals, this recommendation applies to most manufacturing areas, the more northerly commercial districts, and postwar "towers in the park" residential developments.

Map contextual zoning at reduced density: This recommendation applies to much of the study area and is consistent with many of the Plan's density recommendations. The Commission finds this recommendation for several of these subareas, especially Subarea 3: Eighth Avenue south of 23rd Street, and Subarea 10: 23rd Street west of Eighth Avenue, to be appropriate only if there is increased allowable density elsewhere in the study area as identified in the Framework. In the Framework, the Commission modifies recommendations for other subareas to respond to this concern. The Commission notes that, although both Subarea 3 and Subarea 10 are on wide streets with good subway access, reduced density would be appropriate because of their unique character in the heart of Chelsea. The Commission also notes that the FAR compliance for an R7B density in Subarea 1 would be less than 70 percent, but that potential non-compliance could be reduced depending on final determination of boundaries.

Map contextual zoning at existing density: The Framework is generally consistent with the

Plan. However, it modifies the Plan's recommendations in a few areas where substantial levels of non-compliance would occur, or where reduced density was considered inappropriate. The Commission notes its modification for the Eighth Avenue frontage between 24th and 25th streets (Subarea 15n), the midblocks of 24th and 25th streets between Seventh and Eight avenues (Subarea 6), and the midblock of 16th Street between Sixth and Seventh avenues (Subarea 12n), all of which the Plan proposed for R8B (reduced density).

Map contextual zoning at greater density: The 197-a Plan did not propose any areas where permitted density would be increased. To balance downzoning proposed for much of the 197-a area, the Commission has modified the Plan to call for increased densities in certain areas: the 23rd Street corridor from Sixth Avenue to Eighth avenues (Subareas 14 and 15e), the intersection of Eighth Avenue and 23rd Street (Subarea 15c), Eighth Avenue north of 29th Street (Subarea 16w), and Seventh Avenue between 14th and 20th streets (Subareas 17 and 19e). The Commission believes these areas are appropriate for increased density for a number of reasons including their built character, transportation access and/or historic importance as a center of the community.

The sponsors of the Plan concur with these modifications except for the intersection of Eighth Avenue and 23rd Street (Subarea 15c). Currently zoned for 6.02 FAR, this location at the intersection of two wide streets atop a subway stop is appropriate for a modest increase in density. The southwest corner currently contains a building of approximately 10 FAR. The Commission notes that, on the site most likely to be redeveloped at this intersection, the

difference between an R8A (6.02 FAR) and an R9A (7.5 FAR) building is two stories and approximately 40 housing units. The Commission believes that this area is able to accommodate this additional development. The Commission also notes the community's desire to reinvigorate this general area as the center of Chelsea, and believes that this modest increase in density will help achieve that goal.

Allow new residential uses; encourage mixed-income housing: For the proposed East Chelsea special zoning area south of 23rd Street (Subarea 18), the Commission recommends zoning that would permit as-of-right new residential construction and conversions without the existing manufacturing preservation requirement. The Commission supports the encouragement of mixed-income housing in this area and the exploration of all mechanisms, including mechanisms other than zoning, to achieve this goal. As described previously, the Commission opposes mandatory inclusionary housing, but strongly recommends that a task force be convened, subsequent to the approval and modification of this Plan, to develop optional mixed-income housing strategies for this area.

Map residential zoning to reflect large-scale housing development: This recommendation applies to a corner of Penn South Houses on Eighth Avenue between 28th and 29th streets (Subarea 23), currently zoned C6-2, in order to provide a better match to its built character.

Study Further: Several areas at the edges of the study area are located in Community District 2 (Subareas 21w and 21e: south side of 14th Street) and Community District 5 (Subarea 20e:

east side of Sixth Avenue; and Subarea 16e: east side of Eighth Avenue north of 26th Street). Because data was not supplied for these areas, subsequent mapping actions should address both sides of the streets in conjunction with the respective Community Boards. The Commission also recommends that any future mapping actions incorporate the 23rd Street corridor west of Tenth Avenue (Subarea 22n) to reinforce this street as a gateway to the waterfront and to implement a balanced map amendment for the area. In the interest of timely implementation of the mapping actions, the manufacturing-zoned area to the south of West 23rd Street (Subarea 22s) could be studied in a second phase. The southern border of the 23rd Street study area should be determined when the study is initiated.

As noted above, the Commission commends the cooperation between the Plan's sponsors and the Department staff in developing the Neighborhood Planning Framework. The Commission notes that the process helped facilitate the general concurrence of Community Board 4, as reflected in its April 2, 1996 resolution, with all of the modifications made by the Commission, save one. The one exception is the modification of the recommendation for the intersection of Eighth Avenue and 23rd Street, where the Commission supports higher density contextual zoning than currently permitted and the Community Board continues to believe the existing density appropriate. The Commission considered the Board's strong viewpoints on the matter but supports the recommendation of the Department for moderately greater density, as contributing to an overall balancing of the various aspects of the Plan.

On balance, the Plan now sets forth a comprehensive set of guidelines for future development

in the area with an appropriate mix of "neighborhood preservation" and "housing opportunity" areas. The Commission encourages this collaborative process to continue to ensure the timely implementation of the 197-a Plan through specific zoning actions. The Commission further proposes this productive collaboration as a replicable model for formulating, analyzing, reviewing, and implementing 197-a efforts by other communities. In conclusion, the Commission believes that the *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*, as modified by the "Chelsea Neighborhood Planning Framework," is an appropriate neighborhood planning document that provides useful guidelines for future actions by public agencies, particularly future zoning map changes.

RESOLUTION

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

RESOLVED, by the City Planning Commission, pursuant to Section 197-a of the New York City Charter, that the Plan, *Community Board 4 Chelsea 197-a Plan: A Contextual Zoning Proposal to Create Housing Opportunities*, submitted by Manhattan Community Board 4, is approved with the following modifications:

Whereas, approved 197-a Plans guide the future actions of public agencies; and

Whereas, approved 197-a Plans can not preclude subsequent actions by the City Planning Commission and the City Council in their review of possible future applications under other charter-described processes; and

Whereas, almost all of the recommendations in this 197-a Plan require subsequent approval of 197-c (ULURP) Zoning Map Change applications, which have their own defined review procedures;

The Plan is hereby modified by replacing the specific zoning proposals contained in the Plan with the following Chelsea Neighborhood Planning Framework, in order that this approved and modified Plan provide general policies regarding land use and development in the

Chelsea area. The subarea numbers refer to the attached map (*Map A: Chelsea Neighborhood Planning Framework*). The subarea boundaries shown on the attached map are approximate. Although not noted for each subarea, the Plan recommends and the Framework concurs with the mapping of local commercial zoning districts or overlay zoning districts on most avenues and wide streets in proposed residential zoning districts.

Chelsea Neighborhood Planning Framework:

Subarea 1

Existing Zoning: R8 and R7-2¹

197-a Plan: R7B

CPC approval or modification: Map contextual zoning at a reduced density generally consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4.

Subarea 2

Existing Zoning: R8

197-a Plan: R7A

CPC approval or modification: Map contextual zoning at a reduced density generally

¹The existing allowable residential FAR for all of the Framework's subareas is 6.02, with two exceptions. 1.) Subarea 1 is a mix: one section is 6.02 FAR and another section has a range of .87 to 3.44 FAR. 2.) Some of the subareas recommended for future study are in M zones; new residential floor area is not currently allowed in these districts.

consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4, with the exception of the block between 16th and 17th streets.

Subarea 3

Existing Zoning: R8 and C6-2M

197-a Plan: R8B

CPC approval or modification: Map contextual zoning at a reduced density generally consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4, but providing for a more flexible envelope along Eighth Avenue.

Subarea 4

Existing Zoning: R8

197-a Plan: R7B

CPC approval or modification: Map contextual zoning at a reduced density generally consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4.

Subarea 5

Existing Zoning: C6-2

197-a Plan: R8B

CPC approval or modification: Map contextual zoning at a reduced density generally consistent with the recommendation of the 197-a Plan as originally submitted by Community

Board 4.

Subarea 6

Existing Zoning: C6-2

197-a Plan: R8B

CPC approval or modification: Map contextual zoning at existing density, incorporating the north side of 25th Street, similar in character to the facing blockface.

Subarea 7

Existing Zoning: R8

197-a Plan: R8A

CPC approval or modification: Map contextual zoning at existing density.

Subarea 9²

Existing Zoning: R8

197-a Plan: R8A

CPC approval or modification: Map contextual zoning at existing density.

Subarea 10

Existing Zoning: R8

¹ There is no Subarea 8 in this final version.

197-a Plan: R7A

CPC approval or modification: Map contextual zoning at a reduced density generally consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4.

Subarea 11

Existing Zoning: C6-2M

197-a Plan: R8A and C2 overlay

CPC approval or modification: Map contextual zoning at existing density.

Subareas 12n and 12s

Existing Zoning: C6-2M

197-a Plan: R8B

CPC approval or modification: Map contextual zoning at existing density (Subarea 12n); map contextual zoning at a reduced density (Subarea 12s) generally consistent with the recommendation of the 197-a Plan as originally submitted by Community Board 4.

Subarea 13

Existing Zoning: C6-2

197-a Plan: C6-2A and R8B (portion of Ninth Avenue frontage)

CPC approval or modification: Map C6 contextual zoning at existing density, and include the northeast corner of 29th Street and Ninth Avenue.

Subarea 14

Existing Zoning: C6-2 and C6-2M

197-a Plan: C6-2AM (intended to be a contextual equivalent of the existing C6-2M)

CPC approval or modification: Map C6 contextual zoning at substantially greater density (9.0 FAR) to encourage new housing opportunities and to better reflect the built character.

Subarea 15e

Existing Zoning: C6-2 and C6-2M

197-a Plan: R8A with a C2 overlay

CPC approval or modification: Map contextual zoning at moderately greater density (7.5 FAR) to encourage new housing opportunities and to better reflect the built character.

Efforts should be made to reinvigorate this block at the center of Chelsea. The Commission notes that mapping a C2 district would result in some commercial floor area non-compliance, and that the appropriate commercial zone should be determined as part of follow-up mapping actions.

Subarea 15c

Existing Zoning: C6-2M, C6-2 and R8

197-a Plan: R8A with a C2 overlay, with R8B on the southeast corner of 23rd Street and Eighth Avenue.

CPC approval or modification: Map contextual zoning at moderately greater density (7.5 FAR) to encourage new housing opportunities at a density that takes advantage of this

location at the intersection of two wide streets atop a subway entrance.

Subarea 15n

Existing Zoning: C6-2

197-a Plan: R8B and C6-2A

CPC approval or modification: Map contextual zoning at existing density, and as part of the follow-up mapping action, consider a moderate increase in density from the midline between 25th and 26th streets in conjunction with subarea 16e to the north.

Subareas 16e and 16w

Existing Zoning: C6-2

197-a Plan: C6-2A (subarea 16w)

CPC approval or modification: Conduct a future study in consultation with Community Boards 4 and 5 to develop final recommendations for subareas 16e and 16w together. Preliminary analysis suggests mapping contextual zoning at greater density in subarea 16w (7.5 to 9 FAR).

Subarea 17

Existing Zoning: C6-2M

197-a Plan: R8X

CPC approval or modification: Map contextual zoning at substantially greater density (9.0 FAR), reflecting built character. Follow-up mapping actions should examine conformance

issues to determine appropriateness of, and boundaries for, a C2 District to replace the existing C6 district.

Subarea 18

Existing Zoning: M1-5M

197-a Plan: Create the East Chelsea Special Zoning area to allow new residential construction on sites now occupied by vacant lots, parking lots, and parking garages and mandate 30 percent affordable housing in new development.

CPC approval or modification: Allow new residential uses without distinguishing between vacant and other lots, and encourage mixed-income housing, modifying the recommendation of the 197-a Plan as originally submitted by Community Board 4. Follow-up mapping actions should determine appropriate densities and address potential displacement issues. In conjunction with plan implementation, the City, together with the community, should examine a wide range of mechanisms to promote economically integrated housing, including zoning incentive programs, tax incentives, and governmental policies and funding. It is recommended that a task force be formed of appropriate agency and community representatives, and housing development representatives (profit and non-profit), to develop mixed-income housing strategies for this area. Mapping proposals for this area should not be advanced until the task force has developed its recommendations.

Subarea 19w

Existing Zoning: C6-2M

197-a Plan: C6-2A

CPC approval or modification: Map contextual zoning at existing density.

Subarea 19e

Existing Zoning: C6-2M

197-a Plan: C6-2A.

CPC approval or modification: Map contextual zoning at a moderately greater density (7.5 residential FAR) to encourage new housing opportunities. The department store use located on Seventh Avenue between 16th and 17th streets should remain in the C6 district.

Subarea 20e and 20w

Existing Zoning: C6-2M

197-a Plan: C6-2AM (20w)

CPC approval or modification: Conduct a future study in consultation with Community Boards 4 and 5 to develop final recommendations for subareas 20w and 20e together. Preliminary analysis suggests mapping contextual zoning at existing density without manufacturing preservation provisions on the west side of Sixth Avenue (20w).

Subarea 21e and 21w

Existing Zoning: C6-2M

197-a Plan: On the north side of 14th street, C6-2AM from Sixth to Seventh avenues, and R8B west of Seventh Avenue.

CPC approval or modification: Study both sides of 14th Street in consultation with Community Boards 2 and 4. When the study is initiated, make a determination whether to extend the western boundary of 21w to Ninth Avenue.

Subareas 22n and 22s

Existing Zoning: M1-5

197-a Plan: No recommendations

CPC approval or modification: Conduct future studies of these M1-5 districts west of Tenth Avenue to determine whether new residential uses would be appropriate as part of the overall Neighborhood Planning Framework. The first phase (23rd Street between Tenth and Eleventh avenues) should be examined as part of the Plan's implementation, with the specific southern boundary determined at the time of study initiation. The M1-5 area south to 14th street (22s) is recommended for a Phase II study, and could include additional manufacturing-zoned areas east of Tenth Avenue, depending on availability of resources.

Subarea 23

Existing Zoning: C6-2

197-Plan: Map R8

CPC approval or modification: Map residential non-contextual zoning at existing density.

Subarea 24

Existing Zoning: M1-6

197-a Plan: No recommendations

CPC approval or modification: Conduct a study in conjunction with the Plan's implementation to determine whether new residential uses would be appropriate as part of the overall Neighborhood Planning Framework, balancing neighborhood preservation areas with new housing opportunity areas.

The above resolution (N 940614 NPM), duly adopted by the City Planning Commission on April 10, 1996 (Calendar No. 23), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

JOSEPH P. ROSE, Chairman

VICTOR G. ALICEA, Vice-Chairman

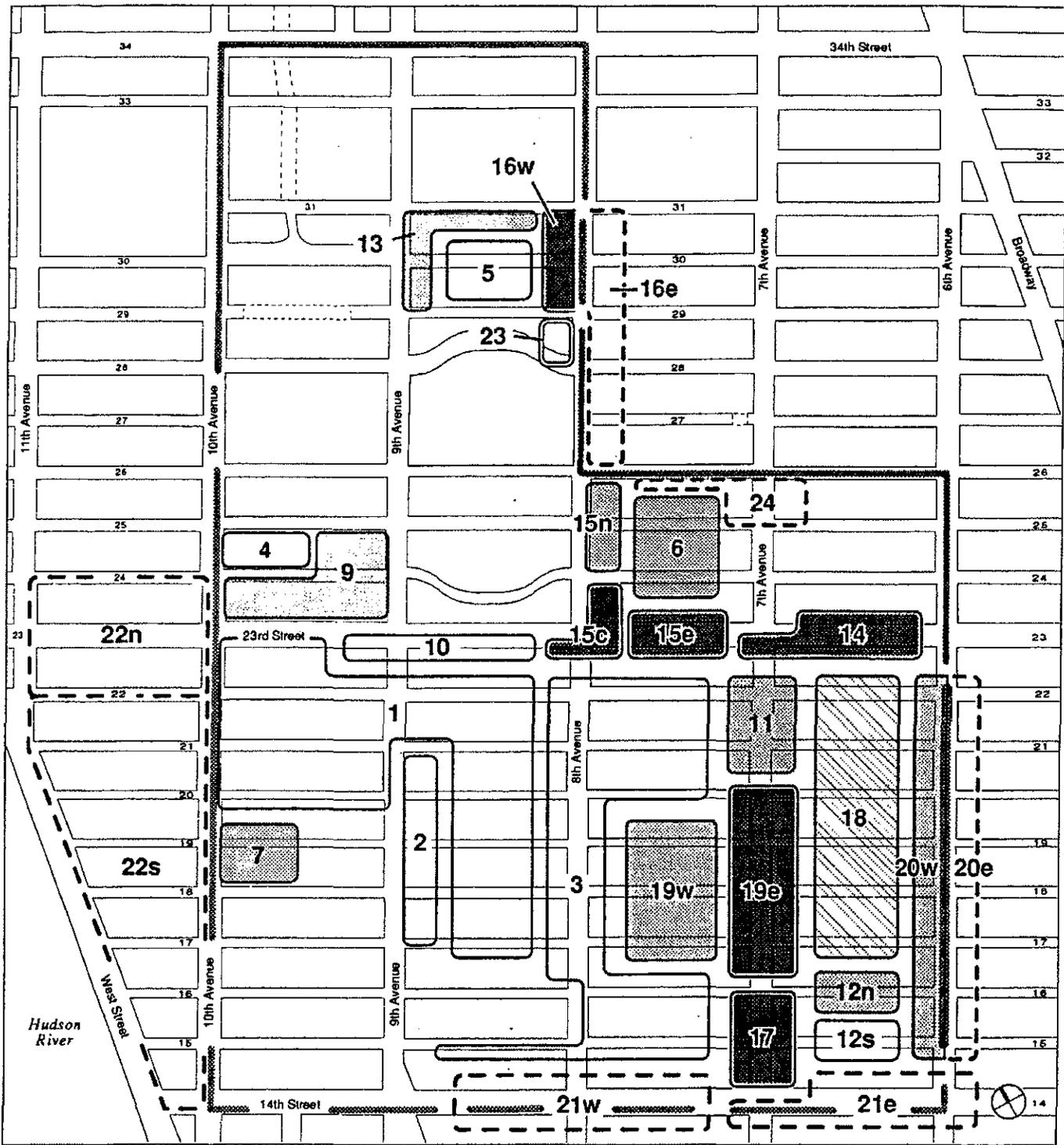
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Commissioners



Map A: Chelsea Neighborhood Planning Framework

-  map contextual zoning at reduced density
-  map contextual zoning at existing density
-  map contextual zoning at greater density
-  allow new residential uses; encourage mixed-income housing

-  map residential zoning to reflect large-scale housing development
-  study further
-  197-a plan study area

NOTES: 1). Numbers on map refer to subareas identified in CPC report dated April 10, 1996 (Calendar No. 23). 2). There is no subarea 8. 3). Subarea boundaries shown are approximate. 4). Changes in zoning district designations and boundaries can only be finalized through the approval of Zoning Map Change (Section 197-c) applications.

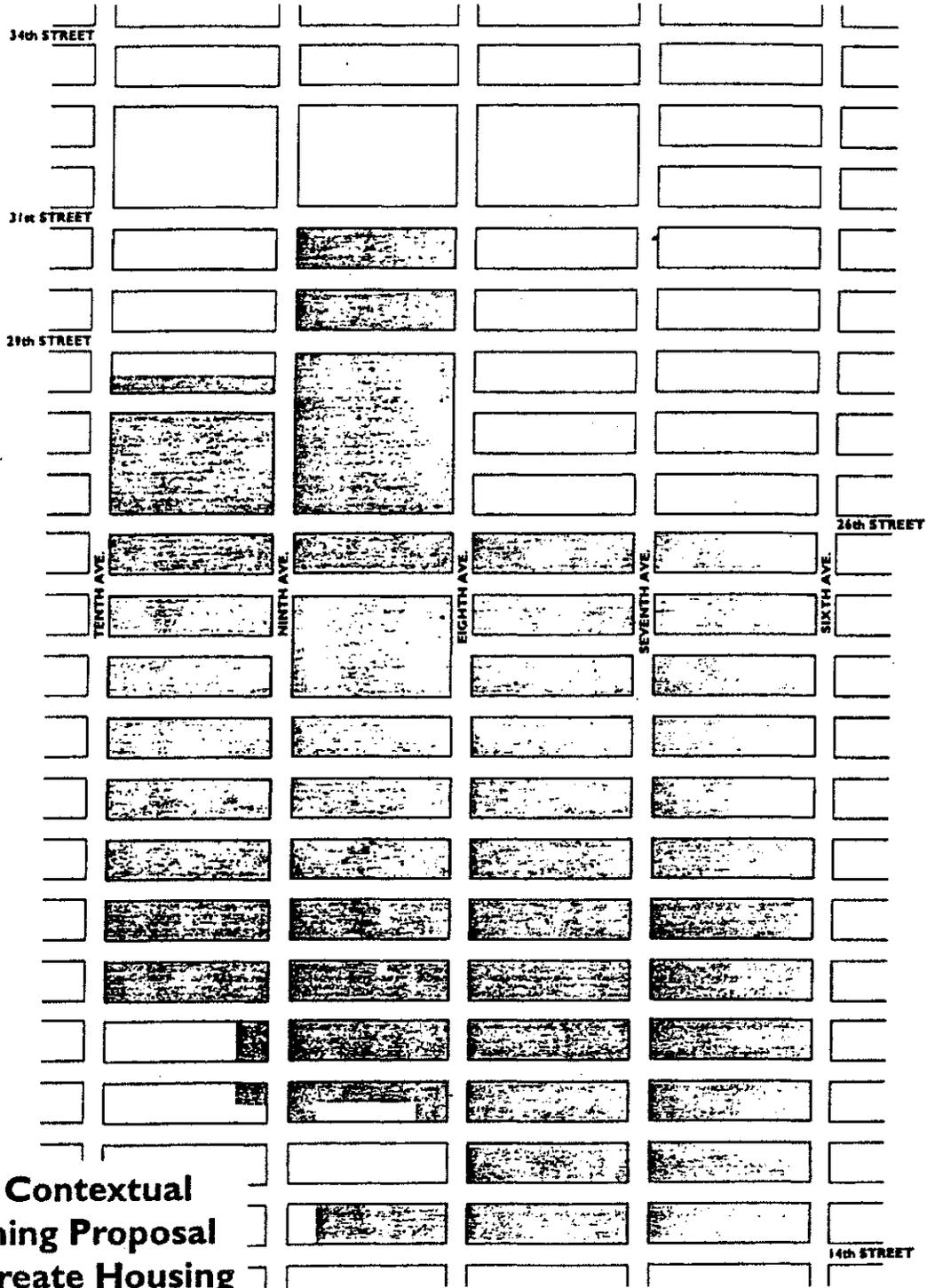
*Approval and Modification of
Community Board 4 Chelsea 197-a Plan*

Section 3

Community Board 4 Proposed 197-a Plan

*Community Board 4 Chelsea 197-a Plan:
A Contextual Zoning Proposal to Create Housing Opportunities,
submitted April 28, 1994*

CHELSEA 197-a PLAN



**A Contextual
Zoning Proposal
to Create Housing
Opportunities**

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ACKNOWLEDGEMENTS

This document is being submitted by Manhattan Community Board No. 4 as a community-sponsored plan under Section 197-a of the New York City Charter. An account of its creation and adoption is incorporated in the document under the section Community Board Planning for Chelsea.

The present document was prepared by the Chelsea Preservation and Planning Committee of the Board, with assistance provided by the Office of the Manhattan Borough President, particularly Pepi Ertag, David Freudenthal and Fern Betel. The soft site and conformance data were gathered by Jordan Most, MSUP, under the supervision of Dr. Elliott Sclar of the Columbia University Graduate School of Architecture, Planning and Preservation. Frank Cheney of the Manhattan Office of the NYC Department of City Planning provided valuable assistance with the soft site analysis and use conformance data. This work was sponsored by the Manhattan Borough President, Ruth W. Messenger as well as Council Member Thomas K. Duane, who has been involved from the beginning in the development and support of the plan. Larry Quinn, a neighborhood resident, performed the tedious but necessary task of data entry. The demographic and census data as well as other data and documents support the rationale of the plan. This information is contained in Appendices A through F following the narrative.

The first version of the Plan, filed in 1987, was prepared by Dr. Sclar and Judy McClain, MSUP, following the guidelines laid out by the Zoning Study subcommittee set up by Thomas K. Duane, then the second Chair of the Chelsea Preservation and Planning Committee. The active members of this group were Edward Kirkland, Michael Kramer, Charles Ayes, and Ross Graham. The data used for this first version of the plan were those gathered for the Chelsea Studio of the School led by Dr. Sclar and Dr. Saskia Sassen in the previous year. These data are no longer available and are not used as a basis for this document. The current version of the Plan varies only in a few substantive details and in presentation from the previous one.

The task of planning for Chelsea has been carried on by the Chelsea Preservation and Planning Committee since its first Chair, Edward Jones. The work has been supported by successive Board Chairs: Mary Brendle, Ruth Kahn, Peter Schleissner, Peter Oblatz, Alice Olson, and the current Chair, Ross Graham. The principal author of the plan is Edward Kirkland, current chair of the Chelsea Preservation and Planning Committee. Many members of the Committee, past and present, have contributed to the work. Among the staff of the Board who have worked to help the Plan over the years are William Ryan, William Floyd, Noreen Doyle, Simon Firestone, and Julia Fitzgerald. The Board thanks them all, as well as the members of the community, too numerous to name, and the elected officials and their staffs who have supported and worked for the Plan.

EXECUTIVE SUMMARY

Chelsea, the southern section of Manhattan Community Board No. 4, may be divided into two sections: the historic residential community roughly east of Tenth Avenue that is the subject of the present plan, and the old waterfront manufacturing area to the west that is the object of another planning effort now under way.

The diversity of Chelsea in building types and population is due to a long development. The old center planned around the General Theological Seminary by Clement Clarke Moore is still largely intact but has been surrounded over the years by an area largely residential but with some commercial buildings that gradually scales upward towards the Manhattan spine. The mixed population of the old waterfront community has been joined by more recent arrivals, both Latinos and persons seeking to revive the area. Housing projects and recent development have caused displacement, threats to historic character, and community controversy.

The Community Board, responding to long-held concerns, worked with Professor Elliott Sclar of Columbia University to plan for the area, producing the first version of the Plan after wide consultation in the community, and filing it under Section 197-a in 1987. The plan had widespread support in the community, but encountered difficulties in gaining acceptance at City Planning. With the Charter revisions and the new 197-a regulations, and supported by updated technical data, the Plan is being refiled with only minor changes after new consultations.

Goals of the Chelsea Plan:

- * Provide for orderly change and growth
- * Provide opportunities for new, economically integrated housing
- * Preserve the existing low-income housing stock
- * Prevent significant displacement of residents and businesses
- * Preserve ethnic and economic diversity
- * Protect residential areas from commercial intrusion
- * Preserve the character and visual unity of Chelsea
- * Preserve the traditional urban form and scale of the community
- * Protect the Chelsea Historic District and other areas of historic character

The purpose of the Chelsea Plan is to establish a framework in which development, particularly of economically integrated housing, can take place without destroying the integrity and character of the community and what is valuable within it. Residential Chelsea is a community whose character is based on the low-scale row-house blocks around the historic core, and the somewhat more varied street-wall development that scales upward to the east of it. The core and some of the outer areas contain buildings of architectural quality and streetscapes that are important to preserve.

The long-run identity and stability of Chelsea are threatened by rapid development under the present zoning that would replace existing buildings by significantly larger ones, thus causing loss of neighborhood character and major displacement. The process would cut up Chelsea with towers, break neighborhood visual and social bonds, threaten loss of economic and ethnic diversity, and diminish the low-income housing stock. Appropriate rezoning of Chelsea would prevent many of these impacts and provide a framework in which orderly development could occur and affordable housing be created in underutilized areas.

The Chelsea Plan proposes to establish contextual zoning to replace the present height-factor zoning. Building heights would be scaled across the entire community (except the tower developments, which are mostly north of 23rd Street), from low height in and around the Chelsea Historic District eastward across the avenues, following the more varied built environment upward towards the loft buildings at the eastern edge. This addresses the goals oriented toward community preservation, while allowing some flexibility in many areas and even an upzoning near the Garment District. This pattern makes possible special zoning oriented toward development of economically integrated housing in the underutilized M-zones between Sixth and Seventh Avenues. Here residential developments at the height of the old loft buildings would be allowed on certain sites on condition of providing a significant proportion of affordable units on site. These provisions would provide more units than soft sites under the present zoning.

The Plan covers only traditionally residential Chelsea, roughly the section east of Tenth Avenue, where the existing zoning almost everywhere is at an FAR of 6.02 (R8, C6-2, C6-2M) with no contextual zoning. Many map changes involve only the replacement of height-factor zoning with the contextual equivalent: other lower bulk (FAR) to preserve the existing built environment.

- * The historic core between Tenth Avenue and the Eighth Avenue corridor is zoned at a protective level of a maximum streetwall of 60 feet (R7B), with buffer strips at somewhat higher scale. This protects the Chelsea Historic District, the landmarked row on 24th Street, and their surroundings.
- * The outer portions of this residential area west of the Seventh Avenue corridor are mostly zoned at a slightly higher scale (R8B), with other changes made to preserve context and protect the central residential block of Chelsea from commercial intrusion.
- * Seventh Avenue is zoned slightly higher in a scale designed to protect its residential quality and relatively low scale (mostly R8A, some C6-2A, a higher R8X in the south). An upzoning is proposed in the plan has been adopted with some modification just south of the Garment District north of 23rd Street.

- * Fourteenth Street and the old residential blocks to the north are zoned to protect their low-rise residential character. This is the location of the oldest Latino community in the city. East of Seventh Avenue, the different scale and commercial character of the street are supported by appropriate zoning.
- * Twenty-third Street is varied in character and is zoned to support its dominantly residential character in most places and its existing scale, while preserving relationships to the blocks to the north and south (eastward from Ninth Avenue: R7A, R8A, C6-2AM).
- * North of 23rd Street, two low-rise residential subareas, psychologically cut off from the main block of residential Chelsea (just to the north between Seventh and Eighth Avenues and at the far north of Chelsea on 29th and 30th Streets between Eighth and Ninth Avenues), are protected (R8B) and minor adjustments made to preserve contextuality.
- * Chelsea east of Seventh Avenue contains many of the old department stores of the Ladies' Mile Historic District along Sixth Avenue, which are to be protected with contextual zoning (C6-2AM), and an under-utilized manufacturing district just to the west, which offers a location for affordable housing.
- * East Chelsea Special Zoning: in the midblocks between Sixth and Seventh Avenues between the midline of 18th and 19th Streets and 26th Street (excluding commercial 23rd Street), residential developments will be allowed on vacant or parking lots and parking garages with a bulk and form based on the tall loft buildings in the area (a kind of optional R10A envelope) on the principal condition that development will provide at least 30% of the units for low- and moderate income housing.

OVERVIEW

The Chelsea Community

Chelsea is located on the West Side of Manhattan just north of Greenwich Village, from which it is separated by 14th Street. Except for the Hudson River on the west, its other boundaries are less clearly defined: to the north, the 34th Street corridor; to the east, the Garment District and the mixed commercial and industrial district on both sides of Fifth Avenue. Chelsea consists of two main sections: the original residential community east of the pre-nineteenth-century shoreline, roughly along Tenth Avenue; and the largely manufacturing area to the west built mostly on landfill and involved with the waterfront uses that were long the economic heart of the community, but that have largely disappeared.

These two areas present two very different situations and are subject to different pressures. They have been the object of two different planning processes by Community Board 4. The area east of Tenth Avenue is the subject of the present plan; the western area is the subject of a recently completed planning study commissioned by the Community Board. This study will be the principal basis of a second plan that the Board hopes to complete soon in cooperation with the Department of City Planning and the Manhattan Borough President's Office. This planning effort will eventually include the entire Community District.

The study area of the Chelsea Community Plan therefore includes 60 blocks located north of 14th Street, extending between Eighth and Tenth Avenues north to 34th Street, and between Sixth and Eighth Avenues, north to 26th Street. The eastern boundary of the area is that of Board 4.

The Evolution of Chelsea

The great diversity of the community's population and built environment is the product of a history of over 150 years. The historic core of Chelsea was the community planned in 1835 by Clement Clarke Moore, author of "A Visit from Saint Nicholas", on the Hudson River estate that his grandfather had named "Chelsea". Observing with dismay the approach of the street grid of the growing city, he donated the block between Ninth and Tenth Avenues and 20th and 21st Streets to the General Theological Seminary of the Episcopal Church under the name of Chelsea Square and divided the blocks surrounding it into lots for rowhouses, requiring deep planted front yards and high building standards on lots he sold. This mid-nineteenth century core has remained surprisingly intact, except for a few apartment houses. The central part of it forms the present Chelsea Historic District.

As the spreading city surrounded his development, it brought low-scale, largely residential buildings on all sides except to the west, where the coming of the Hudson

River Railroad along Tenth Avenue (the original shoreline), spurred industrial activity on the filled land along the waterfront. With the elevated railroad in the 1870's came an increase of commerce and population. This is reflected by the growth of somewhat larger tenements and industrial buildings near the waterfront and was accompanied by a varied ethnic and economic mix typical of waterfront districts.

As the city continued to grow northward its center moved in the 1890's to the area around 23rd Street. Its brief tenure as the entertainment center of the day left some larger buildings in eastern Chelsea along what was for some years the "Main Street of New York". Nearby and farther to the south along Sixth Avenue grand department stores dominated the shopping area called the "Ladies' Mile." As the City's center moved further north, the large buildings of the old stores housed such industries as printing and ancillary trades for the growing garment center. The entertainment center survived mainly in the form of an artistic community whose most visible monument is the Chelsea Hotel on 23rd Street near Seventh Avenue.

Although scattered apartment buildings had appeared before, the boom of the 1920's was the first to threaten seriously the traditional scale of Chelsea. Large manufacturing buildings rose to the west along what was then the center of the Manhattan waterfront and in the growing Garment District along Seventh Avenue. A developer began a row of residential towers along Seventh Avenue north of 14th Street and replaced the old rowhouse block called London Terrace, north of 23rd Street between Ninth and Tenth Avenues, with a huge apartment block. The Depression stopped this development trend abruptly and froze most of Chelsea in the pattern it kept until the Second World War. The old core area around the Seminary, as well as the area along and just north of 14th Street that was developed at the same time and scale as Greenwich Village, largely remained at the original scale. East of the industrial district between the waterfront and Tenth Avenue the built environment of Chelsea now scaled gradually upward from its original height in its oldest sections towards the massive loft buildings on the edge of Midtown.

The population pattern, too, remained largely unchanged in character during this period. Everywhere among the dominantly Irish working-class community that had become established in the nineteenth century along the waterfront were families and individuals stemming from a multitude of sources-- from descendants of the original householders to immigrants who had recently slipped off a boat lying at one of the piers. A variety of religious and other institutions, some of them still surviving, testified to this diversity. One major change was the establishment of a Latino population that became a significant element of the community. This was marked by the first Latino church in the city on 14th Street, which became a center for a community long known as "Little Spain." The Latino community grew rapidly in the midst of the renewed activity along the waterfront and in the manufacturing areas that took place during and after the Second World War and drew large numbers of varied groups to Chelsea.

After the war Chelsea shared citywide trends such as the move to suburbanization and the decline of urban manufacturing along with the attendant weakening of the older ethnic communities. Most disruptive to the community was the loss of the maritime life that had been at its heart, as passenger shipping declined and freight shipping moved out of Manhattan starting in the 1950's. Parking lots began to appear, particularly in the loft area east of Seventh Avenue. Urban reformers, seeing the decay of older housing and the sites that were available through the decline of manufacturing, started the construction of a series of public housing projects on blocks between Ninth and Tenth Avenues both north and south of the old community core near 23rd Street. The new middle class created by postwar education and prosperity, seeking affordable and potentially attractive housing in which to raise their children, found bargains in Chelsea's rowhouses, especially in the handsome historic core planned by Clement Moore, and began a movement toward recovery that has continued to the present day.

These changes brought new concerns and new controversies to Chelsea. Long-term residents were displaced by the loss of job opportunities, by the arrival of newcomers, and by subsidized high-rise buildings designed to provide affordable housing for those living and working in the area. New and old residents alike were disturbed at the visual effect of the new towers and the concomitant loss of familiar buildings, neighbors and institutions. The new "brownstoners" sought to prevent the loss of traditional community character and of the historic architecture and scale of the handsome streets on which they lived.

The largest and bitterest of the controversies about community preservation was the effort to stop the large Penn South urban renewal project that proposed the demolition of at least six full blocks between Eighth and Ninth Avenues north of 23rd Street, and their replacement by middle-income towers. This unsuccessful attempt to save a traditional neighborhood and its residents involved neighborhood groups and institutions, as well as the famous activist Sol Alinsky, and left Chelsea disheartened and divided for years. More modest and more successful attempts to preserve historic character and avoid displacement due to high-rise buildings were the efforts led by groups like block associations and the Council of Chelsea Block Associations. These led to the designation of the Chelsea Historic District in 1970 and its extension in 1979, as well as the landmarking of some individual buildings, particularly a group of low rowhouses on 24th Street just east of Tenth Avenue. On another front, the Housing Committee of the relatively new Community Board and local organizations such as the Chelsea Coalition on Housing struggled to deal with harassment, displacement, and relocation case by case.

Community Board Planning for Chelsea

By 1984, Community Board No. 4 had concluded that reacting to these issues one by one was ineffective and decided that to preserve the Chelsea community it needed

to undertake the kind of pro-active planning that it believed community boards had been set up to perform. The Board had played a significant part in the effort that had established the Special Clinton District to protect the low-rise, largely working-class community of Clinton that forms the northern part of the Board District. With this model in mind it set up a committee to take planning measures to protect what was valuable in the Chelsea community, to maintain the traditional housing and businesses in the area, and to provide for growth and new housing in a manner that would avoid the community destruction that was occurring in such areas as the Upper East Side.

The Chelsea Preservation and Planning Committee thus created explored several possibilities. An approach was made to the Department of City Planning, which offered to conduct a study of Chelsea with a view to rezoning. However, early discussions made it clear that the study would be based on a principle--balancing a down-zoning on the side streets with an up-zoning on the avenues and wide streets to encourage market-rate housing at the larger scale these thoroughfares were presumed to support--that threatened to foster many of the consequences the community sought to avoid.

The Board, believing it had reached a dead end, sent out a request for expressions of interest and received a response from Professor Elliott Sclar of the Graduate School of Architecture, Planning and Preservation of Columbia University. As a result, he and his colleague, Professor Saskia Sassen, directed a planning studio in the spring of 1986 that produced a report entitled Chelsea Today, Chelsea Tomorrow: A Plan for Preservation and Development that won an award from the American Institute of Planners.

The report was presented to the community at a public meeting on June 7, 1986, and widely distributed within the Board's constituency. During the following year the Committee started to build on its findings to draw up the outline of a plan that would meet the broad goals of preservation of historic character and community form, protection of the existing low-income housing stock, and provision of new affordable housing at a reasonable scale. In this process the Board reached out to almost every group in Chelsea-- block associations, housing advocates, tenant associations in the major developments and the active merchants' associations. Meetings and private discussions were held with almost all elements of the Chelsea community. A preliminary version of the plan was presented at a public meeting on January 29, 1987, and comments there were taken account of in the preparation of the final plan.

While there was not universal agreement with all parts of the plan, the participants clearly believed that their views were heard and considered. All elected officials of the community and the bulk of local organizations supported the plan, and many participated vigorously in the process of refinement and adoption. An independent

advocacy organization, Save Our Chelsea, was formed by housing advocates to influence and promote the plan. A significant number of modifications were made and ideas developed as the process continued up to the moment of adoption by the Board. The process culminated in a major public hearing on May 4, 1987, where approximately 40 members of an audience of over 160 spoke, all supporting the plan as a whole, although some expressed reservations about individual provisions. On its regular meeting on May 6, 1987, after amendments had been made to respond to the concerns of several block associations and similar groups, the Board adopted the plan for filing under Section 197-a of the City Charter.

The Board had chosen this then little-used approach in the hope that the provisions of this section of the Charter, specifically allowing for submission by Community Boards of plans for adoption by the City Planning Commission and the Board of Estimate, would provide a means by which Boards and the communities they represented could gain consideration and adoption of plans that were based on their goals and their understanding of their communities. Broader needs and plans would clearly be safeguarded since local plans would have to be reviewed and adopted by city-wide authorities.

Acceptance of the Chelsea Community Plan and other community-initiated proposals ran into a number of obstacles. At that time the Charter did not clearly define the nature of 197-a plans. In addition, Department of City Planning took the position that, under state and city environmental review laws, most 197-a plans suggesting zoning map changes would require costly and time-consuming environmental reviews to be completed by Community Board sponsors.

The revised Charter approved by the voters in 1989 required the City to establish rules for the form and content of 197-a plans, as well as the process by which such plans would be reviewed by relevant city agencies. On June 26, 1991, the City Planning Commission approved the Rules for the Processing of Plans Pursuant to Section 197-a. The Community Board had joined other civic organizations in testimony and in discussions with City Planning Commissioners in an effort to ensure that these regulations met the intentions of the Charter and the needs of Community Boards. Article 4 of these rules sets forth standards for the form and content, as well as sound planning policies, that must be satisfied in proposed plans prior to a positive threshold determination by the City Planning Commission.

The plan's recommendations are, except in a few details, the same as those submitted in 1987. The text has been extensively rewritten with the following goals: to make explicit the principles on which it is based, to explain and reorganize the proposed zoning changes, to refine the plan to reflect the relatively few changes in the area and the analysis of the new, updated data, and to add material to ensure conformance with the requirements of the Rules for the Processing of Plans Pursuant to Section 197-a.

Frequent contacts with groups and individuals in the community assure the Board of continued support for the Plan throughout Chelsea. Tables at block parties and street fairs, informal discussions at meetings of local organizations, and other activities have maintained an interest and awareness of the Plan over the period of data-gathering and revision. The most visible of these activities has been the preparation of a video intended to portray the community and the feelings of its residents about their neighborhood and its character. Photography of the neighborhood and interviews with its residents were set up, and the Plan and the video discussed at a large public meeting attended by over 50 people on December 11, 1992, at which many members of the public were individually interviewed. It is expected that the video, which has encountered technical problems, will be completed shortly,

In the course of community discussions leading up to the refile of the Plan, it became clear that some residents were concerned that the Plan did not address what they perceived as the most pressing threat to the Chelsea community--the diminished quality of life caused by the presence of discos on the fringes of the historic residential area. Although no discos were located within the study area and any zoning action to regulate them, especially through a 197-a plan, would presumably require more time and encounter more obstacles than passage of pending Council legislation, many persons in areas near discos believed Board action was desirable. There was considerable discussion of the issue in neighborhood groups and at meetings of the Chelsea Preservation and Planning Committee in which members of the public participated. At the public hearing on the Plan before the regular meeting of the Community Board on March 2, held during a snowstorm that prevented many members of the Board and the public from attending, two of the six speakers pressed this point. The hearing was continued in April because of the weather.

At a public meeting on the plan on March 30th, sponsored by the Chelsea Housing Group and attended by about thirty persons, discussions continued and a pledge was made by the Chair of the Chelsea Preservation and Planning Committee that the Board would act promptly to consider zoning recommendations designed to regulate the location of discos within areas close to residences, and would then begin an open planning process for the areas zoned for manufacturing west of Tenth Avenue.

At the continued public hearing held before the next Board meeting on April 6, 1994, seven persons spoke in favor of the Plan. At this time, the principal proponent of incorporating zoning provisions against discos read a statement withdrawing opposition to the current version of the Plan in view of the Board's pledge to take prompt, but separate, action on these other issues. At the regular meeting of the Board immediately following, the Plan was adopted for submission under Section 197-a of the City Charter by a vote of 27 in favor and none opposing or abstaining.

GOALS OF THE PLAN

This planning process resulted in a series of goals around which the community as a whole could unite. These goals are intended to provide a framework in which the needs of Chelsea can be met while at the same time furthering those of Manhattan and New York City.

To provide for orderly change and growth.

Any community must change in order to live, but massive replacement of the existing building stock over a short period entails the destruction of community identity. Zoning, except in areas where it is important to preserve historic or aesthetic quality by restrictions enforcing strict retention of scale or use, must therefore allow flexibility for adaptation of existing structures and replacement of those that are no longer useful. Potential locations for new development-- and in particular for needed housing--can be found in underutilized areas where sites are available that are vacant or the reuse of which will not interfere with other legitimate goals.

To provide opportunities for new, economically-integrated housing.

New housing in Chelsea has been consistently market rate. The waiting list for subsidized housing is prohibitively long; for the one large middle-income cooperative, the waiting list is currently closed. Young people that wish to have children usually have to move out of Chelsea, a hardship that is also a threat to community continuity. New or adapted housing must be provided for individuals and families of all types and backgrounds to serve the community and the city as a whole without creating displacement or disturbing other community goals. Ghettos of any type must be avoided.

To preserve the existing low-income housing stock.

The existing housing stock in Chelsea includes a number of tenements and SRO buildings. The city has already paid a high price for encouraging replacement of such buildings by upscale housing. Present zoning and market trends would continue this process in Chelsea in the next real estate boom.

To prevent significant displacement of residents and businesses.

In order to minimize displacement, zoning must not encourage replacement of sound buildings by new structures. The present zoning or proposals that would increase bulk on major thoroughfares encourages such replacement. Besides individual hardship, displacement of persons with low income or social handicaps is likely to lead to homelessness. Massive displacement of businesses as well as residents such as has been seen in some redeveloped areas breaks social bonds and threatens community character and even identity.

To preserve ethnic and economic diversity.

Displacement and the loss of low-income housing stock inevitably reduce economic diversity, and usually ethnic diversity as well, since immigrants and other newcomers usually cannot afford expensive housing. In Chelsea the older residents are often members of ethnic communities that were once strongly represented but that no longer form a sufficient presence to provide bonds that can prevent their remaining

members from dispersal. Of particular concern to the Board is the Latino community on and north of 14th Street. This, the oldest established such community in the city, is threatened by any replacement of the existing low-rise and low-rent housing and by displacement pressures on its institutions, largely located on 14th Street.

To protect residential areas from commercial intrusion.

It is essential to reinforce the main residential block of Chelsea that extends between Seventh and Tenth Avenues northwards from 14th Street as far as 30th Street, together with the overlapping residential strip north of 14th Street contiguous to Greenwich Village. Some long-standing residential streets in these areas are zoned for commercial uses. This has allowed some intrusions that have threatened the character of residential streets and encouraged displacement. In view of the current spread of sex-related businesses, partly as a result of their dispersion from Times Square, it is especially urgent to avoid inappropriate commercial zoning in residential areas in order to prevent destruction of their character through the presence of such establishments.

To preserve the character and visual unity of Chelsea.

Chelsea is a low-rise community in which, like many traditional communities, the avenues and wide streets are not built to significantly higher bulk than the midblocks. More recent construction has until the last few years reflected the pre-1961 zoning regulations, which encouraged higher coverage, lower-rise buildings, rather than the regulations adopted in 1961 which promoted "tower in the park" development. In order to preserve the resulting character and perception of community unity, zoning must not allow erection of the walls of taller buildings on main thoroughfares that alter the "feel" of the community, dominate lower areas near them, and psychologically cut off one midblock from another and isolate subsections of the community.

To preserve the traditional urban form and scale of the community.

The shape of Chelsea is a distinct urban form, rising gradually from the low-scale of the historic center upwards towards its edges at the midtown spine and the Garment District. The human scale of most of the community and this distinctive form give Chelsea an identity as an attractive and livable community that would be destroyed by future development on an inappropriate model. The diminution of light and air, particularly in view of the lack of open spaces in the traditionally built portion of Chelsea, would severely diminish the quality of life in the community.

To protect the Historic District and other areas of historic character.

The Historic District contains rows of buildings of great quality surrounding the valuable open space of the campus of the General Theological Seminary. The undesignated area largely east of the Seminary contains many buildings of almost equal quality and streets of similar attractive character. The erection of buildings in and near this area at a bulk permitted by the present zoning has already diminished this ambiance, which forms a valuable resource for the city. Similar considerations on a lesser scale apply to the landmarked row in the 400 block of West 24th Street. The late nineteenth-century department stores on Sixth Avenue in the Ladies' Mile Historic District on the eastern edge of the community need a zoning that will discourage inappropriate enlargements and surroundings.

ANALYSIS

The purpose of the Chelsea 197-a Plan is to establish a framework that provide opportunities for development, particularly of affordable housing, in ways that will preserve the existing community and reinforce its character. The Board recognizes that communities can and must change and that the economic basis of the city entails constant adaptation to new requirements. The city will thrive, however, only if the communities that comprise it can maintain their identity in this constant flux; it will be worth living in only if these communities maintain a character that will give them attractiveness and cohesion.

Residential Chelsea is a community whose character is anchored by the low-rise row-house areas of the historic core in and around the Chelsea Historic District and elsewhere in the neighborhood, especially in the south near Greenwich Village. These areas are consistent in scale and mass and create a distinctive urban image. A survey by the Landmarks Preservation Commission recognized that over 30 percent of the buildings in Chelsea are of significant architectural quality. The bulk of these buildings are in or near the Chelsea Historic District, which occupies an irregular area between Eighth and Tenth Avenues south of 23rd Street including most of 20th, 21st, and 22nd Streets.

The somewhat higher buildings that dominate the eastern part of the community are still interspersed with lower buildings and form a transition to the higher bulk of the loft area on Chelsea's eastern edge. This area contains a mix of building types and uses that has contributed to Chelsea's diversity and visual attractiveness. It is dominated by such housing types as rowhouses, tenements, and low and mid-rise elevator buildings. On most avenues and major cross-streets commercial uses dominate at the ground-floor. Loft buildings are located primarily on the eastern fringes of the study area along the edge of the Garment District as well as further south in the old manufacturing district between Sixth and Seventh Avenues where the East Chelsea Special Zoning is proposed. They contain residential as well as non-residential uses. The consistent pattern of street walls lining up with neighboring buildings that exists on wide streets, avenues and midblocks adds to the attractiveness and unity of the area. The anomalies in the street wall pattern primarily occur where there has been large scale residential development and thus dominate the area from 23rd to 29th Streets between Eighth and Tenth Avenues.

The Board perceives the long-term identity and stability of Chelsea as threatened by the rapid out-of-scale development that the late Seventies and Eighties brought to Manhattan, and that experience has shown is likely to recur in the next period of economic prosperity. Such development, possible under the present zoning, threatens the character of a neighborhood such as Chelsea by replacing the existing buildings with ones that are of different character and scale and by displacing the residents, businesses and institutions. The historic character that forms such a valuable asset of the community is thus diminished. The visual unity of a largely low-rise community

is cut up, and larger neighborhoods are reduced to smaller segments. The ethnic and economic mix, produced by a long and varied history, is inevitably replaced by a more homogeneous population, while former residents lose their homes and the bonds that hold groups together. The stock of low-income housing is further depleted. The institutions that expressed the spirit of a community and maintained its unity are dispersed or destroyed.

Means to maintain the living diversity and continuity of the community, the flexibility necessary to facilitate growth and change and meet the urgent need for affordable housing, but that do not encourage displacement or destroy community character and identity must be found. In particular, housing must be provided in a manner that allows for all elements of the community to maintain their place within it and preserve diversity and integration. The Board sees underutilized portions of the area as locations where new economically and ethnically integrated affordable housing can be developed without displacement and without destroying community form and integrity.

The proposals which follow are the specific responses to the goals and issues outlined here. They were developed in studies by the Board's consultants and by wide discussions within the community.

PROPOSALS

General Principles

The Chelsea Community Plan proposes to replace the present height-factor zoning by contextual zoning throughout the entire community. This zoning scales upward gradually eastward, following the built environment, from the surviving historic core area in and around the Chelsea Historic District, including the landmarked houses on 24th Street. The avenues and wide streets are zoned at a bulk similar to that of the midblocks, following the scale of current development. This means that the concept of contextuality is applied at the level of the entire diverse community, rather than only a homogeneous subsection. The only exceptions are based on the differing built environment of the housing projects and the middle-income urban renewal development: the context here is that of the tower, and the current zoning, which is appropriate, is preserved. As a group, these do not significantly impinge on the contextual unity of the rest of Chelsea.

This portion of the proposed zoning clearly fulfills most of the goals directly concerned with community preservation. In combination with some changes from commercial to residential, it protects a few potentially threatened areas. By allowing a looser fit in the zoning as the plan proceeds eastward and outward from the historic core, in areas where building scale is less uniform, it allows a significant degree of flexibility for development, and an upzoning on the edge of the Garment District allows new development at an increase in scale.

Another basic provision is intended to meet the goals directed toward development and affordable housing. The manufacturing district between Sixth and Seventh Avenues in East Chelsea has gradually lost much of its true manufacturing uses since at least the Second World War. There has been little activity except attempts at conversions to residential use, successful or not, and a few specialized small buildings. The recent development of the older buildings of the Ladies' Mile as a commercial district, and in particular the revival of the old Sixth Avenue department stores as a shopping destination, show that this relatively bleak area has gained the potential for reuse. The plan proposes that on parking garages and empty lots in this area, residential development be allowed at a scale comparable to that of the surrounding loft buildings on condition of providing a significant proportion of low-and moderate-income housing in the new development on site. The scale of these loft-style buildings forms an appropriate edge for the residential community to the west, which rises in scale as it approaches Seventh Avenue.

The present zoning in the part of Chelsea covered by this plan is almost exclusively residential and commercial at a FAR of 6.02 (R8, C6-2, C6-2M). The only exceptions are a small area of R7-2 within the Chelsea Historic District (3.44 FAR), and the East Chelsea loft districts that are the subject of special provisions. All the changes,

except for those in this East Chelsea manufacturing zone, involve the replacement of this zoning by contextual districts. These changes will be detailed moving eastward from the historic, largely low-rise core between Eighth and Tenth Avenues. Each area is described in a section that is introduced by an overview and then gives the details of the proposed zoning.

The existing commercial overlays in residential areas are planned to remain. Where changes are made from commercial to residential zoning, C2 overlays are to be mapped on the avenues and wide streets (14th and 23rd Streets) since this zoning corresponds to the uses currently allowed and significantly present on the lower floors on these streets.

The existing and the proposed zoning are laid out on maps at the back of the plan booklet. The descriptions of the contextual zones proposed are taken from the revisions of the Quality Housing Zoning text that are now in effect which show no major differences from the effective envelope previously in force in the zoning categories proposed.

This general replacement of the current zoning by contextual zones entails many changes. In many cases, as where the current zoning is a rough fit to the existing built environment, it will mean no change in allowable bulk as existing zoning categories are replaced by their contextual equivalents. In other instances, it may mean some loss of the currently allowable bulk. In most of these cases, where historic or aesthetic quality or community character is designed to be preserved by the new zoning, the Board believes, as has been shown in other places, that the loss of the ability to enlarge a building or to replace it with a larger one is compensated for in the long run by the rise in value due to the enhanced quality of the neighborhood.

The Core Area Between Tenth and Eighth Avenues

Overview. The goal here is to protect the Chelsea Historic District and the undesignated areas around it that are low-rise and of similar character to the Historic District itself with zoning that will discourage inappropriate infill buildings or enlargements on the few vacant lots or other possible developable sites. Similar protection is to be afforded to the row of landmarked rowhouses on the north side of 24th Street a little east of Tenth Avenue and the low-rise buildings of the same period around them. Buffer strips on the edges of the low district, where current development is slightly higher, are provided through transitional zoning based on the current development scale.

Central Area. The proposed zoning for the central area to be protected is R7B, a contextual zone devised for narrow streets with an FAR of 3 and maximum streetwall height of 60 feet and a total building height of 75 feet. This corresponds to the current built environment and allows some flexibility. The Chelsea Historic District

is small and, especially between Eighth and Ninth Avenues, very irregular in shape and inadequate to protect the remaining historic core. To maintain its quality it is essential to protect not only the District itself but also the streets around it by zoning closely fitting the built environment.

The area bounded by Tenth Avenue and the hundred-foot line west of Eighth Avenue and comprising the entire Chelsea Historic District west of Ninth Avenue, the east blockfronts of Ninth Avenue from the midline of 22nd and 23rd Streets to 21st Street, and the midblocks between the hundred-foot lines of Ninth and Eighth Avenues between the midline of 22nd and 23rd Streets and the midline of 17th and 16th Streets is to be changed to R7B. This includes almost the entire Historic District and an area to its east of similar character and scale. The present zoning is R8, except for a small area of R7-2 in the midblocks of the Historic District, which is close in FAR to that here proposed more widely for the area.

Buffer strips. Two strips bordering this area and on wide thoroughfares show slightly higher development at a varying scale. One is the hundred-foot strip on the south side of 23rd Street stretching between the east boundary of the Historic District west of Ninth Avenue and the western hundred-foot line of Eighth Avenue. It is located between the lower-scale area described in the preceding paragraph and the large London Terrace and Penn South developments on the north side of 23rd Street. The other is the hundred-foot strip on the east side of Ninth Avenue between 21st and 16th Streets, including a small part of the Historic District and other buildings at widely varying scale. For these buffer strips, the Board proposes a zoning of R7A, a zone devised for wide streets and with an FAR of 4, maximum base height of 65 feet, and building height of 80 feet. The present zoning is R8.

Directly to the south of the western part of the Historic District and east of Tenth Avenue, a largely residential area currently zoned R8 extends southwards to 18th Street and includes part of the Fulton Houses, a low-income development west of Ninth Avenue. Although the housing project directly abuts the Historic District near Ninth Avenue, the small area directly east of Tenth is developed with low- to mid-rise buildings that can be the basis of a buffer area for this portion of the District. The Board proposes to map this area as R8A, a contextual zone with an FAR of 6.02 and maximum streetwall height of 85 feet and building height of 120 feet that is the best fit for this mixed area and offers a transition from the Historic District. In the original version of this plan, the Board proposed R8B here, but several R8 developments were built at the end of the boom so that conformance with the earlier proposed zoning is now poor. The portion of the residential area extending southwards along the west side of Ninth Avenue and covering part of the housing project should remain the present R8.

Area around 24th Street Houses. To the north of 23rd Street between Ninth and Tenth Avenues lies a mixed area including the block-filling London Terrace

development and a lower scale block to the north which is between this huge building and the Elliott-Chelsea Houses, a low-income development north of 25th Street. On the north side of 24th Street are 12 landmarked houses, 437 to 459, that form a low row set deeply back from the street and creating a remarkable enclave. In order to protect this group and the adjacent buildings of similar size and age on the Tenth Avenue blockfront to the west as well as the 25th Street rowhouses at the back of the landmarked houses, the Board proposes a zoning of R7B, as with the similarly scaled Historic District. This will also help safeguard light and air for the partially completed Chelsea Recreation Center just to the east of the low houses on 25th Street. This facility is mapped as parkland, and is designed to have a glass roof over its pool, and facilities elsewhere on the roof.

To the east, the remainder of the block between 24th and 25th Street is built to a somewhat higher scale, to which R8A is the appropriate contextual zoning. The Board thus proposes R8A for the eastern portion of the block and for the overscaled London Terrace block to the south, for which this zoning will not significantly reduce compliance. This entire area is currently zoned R8,

The Outer Portions of the Historic Residential Area

Overview. Eastward from the historic core, along several blocks on Eighth Avenue below 23rd Street and extending at least part way to Seventh Avenue, is a residential area built to a mixed scale, largely low-rise but including a significant proportion of somewhat larger buildings than the historic core itself. This area was not part of Clement Moore's property, and was therefore not subject to the development controls he laid down. It extends southwards to 14th Street along Eighth Avenue itself, where it joins the historic residential area along 14th Street west of Seventh Avenue. In between, extending from the midline of 19th and 20th Streets southwards to the midline of 16th and 17th Streets, is a tongue of the commercial loft district that covers much of eastern Chelsea. This loft district has long contained many residential buildings; some streets are almost completely residential, and conversions to residential uses have been frequent. The area as a whole requires mapping with contextual zoning at a slightly higher bulk than the core and also reinforcement of its dominantly residential character in order to support its place in the major block of residential Chelsea.

Northern residential area. In the residential area now zoned R8 the Board proposes a contextual zoning of R8B, a contextual zone with an FAR of 4 and with maximum building height of 75 feet and streetwall height of 60 feet. This is appropriate to the somewhat uneven, but largely low-scale built environment. This area includes most of Eighth Avenue between 14th and 23rd Streets to the 100-foot line to its west. The avenue here, with a few largely recent exceptions, is built to a scale that is the same or often lower than that of the midblocks on either side, and maintaining the felt relationship between this avenue that functions in many ways as the Main Street of

Chelsea and the blocks near it is important to the wholeness of the community.

Old commercial loft district. In most of the tongue of the commercial loft district and extending eastward to its present eastern boundary at the 100-foot line east of Seventh Avenue, commercial uses still survive but are gradually being supplanted by residential ones both on the avenue and to the west. The low-rise Old Chelsea Post Office, an early example of the brick neo-Georgian functionally adapted Federal Government building listed on the National Register of Historic Places, fits well into this context. Here, a contextual zoning of C6-2A, with the same envelope as R8A and corresponding to the built environment, should replace the present zoning of C6-2M. The Board believes that removing the loft protection of non-residential space in this zone is an appropriate measure of flexibility that, while reasonably protecting the surviving non-residential uses as long as they are viable, will in the long run afford opportunities for residential conversions and development that will provide new housing and reinforce the central block of residential Chelsea, in which this area is now an anomaly.

Southern residential area. At the south boundary of this commercially-zoned area at the midline of 16th and 17th Streets, the residential corridor of Eighth Avenue is constricted on the west side by the large former Port Authority Building, mapped as part of the manufacturing zone to the west but now almost exclusively commercial in use. Residential uses at the same largely rowhouse scale as in the north extend to the east and south of this block-filling building, and the change in zoning from R8 to R8B in these residential areas should extend to the 14th Street corridor.

Changes to residential zoning. Two other changes in this area are proposed to increase zoning compliance with current uses and protect the residential areas from disruptive intrusions. The northwest corner of the commercial loft district reflects in residential use and built environment the area to the north and west. This area, defined by a line drawn from the northern boundary of the district on the midline of 20th and 19th Streets at a point approximately 230 feet east of Eighth Avenue southward parallel to the Avenue as far as 18th Street, and then westerly along the street to the hundred-foot line of Eighth Avenue, should be zoned R8B to match the adjacent already residentially-zoned area to its west. Similarly, the north side of 22nd Street between Eighth Avenue and the west hundred-foot line of Seventh Avenue should be changed from C6-2 to R8B to correspond with the existing bulk and uses and to be consistent with the similar area to the south side of the street. The intrusion on a former parking lot of a nine-plex movie theater has already done considerable harm to the character of this residential street. A C2 commercial overlay would remain on Eighth Avenue from 18th to 23rd Streets to allow the present storefront uses.

Seventh Avenue

Overview. Under existing zoning, Seventh Avenue south of the Garment District is zoned for mid-rise commercial uses that do not correspond to the current uses and scale. The avenue, except for parts of the area located within the old commercial loft district just described, shows almost exclusively residential uses at a varying scale, largely low but interspersed, especially towards the south, by the towers erected at some corners in the boom of the Twenties and more recently. The Board believes that these residential uses must be recognized and protected to preserve the integrity of residential Chelsea, and a scale must be established that is in harmony with the built environment and forms a transition between the low-rise areas to the west and the higher areas to the east and north. The commercial district should remain (as proposed in the previous section) in the area where it roughly corresponds to present uses. Rezoning here is at the contextual equivalents of the present bulk.

Edge of Garment District. At the northern end of the Seventh Avenue corridor within Board No. 4, just south of the Garment District, the Board supported an upzoning from C6-2 to C6-3X, a new contextual zone defined in the recent revisions of the Quality Housing Zoning Text as with a residential FAR of 9 (commercial FAR 6) and maximum street wall height of 120 feet and building height of 170 feet in this wide street location. In the Plan this zone was to be mapped from the south end of the high-bulk M1-6 district abutting it on 25th Street southwards to the midline of 23rd and 24th Streets, where the scale changes to the mixed one of the 23rd Street corridor. Recently this rezoning was approved, but the southern boundary of the new zoning was set at 23rd Street. The new mapping forms a transition between the higher buildings to its north and the generally lower built envelope of Seventh Avenue to the south and affords some opportunities for new development.

Contextual changes to the south. At the 23rd Street corridor, which will be treated later, and further south to 20th Street on the east side (on the west side the midline of 19th and 20th Streets in order to pick up the existing northern boundary here of the western tongue of the present C6-2M district), the Board proposes an R8A zoning that fits the residential character and built environment as a whole. This replaces the current C6-2M here, which does not correspond to current reality or to any likely future. Current storefront uses will be protected by a C2 overlay. South of this line, however, mixed residential and commercial uses and a varied building scale call for the preservation of the commercially zoned district in contextual form as proposed in the preceding section.

From the midline of 16th and 17th Streets, which corresponds to the existing south boundary of this C6-2M district to the west and to an existing change in use to residential at a higher scale, and extending south to 14th Street, the Board proposes a change from the present C6-2M mapping to R8X with a C2 commercial overlay. This contextual zone, with an FAR of 6.02 and three envelope options with a

maximum streetwall height of 150 feet, corresponds to the uses and built environment in this area, and is not so high as to isolate excessively the low blocks to the east and west.

The Fourteenth Street Corridor and the Blocks to the North

Overview. 14th Street, which this Board shares with Board 2 to the south, is mixed in character. In the area westward from Seventh Avenue it is the location of the oldest Latino community in the city, of which there survive some institutions and businesses and a considerable, largely low-income, population in the blocks directly north. The Board believes that is important to protect this community, which is now diminishing (cf. Appendix A) from dispersal and gentrifying pressures, including redevelopment. To provide a framework from within which this community may survive, it is mandatory to preserve and protect the present housing stock, institutions, and businesses from displacement pressures. While residential zoning at low bulk is appropriate in this western section, further east the vigorous low-price shopping area extending towards Union Square must be supported.

14th Street proper. To ensure these goals, the present scale and uses of 14th Street must be maintained, especially on the north side, located within this Board and where most of the supporting resources of the Latino community are now located. For this reason, as well as to maintain the relationship to the low-rise areas to the north cited before, the Board proposes the extension southwards to 14th Street of the low zoning at R8B of the residential blocks to the north between the west hundred-foot line of Seventh Avenue and Eighth Avenue. This area was originally developed in the expansion of the city northwards from Greenwich Village and has much the same scale and character. 14th Street west of Seventh Avenue as far as Ninth Avenue is largely built at the same scale and with dominantly residential uses often in handsome, if run-down old houses, especially on the north side. It too should be rezoned to R8B with an appropriate commercial C2 overlay. Only scattered commercial uses, mostly on first floors, interrupt this dominantly rowhouse character, which surrounds the landmarked Andrew Norwood House and into which the low landmarked former New York Savings Bank was designed to fit. This character is reinforced by an FAR of less than 3 except for a commercial tower at the northeast corner of Eighth Avenue. The existing zoning of C6-2M is so widely mapped in this diverse but largely residential area as not to fit actual use or scale at all accurately and restricts appropriate flexibility of use without a clear or achievable purpose.

The character of 14th Street changes at Seventh Avenue and further eastward, where new large residential buildings and then the vigorous 14th Street commercial area begin. Here, the current zoning of C6-2M is appropriate as to use and bulk, but it should be modified to be contextual. The zoning category C6-2AM is yet to be defined, but on the example of the envelope of C6-2A it would fit here, allowing adequate flexibility to this commercial strip.

14th Street forms the southern boundary of Chelsea and of Board No. 4. The Greenwich Village side of the street is part of Community Board No. 2, which has taken its own planning initiative in the western part of its District. These proposals are not directly adjacent to the area of this plan. However, the general similarities of scale and use on both sides of the street, with a few exceptions, as well as the preservation-oriented zoning of Board No. 2's proposals and of much actual zoning in Greenwich Village, suggest that extending to both sides of the street the zoning here proposed would be appropriate.

Residential midblocks to north. The midblocks of 15th and 16th Streets to the north between Sixth and Seventh Avenues are low-rise, almost exclusively residential blocks like those to the west across Seventh Avenue. They show especially charming streetscapes recalling those in Greenwich Village to the south. The former House and School of Industry on 16th Street, now a residence for the developmentally disabled, is a designated landmark set among other interesting low brick buildings. These blocks must be protected from unsuitable intrusions by rezoning from the inappropriate C6-2M to the R8B that fits the actual scale and use.

Twenty-third Street

Overview. This main cross street of Chelsea with its subway stations, institutions, and shopping is central to the community. West of the Eighth Avenue corridor it is essentially a residential street, low-rise on the south but with the large developments of Penn South and London Terrace on its northern side. Between Seventh and Eighth Avenues, it shows the elements of a community center with such institutions as a YMCA, a Carnegie Library, and the famous--and landmarked--Chelsea Hotel. Eastward lies a mix of residential and commercial uses. The scale is mixed, but corresponds to a large degree to that of the blocks to the north and south. To maintain the visual connection with the surroundings on which it depends, and to avoid further psychological separation of the parts of Chelsea to the north (which are already somewhat isolated in feeling by the tower form of Penn South on the west and the dominant scale of the Garment Center buildings on the north and east), it is proposed to zone this important street at a contextual equivalent of the present bulk. The zoning should reflect the largely residential uses, except for an appropriate commercial overlay on this wide street and the nearby avenues.

Zoning west to east. This goal would be accomplished by zoning the block of 23rd Street between Eighth Avenue and the hundred-foot line east of Seventh Avenue R8A, the contextual residential equivalent of the anomalous present C6-2 on the north side and C6-2M on the south, in order to preserve an appropriate context for the older buildings of the historic community group. To the west, it is proposed to map the residential southwest corner of Eighth Avenue at R8A to continue this contextual district westward to meet the lower strip of R7A to the west. The zoning of the north side of the street, part of the Penn South development, is unchanged.

C2 commercial overlays should be mapped where upper-floor uses are changed in order to reflect actual conditions on this street that shifts gradually from residential to commercial as one goes eastward.

From the east hundred-foot line of Seventh Avenue, it is proposed to map a C6-2AM district east to Sixth Avenue. This new contextual equivalent of the present zoning of C6-2M would fit the present area with its mix of commercial and residential uses and largely street-wall buildings of various heights approaching the old commercial area of the Ladies' Mile to the east. In order to preserve the streets to the north and the south, which have in some places different uses from 23rd Street itself, the corridor along the street throughout the central section should be contained within the midlines of the adjoining blocks.

North of 23rd Street

Overview. The eastern boundary of Board No. 4 runs along Sixth Avenue as far north as 26th Street, then westward along this street, and then northward along Eighth Avenue. This line roughly follows the edge of the Garment District, which is mostly within Board No. 5. West of Eighth Avenue, northern Chelsea is cut off psychologically by the towers of Penn South and the Elliott-Chelsea Houses. The height-factor zoning of these developments fits their form, and is not to be changed. There are, however, two subareas, just north of 23rd Street and at the north end of residential Chelsea, where the old rowhouse form largely survives and must be protected in order that these areas maintain their traditional form and their connection with the historic community.

24th and 25th Street. The first is the blocks of 24th and 25th Streets between Eighth Avenue and the Seventh Avenue corridor. Here, except for a few large institutional buildings, the old rowhouse scale and character persist and should be protected by mapping the R8B appropriate to their scale and use in place of the current C6-2 that would allow commercial intrusions and out-of-scale developments. Just to the north of the midblocks is a small M1-5 district extending across 26th Street into Board No. 5. Since this is a rough fit to the loft buildings on the south side of 26th Street and effectively protects the grandfathered low-rise residential uses on the 25th Street, no change is proposed in accordance with the aim of the plan to avoid zoning that would impinge on manufacturing uses.

Eighth Avenue. Along the east side of Eighth Avenue northwards from the 23rd Street corridor is a strip of mixed, dominantly residential use, largely at low-scale. Here, opposite the buildings of Penn South, which are set well back from the avenue just north of 23rd Street, the striking open character of Eighth Avenue and the visual connection with the low-rise midblocks to the east should be preserved by extending the proposed midblock R8B zoning of 24th and 25th Streets westward to the Avenue, with a C2 commercial overlay on the avenue. (This is a change from the first version

of the Plan, where the less appropriate C6-2A was proposed here.) This strip extends northward from the this point into Board No. 5 as far as 31st Street. In this area, where the buildings of Penn South are closer to the Avenue and the character of the neighborhood on and east of the Avenue changes gradually to higher bulk and largely commercial uses, the contextual equivalent, C6-2A, of the current C6-2 would form an appropriate transition between the midblocks to the east and the Penn South towers directly to the west.

North Chelsea. An island of low-rise, largely residential development is formed by the blocks north of Penn South from 29th to 31st Street between Ninth and Eighth Avenues. In order to preserve the traditional form of this northern edge of residential Chelsea and to discourage displacement in this area that contains a number of our rapidly vanishing SRO's, it is imperative to protect the current residential uses on the north side of 29th Street and on the midblock of 30th street directly to the north. 29th Street offers an extraordinary rowhouse-block face to the open spaces around the towers to its south and provides the only reminder of the original context of the landmarked Church of the Holy Apostles on Ninth Avenue a little to the south. On 30th street a few recent R8 developments, rising abruptly from setbacks from the street wall, give a textbook demonstration of the desirability of contextual zoning in order to maintain community character, but the bulk of the streetscape is intact and should be preserved by zoning at the appropriate R8B. A C2 overlay would protect current storefront uses on Eighth and Ninth Avenues.

On the south side of 31st Street and on the avenues on either side southward to the midline of 29th and 30th Streets, commercial uses and a higher built environment here and nearby make C6-2A, the contextual equivalent of the existing zoning, appropriate. (This includes the southeast corner of 30th Street and Ninth Avenue, now mapped R8 like the rest of this subarea.) This zoning would also preserve a portion of the original low scale of the surroundings of the landmarked old General Post Office. This building is to be restored for use as a new Amtrak station, a project listed as to be supported in part with capital funds in long-term City projections.

Two notes. The northeast corner of the Penn South development at 29th Street and Eighth Avenue has the inappropriate zoning of C6-2 where a residential tower stands. Compliance should be increased by remapping this as the R8 of the rest of the development, since the proposed zoning to the north would leave the current zoning here an isolated anomaly.

In the first version of this plan it was proposed to rezone the southern half of the block between Tenth and Ninth Avenues and 28th and 29th Streets from C6-4 to R8. This was designed to support a tentative but never completed agreement between the community and the Postal Service to provide housing on the south side of the block next to a postal truck yard. Completion of a large mail facility on the entire block has rendered this proposal moot, and the Board thus sees no purpose in making any

proposal concerning the mapping of this block

East Chelsea

Overview. The area of Chelsea between Seventh and Sixth Avenues forms a transition between the largely low-rise residential areas to the west and the bulky lofts to the north and east historically associated with the garment industry. The area along Sixth Avenue, which here forms the eastern boundary of Board No. 4 south of 26th Street, is occupied between 23rd and 18th Streets by the grand old department stores of the Ladies' Mile Historic District, most of which are in the process of being restored and retenanted. Farther to the south some residential uses are found. The mostly old and handsome buildings along the Avenue must be protected by a more contextual zoning. The redevelopment of this area has created a context in which the blocks nearby seem open to new life. Westward toward Seventh Avenue lies an old loft area that has remained largely inactive during good and bad times alike except for changes toward commercial and residential uses. The significant number of vacant lots and parking garages here suggests an opportunity for affordable housing at a higher bulk without adversely affecting existing occupants or uses or the built environment.

Sixth Avenue. The historic buildings along Sixth Avenue south of 23rd Street, not all of which are within the Ladies' Mile Historic District, must be protected from the threat of the inappropriate enlargements that have been occasionally proposed. This can be accomplished by replacing the current zoning of C6-2M, appropriate for the uses, by the new contextual equivalent, C6-2AM, suitable to the bulk. This would connect with similar zoning on 14th and 23rd Streets. While the east side of the Avenue is within Board No. 5, this zoning would appear appropriate for both sides of this extraordinary historic streetscape. North of 23rd Street a proposal to rezone the M1-6 zone on the Avenue is currently undergoing environmental review. Board No. 4 has been critical of this proposal, believing this area is not homogeneous and that approaches like that proposed below would be more fruitful for the southern part of the area.

The old loft zone. The area between the hundred-foot lines of Sixth and Seventh Avenues north of 17th Street and both north and south of 23rd Street is an old manufacturing zone in which grandfathered residential buildings, commercial services, and residential uses in lofts are widely dispersed. Significant truly industrial uses are in general limited to a small number of buildings. Many of these and other buildings are not well maintained. In many streets there are large, bulky loft buildings that are not in conformance with the M1-5M mapped south of 23rd Street. These buildings, which are also found in the M1-6 district north of 23rd Street, establish a streetscape that is very different from that of the parts of Chelsea to the west.

South of 19th Street the character becomes different and significant activity is visible. At 18th Street comes a lower scale and, on the south side, a landmarked group of old stables for which the present bulk provides an appropriate context. 17th Street is dominated by the buildings of a well-known clothing store and by residentially converted lofts. The area to the north, however, has seen little development activity, except for residential and commercial conversions and a few special cases like the entrance of service organizations. Several applications for variances for residential buildings have been filed in the past. For years there have been many vacant lots, almost all of which are used for parking. The current zoning has clearly impeded the development that has occurred all around it.

East Chelsea Special Zoning

Overview. In this area, between the hundred-foot lines of Sixth and Seventh Avenues and north of the midline of 18th and 19th Streets and both north and south of the hundred-foot lines of 23rd Street up to the Board boundary at 26th Street, the Board sees an opportunity to provide economically-integrated housing on under-utilized sites without disturbing existing uses. These uses are in almost every case compatible with residential uses. Direct displacement of industrial uses could not occur under these proposals, and in the actual context significant indirect displacement would be unlikely. (The south boundary of the area has been moved south from 19th Street in the original plan in order to maximize eligible sites within the appropriate context.)

Proposals for housing. The Board proposes the following provisions (slightly restated from the first version of the plan) for this area which would allow as-of-right residential uses on certain sites. The present zoning would remain in force, but offering residential construction as an option.

1. The lot or lots that are to be developed are vacant or used exclusively for parking vehicles at the date of the adoption of this plan by Community Board No. 4.
2. The development will provide not less than 30 percent of its units for low- and moderate-income housing, either as a government or not-for-profit sponsored development or as a private development, constructed and operated on the basis of the Inclusionary Housing provisions for on-site new construction as adapted for this case, particularly in Sections 23-92, 23-94, and 23-941 as modified and expanded as required.
3. The proposed development meets bulk and design requirements based on those of R10A for wide streets, with a commercial overlay, perhaps required, on the ground floor to allow for commercial uses typically found in the area. These provisions would help maintain the loft-style streetwall character and the current mixed-use ambiance.

4. If the development is adjacent to a designated city landmark or historic district, the Landmarks Preservation Commission shall have certified that the development will have no adverse impact on the landmark or historic district.

These provisions, in effect a kind of optional R10A overlay with commercial uses on the ground floor, can be embodied in Special District regulations, as proposed in the first version of the plan, or in generic zoning that might prove a model for the treatment of similarly underutilized manufacturing districts elsewhere in the city. In particular the Board has suggested that these provisions might be adapted to the southern part of the area along Sixth Avenue to the north of 23rd Street that is now in CEQRA for rezoning as a better way of attaining the goals sought by that action and of reducing its adverse impacts.

Analysis of the East Chelsea Housing Proposals. The Board believes that these proposals would form the most effective and appropriate method within the parameters of the plan of producing a significant amount of new housing, and in particular of affordable housing. Only here, in the eastern portion of Chelsea, would the built environment, with many loft buildings, and the urban form of Chelsea permit under the principles of this plan tall buildings that would make a significant contribution to new housing of any kind. Since there are relatively few vacant lots in the rest of the study area, almost any new construction outside this area would mean direct displacement. Only here are there a significant number of vacant lots and buildings used only for parking--properties involving no significant displacement and the development of which would have the incidental desirable effect of working toward implementation of clean-air policies. The only direct displacement would be of parking businesses, which involve few jobs. Current uses are almost all essentially commercial or else producer services (business support services) of the types supporting the central business district that are discussed in the study Chelsea Today, Chelsea Tomorrow. These uses are compatible with residences, and the limitation of new residential development to strictly defined sites means that indirect displacement would be minimal.

To allow residential buildings on these East Chelsea sites without further specific provisions designed to ensure a significant proportion of affordable housing would in all probability produce mostly market-rate housing under most economic conditions. A residential overlay alone, even in the general presence of subsidy programs for affordable housing, would thus not meet the essential criterion of fitting new such housing into the fabric of the existing neighborhood. For this reason the Plan limits the residential option to subsidized housing or affordable housing cross-subsidized by market-rate housing on site. By incorporating zoning provisions that require permanence of the affordable units created the Plan avoids the recurring problem of the limited term of many subsidy programs and the resulting loss of affordable housing and community diversity.

The model for this zoning is the inclusionary housing provisions of the Zoning Resolution, which give an optional bulk bonus if low and moderate income housing is provided within a defined local area. These proposals offer a bulk bonus in the southern part of this East Chelsea area and what by analogy might be called a "use bonus" in all parts of this area on condition of providing affordable housing on site. The principle of restriction of options on the basis of defined current use of a site that is used in this plan is found in current zoning, particularly in mixed-use districts, as in the case of residential uses in loft districts, the provisions for expansion of manufacturing uses in residential districts, or the so-called "Dutch Kills" zoning. The restrictive declaration for Riverside South requires as an essential condition for residential development the provision of significant proportions of affordable housing on the site.

Linkage conditions requiring the provision of affordable housing as a condition for developing sites have been used in such jurisdictions as Jersey City, Boston, and San Francisco. In this plan, however, the existing underlying zoning remains and development under it is in no way restricted. A recent survey by the American Planning Association (Agenda for America's Communities. Topic: Housing, April 1994) lists a number of other relevant initiatives, notably in Virginia and particularly in the Washington suburban counties of Arlington and Fairfax. These provisions use a variety of incentives and restrictions to support developments providing affordable housing. Aspen, Colorado, has an affordable housing district exempting developers from many restrictions if they build no less than 70% deed-restricted affordable units.

The Board believes that its proposals are capable of providing a significant amount of new housing, of which a large proportion would be affordable housing. It appears from Appendix E that more units could be developed under these provisions and the soft sites available under the proposed zoning than on soft sites under current zoning. Units developed under these proposals, as has been stated, would not entail either direct replacement of or indirect pressure on any existing units and would provide, unlike ordinary redevelopment or conversion of sites elsewhere in Chelsea, affordable housing in an economically-integrated context.

The Board believes the provisions for private development in this area are realistic. The demand for housing in Manhattan is continually high and the supply of land available to meet it notoriously limited. Value of land in this area is low; indeed there have been almost no transactions or development, except for a handful of residential conversions and special cases. The area is becoming more attractive and visible as Sixth Avenue becomes a location for upscale discount shopping and a consciousness of its identity grows, commercially as the Flatiron District and historically as the Ladies' Mile. East Chelsea is better served than other parts of the community by transportation with subways under both Sixth and Seventh Avenues. The local tracks of the Sixth Avenue subway in particular are underutilized. Other residential infrastructure in this section of Chelsea is of approximately at the same level of

adequacy as elsewhere in the area, as has been recognized in the analyses for the Department of City Planning's proposals for rezoning of Sixth Avenue north of 23rd Street.

The combination of these factors means that housing in the area will be marketable and the option to build residential buildings on these sites will become attractive to developers if conditions are favorable for residential building in general. Inclusionary housing provisions, like those currently in the Zoning Resolution, depend on favorable market conditions to produce housing. In the last boom, when the first version of the plan was prepared, some small developers expressed interest in working under these proposals. Proposals that utilize private enterprise to achieve public goals are in harmony with present political thinking.

General subsidy programs supporting affordable housing, such as 80/20 housing, and other more narrowly-focused programs would make building under these provisions more feasible, especially under economic conditions less favorable to general residential construction. In order for such programs to be focussed in practice on a specific area like this, it must be capable of being distinctively characterized. Provisions like those proposed here, especially if presented as a model, would enable this. In addition, both public and private agencies are seeking locations for subsidized housing like that also allowed here, while Fair Share procedures could ensure that excessive concentration of such facilities for special populations would not come to prevent the economic and social integration that this plan seeks to maintain.

The Board is not wedded to details of these proposals, as whether the area should form a special district or be the subject of generic zoning provisions. Other details, like the commercial ground floor and the exact form of the inclusionary proposals, are deliberately left to be worked out in conjunction with the Department. It believes, however, that the general form of zoning proposals outlined here is the best means available to attain the goals it seeks and that they are in accordance with precedents used in New York City and elsewhere.

APPENDIX A
Analysis of Census Data

Population Trends

Chelsea's small population increase between 1980 and 1990, which is 1% less than the population in 1970, can be attributed to the increasing attractiveness of the neighborhood as a place to live and the simultaneous small increase in Chelsea's housing stock -- both new construction and the conversion of loft buildings for residential use. Generally, the greatest increase in population was measured in the areas of Chelsea which were most active in producing new housing units.

The Chelsea Study Area has a population of 41,432 people according to the 1990 census: an increase of 1.5% since 1980. This shows a reverse of the 2.6% decline in population that this area experienced from 1970-1980 and brings the population back to almost the 1970 level. This overall district change in population, however, does not appropriately represent the actual changes that occurred within individual census tracts. Certain tracts in this area had much greater variations in population. From 1980-1990, the change in population among census tracts ranged from a 9.4% increase in tract 97 (the area that extends from 26th to 30th Streets between Eighth and Tenth Avenues) to a 7.5% decrease in the population of tract 83 (the area that extends from 17th to 18th Streets between Eighth and Tenth Avenues). During this time period, tracts 81 and 87 (the area between Sixth and Eighth Avenues from 14th to 22nd Streets) also experienced large increases in population, 6.6% and 5.8%, respectively.

In comparison, the population of Manhattan and New York City decreased from 1970 to 1980 by 2.8% and 10.4%, respectively, while from 1980 to 1990 the population increased 4.1% in Manhattan and 3.6% citywide. Thus, the fluctuations in population experienced by Chelsea over the past two decades reflected those experienced by both the borough and the City.

TABLE 1
TOTAL POPULATION
1970 - 1990

Census Tract	1970 Population	1980 Population	% Change 1970-1980	1990 Population	% Change 1980-1990
81	6,972	7,098	1.8	7,570	6.7
83	4,309	3,884	-9.9	3,591	-7.5
87	5,154	4,740	-8.0	5,013	5.8
89	6,351	5,800	-8.7	5,611	-3.3
91	2,769	4,308	55.6	4,451	3.3
93	10,353	9,164	-11.3	8,920	-2.7
91	4,682	4,397	-6.1	4,809	9.4
103	1,336	1,428	6.9	1,467	2.7
Total	41,908	40,819	-2.6	41,432	1.5

Source: U.S. Census, 1970-1990

Race and Ethnicity

Chelsea's racial and ethnic composition has remained relatively constant over the past two decades. In 1990, approximately 68% of the residents were White, 21% Latino, and 7% African-American. From 1980 to 1990 Chelsea became slightly more white and less inclusive of minorities. While White residents increased by 2.4%, African-American and Latino residents decreased by 3.1% and 4.6%, respectively. These changes were contrary to those experienced by Manhattan and New York City as a whole. In Manhattan, from 1980 to 1990, White and African-American residents decreased by 1.6% and 2.7%, respectively, while the Latino residents increased by 2.5%. In New York City, from 1980 to 1990, Whites decreased by 9.2%, while African-Americans and Latinos increased by 1.2% and 4.5%, respectively.

Household and Age Composition

The average household size in Chelsea, in 1990, was 1.6 persons per household. This number is below both the Manhattan and New York City average of 2.5 persons per household. The median age in Chelsea, from 1980 to 1990, has remained constant at 38 years. It is, however, above both the Manhattan and New York City median ages, 35.9 years and 33.7 years, respectively. Across individual tracts, the median age in 1990 ranges from 35.7 to 48.9 years, which is narrowed from the 1980 range of 32.3 to 54.6 years.

The largest age cohort in Chelsea is 25 to 34 years, while the cohort of 35 to 44 years has seen the greatest increase over the past decade--53.6%. Over the past decade Chelsea has experienced a 25% decline in the number of families with children ages 5 to 19 years. Meanwhile, the number of residents under 5 years has increased 17%. This confirms anecdotal evidence that while there are fewer families with young children, the area is experiencing somewhat of a baby boom.

TABLE 2
AGE CHARACTERISTICS
1980 - 1990

Cohort	1980 Population	% of Total Population	1990 Population	% of Total Population	% Increase 1980-1990
Under 5	1,083	2.7	1,266	3.1	16.9
5 - 9	1,139	2.8	947	2.3	-16.9
10 - 14	1,271	3.1	994	2.4	-21.8
15 - 19	1,854	4.5	1,276	3.1	-31.2
20 - 24	3,499	8.6	2,801	6.8	-20.0
25 - 34	10,291	25.2	10,104	24.4	-1.8
35 - 44	5,676	13.9	8,721	21.1	53.7
45 - 54	4,544	11.1	4,992	12.1	9.9
55 - 64	4,370	10.7	3,823	9.2	-12.5
65 - 74	4,142	10.2	3,282	7.9	-20.8
75+	2,988	7.3	3,094	7.5	3.6
Total	40,819	100	41,432	100	1.5

Source: U.S. Census, 1980 - 1990

Median Income

The 1990 median income in Chelsea was \$31,600, 2% below the Manhattan median of \$32,262 and 6% above the median for New York City of \$29,823. The median income of census tracts 83 and 97, which contain much of Chelsea's four public-housing projects and a number of SRO's, was below that of both the borough and the city. The 1990 median income in Chelsea shows a dramatic increase of 133% from the 1980 figures, suggesting the progress of gentrification. In 1980, the median income of each census tract was drastically below both the borough and the city median income, the median

income of individual tracts ranging from \$10,618 to \$16,168, while the borough median was \$23,305 and the City's was \$23,221.

Housing Market Activity

From 1980 to 1990, the number of housing units in Chelsea increased by 2.3%. Tracts 87 and 89 (that is, from 18th to 22nd Streets between Sixth and Eighth Avenues), and Tract 97 (from 26th to 30th Streets between Eighth and Tenth Avenues) experienced the greatest growth in housing units, 20%, 10%, and 14%, respectively, which reflects new construction and some conversions. Tracts 91 (from 22nd to 26th Streets between Sixth and Eighth Avenues) and 103 (from 30th to 34th Streets between Eighth and Tenth Avenues) experienced the greatest loss of housing units, a 13% and 15% decrease, a loss of tenements, SRO's, and some residential lofts. From 1970 to 1980, the number of housing units in Chelsea increased by 6%. These figures reflect the trend of new construction of market-rate housing on the one hand and the loss of SRO and small low-rental buildings on the other. In some cases this has been the result of direct replacement.

The increases in the number of housing units in Chelsea were above the slight increase in New York City, but below Manhattan's increase of 10% from 1970-1980 and 4% from 1980-1990. However, the declining increase in the number of housing units in Chelsea over the past two decades is in keeping with the declining increase in Manhattan.

TABLE 3
YEAR ROUND HOUSING UNITS
1970 - 1990

Census Tract	1970 # of Units	1980 # of Units	% Increase 1970-1980	1990 # of Units	% Increase 1980-1990
81	4,170	4,744	13.8	4,897	3.2
83	1,800	1,815	.08	1,954	7.7
87	2,927	2,794	-4.5	3,344	19.7
89	3,254	3,175	-2.4	3,496	10.1
91	1,859	3,066	64.9	2,673	-12.8
93	6,063	5,719	-5.7	5,321	-7.0
97	2,453	2,517	2.6	2,868	14.0
103	847	1,032	21.8	882	-14.5
Total	23,373	24,862	6.4	25,435	2.3

Source: U.S. Census, 1980 - 1990

Public and Publicly-Aided Housing

Public and publicly-aided housing form a significant 23% of all housing stock in Chelsea. As of 1982, 5,786 of all housing units in Chelsea had been publicly assisted by some program. These programs take many different forms, including state tax exemption, public housing owned and managed by the New York City Housing Authority, various mortgage insurance programs, federal direct loan and rent subsidy programs and city loan and alternative management programs. This housing accounts for a significant part of the ethnic and economic diversity of Chelsea.

Penn Station South Houses ("Penn South"), a middle-income cooperative project with 2,820 units was completed in 1962. The project extends from 23rd Street to 30th Street between Eighth and Ninth Avenues and accounts for 11% of Chelsea's housing stock. Chelsea's four public housing projects contain 2,045 units of housing-- 8% of all housing in Chelsea. Elliott Houses, completed in 1947, was the first public-housing project developed in the Study Area. Chelsea Houses and Chelsea Houses Addition were completed in the mid-1960's. The three projects contain 1,129 units of housing. They are bounded by West 25th Street, Ninth Avenue, West 27th Street and Tenth Avenue. Fulton Houses, located in southwest Chelsea, was completed in 1965, contains 938 housing units, and is bounded by Ninth and Tenth Avenues between 16th and 19th Streets.

APPENDIX B
Landmarks and Historic Districts

Chelsea's character is largely defined by its historic building stock of residential and commercial/industrial architecture. This plan is designed to encourage preservation of these resources and provide them with an appropriate environment. A number of the buildings within the study area have been recognized through local and Federal/State designation and listing processes.

The following list represents the landmark properties and historic districts within the Study Area designated by the New York City Landmarks Preservation Commission (LPC) or listed on the National Register of Historic Places (NRHP) as of March 1994. All of them, and their contexts, are discussed in the text covering the area in which they are located.

Andrew Norwood House, 241 West 14th Street (LPC, NRHP).

New York Savings Bank (heard as Goldome Bank; now under renovation for the Central Carpet Co.), 301 West 14th Street (LPC).

New York House and School of Industry (now Young Adults Institute), 120 West 16th Street (LPC).

West 18th Street Stables, 126, 128, 130-132, 136, and 140 West 18th Street (LPC).

U.S. Post Office--Old Chelsea Branch, 217 West 18th Street (NRHP).

Hotel Chelsea (originally Chelsea Apartments), 222 West 23rd Street (LPC, NRHP).

West 24th Street Houses, 437-459 West 24th Street (LPC, NRHP).

Church of the Holy Apostles, 300 Ninth Avenue, at 28th Street (LPC, NRHP).

U.S. General Post Office (now James A. Farley Building), block bounded by Eighth and Ninth Avenues between 31st and 33rd Streets (LPC, NRHP).

Chelsea Historic District--including the Chelsea Historic District Extension (LPC, NRHP), shown on the zoning maps.

Ladies Mile Historic District (LPC), only the western edge of which, on the west side of Sixth Avenue between 18th and 23rd Streets, is included in the Study Area.

Source: Landmarks Preservation Commission
New York State Historic Preservation Office

APPENDIX C
Facilities and Services

Education

Chelsea is well provided with educational facilities. The Study Area is part of Community School District 2 and has a substantial number of underutilized school seats. Two elementary schools serve the area: P.S. 33, on Ninth Avenue between 26th and 27th Streets; and P.S. 11, on 21st Street between Eighth and Ninth Avenues. They have utilization rates of 59% and 61%, respectively. I.S. 70, a middle school, situated on 17th Street between Eighth and Ninth Avenues, has a utilization rate of 62%.

Although high schools serve students on a city-wide basis, there are three specialized high schools in the Study Area: Fashion Industries High School, on 24th Street between Seventh and Eighth Avenues; High School For the Humanities, on 18th Street between Eighth and Ninth Avenues; and Liberty High School, on 18th Street between Seventh and Eighth Avenues. A number of private and parochial schools are also located in Chelsea: Corlears School, Guardian Angel School, Hampton-Lakewood School, The Lorge School, St. Columbia School, and, just east of Sixth Avenue, St. Francis Xavier High School.

TABLE 4
SCHOOLS SERVING THE AREA

School/Address	Grades	Year Built	Enrollment	Capacity	Utilization
P.S. 33 281 Ninth Avenue	K-5	1951	393*	661	59%
P.S. 11 320 West 21st Street	K-5	1925	640**	1050	61%
I.S. 70 333 West 17th Street	6-9	1966	527	851	62%

* P.S. 33 enrollment figure also includes 39 special education students.

** P.S. 11 enrollment figure also includes 179 I.S. 17 students.

Source: Education Section, NYC Department of City Planning. Data as of October 1992.

Public Libraries

The Muhlenberg Branch Library is located on West 23rd Street, between Seventh and Eighth Avenues. From its central position, the library services most of the Study Area within its one-half mile radius

catchment zone. The Jefferson Market Library, on Sixth Avenue between Ninth and Tenth Street, services the southern end of the Study Area. It appears that the two libraries serving Chelsea can accommodate increases in local population.

Police and Fire Stations

The Chelsea Study Area cuts across three different police precincts. The 10th Precinct Police Station, on 20th Street between Seventh and Eighth Avenues, covers most of the Study Area west of Seventh Avenue. The 14th Midtown South Precinct, on 35th Street between Eighth and Ninth Avenues, and the 13th Precinct, on 21st Street between Second and Third Avenues, serve the northeast corner of Chelsea and the blocks between Sixth and Seventh Avenues, respectively.

There are three fire stations in or within close proximity of the Chelsea Study Area: Engine 3 Ladder 12, on 19th Street between Sixth and Seventh Avenues; Engine 34 Ladder 21, on 38th Street between Ninth and Tenth Avenues; and a rescue company on 18th Street between Fifth and Sixth Avenues.

Health and Social Services

Chelsea contains a variety of supporting services in the fields of health, day-care and recreation for children, adolescents and the elderly. For example, Hudson Guild Neighborhood House, almost a century old, provides the community with a variety of social programs for all age groups. The McBurney YMCA, on 23rd Street between Seventh and Eighth Avenues with a recently opened annex on 18th Street between Sixth and Seventh Avenues, serves a wide and varied population. There are senior centers in Fulton Houses and Penn South.

APPENDIX D
Recreation and Open Space

Community Board No. 4 ranks 57th out of 59 Boards in open space with .17 acres of space per 1000 residents instead of the standard city standard 1.5 acres. Chelsea has even less open space than Community Board 4 as a whole with .01 acres per 1000 population. This deficit, however, will be somewhat mitigated by the esplanade and park the Hudson River Park Conservancy plans to construct along the Hudson River edge throughout Chelsea. This Hudson River Park is scheduled to be supported in part by city capital funds in the long-range budget projections. It will incorporate the bikeway/walkway the Route 9A project will build as part of the new highway. A park node along the waterfront will be created by enlarging the present Thomas F. Smith Park at the west end of 23rd Street and incorporating Piers 62 through 64. The nearby Chelsea Piers project will provide active recreational opportunities and further water access.

While this proposed Hudson River Park and associated developments will safeguard the openness of the waterfront and provide active and passive recreation and green space in the community as a whole, the lack of open space within the historic residential area, which is at some distance from the waterfront, means that the replacement of low-rise buildings by higher buildings would significantly decrease the quality of life by the reduction of light and air. Chelsea would thus become a less attractive neighborhood.

It should be noted that the proposed residential development in the East Chelsea Special Zoning area would have a significant open space resource not listed in the following table since it is just outside the study area. This is Madison Square Park, which is located at 23rd Street and Fifth Avenue, one block to the east, at present not heavily used.

TABLE 5
PUBLICLY-ACCESSIBLE OPEN SPACE

Name or Address	Owner/Agency	Features	Acres	
Clement Clark Moore Park	NYC Dept. of Parks & Rec.	Playground equip., sitting areas	.47	
Chelsea Park	NYC Dept. of Parks & Rec.	Courts, sitting areas	.49	
Dr. Gertrude B. Kelly Park	NYC Dept. of Parks & Rec.	Playground equip., courts, sitting areas	.51	
427 West 17th Street (Fulton Houses)	NYC Housing Authority	Playground equip., courts, sitting areas	.96	
401-419 West 19th Street (Fulton Houses)	NYC Housing Authority	Playground equip., courts, sitting areas	.20	
Elliott/Chelsea Houses	NYC Housing Authority	Courts, sitting area	1.55	
Dr. Lena Baumgartner Health Center Plaza	NYC Dept. of Health	Sitting area	.37	
P.S. 11 Playground	NYC Board of Education	Playground equip., courts, sitting areas; accessible to public except during school hours	.43	
P.S. 33 Playground	NYC Board of Education	Playground equip.	.14	
Penn South Houses	28th Street	ILGWU, Inc.	Sitting areas, walkways	4.44
	26th Street	ILGWU, Inc.	Sitting areas	1.09
	23rd Street	ILGWU, Inc.	Sitting areas	.31
Thomas F. Smith Park	NYC Dept. of Transportation	Sitting areas	1.08	
Total Acreage			12.04	

Source: Department of City Planning

APPENDIX E
Soft Site Analysis and Potential Development;
Zoning Bulk Compliance and Use Conformance

Definition and Criteria for Selection of Soft Sites

A "soft site" is defined as a site that is considered likely to be redeveloped for a higher density use -- on the presumption that such redevelopment would maximize the site's economic return. A "hard site", by contrast, is not likely to be redeveloped. Analyses were undertaken to identify soft sites within the study area. The lots identified within the study area as soft sites possess *all* of the following physical characteristics:

- I. It is below 50% built-to-bulk (built below 50% of the maximum density presently allowed under the applicable zoning);
- II. It is at least 45 feet wide;
- III. It is either non-residential in use or it has fewer than six residential units;
- IV. It is not planned open space.

The Soft Site Analysis identified soft sites under the existing zoning and under the proposed zoning. The number of soft sites under existing and proposed zoning are represented in the two charts below as well as on the attached maps. We have also listed all soft sites under existing and proposed zoning by block and lot numbers.

NOTE: The assessed areas were grouped according to the proposed zoning: either R7A, R7B, R8A, R8B, and the R10A overlay in the East Chelsea Special District. This appeared to be the clearest basis for understanding the effect of the rezoning on the number of soft sites available under the existing and proposed conditions.

While the proposed zoning increases the potential amount of overall allowable residential floor area, a few sites that are soft under the existing zoning become hard under the proposed zoning. In particular, where the proposed zoning reduces the allowable FAR, some buildings that were below the 50% built-to-bulk ratio under the existing zoning now surpass 50% built-to-bulk. The East Chelsea Special Zoning area, covering much of the M1-5M and the M1-6 districts between Sixth and Seventh Avenues and permitting new residential development on sites that are vacant or contain parking lots or parking garages, ten new soft sites would be created.

The attached maps identify the soft sites under both existing and proposed zoning. Since the soft sites under both the existing and proposed zoning are arranged according to the proposed zoning, base maps with the proposed zoning are used for both cases.

TABLE 6
NUMBER OF SOFT SITES UNDER EXISTING ZONING

Proposed Zone	Currently Zoned as	# of Soft Sites
R7A	R8	0
R7B	R7-2, R8	5
R8A	R8, C6-2M	5
R8B	R8, C6-2M	17
R10A Overlay	M1-5M, M1-6	0
Total Soft Sites		27

Source: NYC Department of City Planning
Manhattan Community Board No. 4

Location of Soft Sites Under Existing Zoning by Block and Lot Numbers:

R7A	No sites	R8B	Block 716, Lot 7 Block 716, Lot 13 Block 716, Lot 57 Block 716, Lot 66 Block 717, Lot 5 Block 717, Lot 7 Block 738, Lot 10 Block 738, Lot 33 Block 738, Lot 54 Block 742, Lot 39 Block 743, Lot 47 Block 764, Lot 12 Block 768, Lot 12 Block 770, Lot 76 Block 771, Lot 29 Block 791, Lot 60 Block 791, Lot 72
R7B	Block 717, Lot 60 Block 717, Lot 77 Block 720, Lot 45 Block 743, Lot 70/72 Block 746, Lot 28		
R8A	Block 722, Lot 71 Block 772, Lot 47 Block 772, Lot 66 Block 772, Lot 72 Block 773, Lot 1		

TABLE 7
NUMBER OF SOFT SITES UNDER PROPOSED ZONING

Proposed Zone	# of Soft Sites
R7A	0
R7B	4
R8A	5
R8B	15
R10A Overlay	10
Total # Soft Sites	34

Source: NYC Department of City Planning
Manhattan Community Board No. 4

Location of Soft Sites Under Proposed Zoning by Block and Lot Numbers:

R7A	No sites	R8B	Block 716, Lot 7 Block 716, Lot 13 Block 716, Lot 57 Block 716, Lot 66 Block 717, Lot 5 Block 717, Lot 7 Block 738, Lot 33 Block 742, Lot 39 Block 743, Lot 47 Block 764, Lot 12 Block 768, Lot 12 Block 770, Lot 76 Block 771, Lot 29 Block 791, Lot 60 Block 791, Lot 72	R10 Overlay	Block 794, Lot 55 Block 795, Lot 1 Block 795, Lot 56 Block 796, Lots 48-53 Block 796, Lot 63 Block 797, Lot 7/9 Block 797, Lot 24 Block 797, Lot 74/75 Block 800, Lot 49 Block 800, Lot 71
R7B	Block 717, Lot 77 Block 720, Lot 45 Block 743, Lot 70/2 Block 746, Lot 28				
R8A	Block 722, Lot 57 Block 772, Lot 47 Block 772, Lot 66 Block 772, Lot 72 Block 773, Lot 1				

Housing Units Created in Potential Development Sites

The number of potential housing units permitted is a function of the soft sites that exist under the zoning. The rezoning proposed in the Chelsea Plan will permit the creation of more housing units than allowed under the existing zoning, by creating additional sites for residential development.

Overall, the proposed zoning will allow the development of 676 additional housing units; 2,260 housing units could be created under the proposed zoning, compared to the potential development of 1,584 units under the existing zoning. The following charts document the number of potential housing units permitted under the existing and proposed zoning. The lot groupings are identical to the soft site analysis. The number of units is based throughout on an average dwelling size of 800 square feet. This number is chosen as a reasonable floor area for affordable apartments. The proportions of affordable units allowable under the two zonings is, of course, not significantly altered by the choice of floor area.

TABLE 8
HOUSING UNITS PERMITTED UNDER EXISTING ZONING

Proposed Zone	Currently Zoned as	# of Units
R7B	R7-2, R8	373
R8A	R8, C6-2M	405
R8B	R8, C6-2M	806
Total # of Housing Units		1,584

Source: NYC Department of City Planning
Manhattan Community Board No. 4

TABLE 9
HOUSING UNITS PERMITTED UNDER PROPOSED ZONING

Proposed Zone	# of Units
R7B	160
R8A	380
R8B	471
R10A Overlay	1,249
Total Housing Units	2,260

Source: NYC Department of City Planning
Manhattan Community Board No. 4

In the western portion of the Study Area (zoned R7B, R8A, and R8B), the rezoning would reduce the potential number of housing units by 573. However, the optional R10A (10 FAR) overlay proposed for certain sites in the eastern portion of the Study Area would create 1,249 additional housing units. Furthermore, thirty percent of the units created in this area would be for low- and moderate-income housing. Because more units could be created, the proposed zoning would realize the goals of facilitating development and creating a significant amount of affordable housing. See Tables 10 and 11 for further analysis of housing units.

TABLE 10
NUMBER OF HOUSING UNITS PERMITTED UNDER EXISTING ZONING
BY BLOCK AND LOT

Proposed Zone	Block	Lot #	Existing Zoning	Existing FAR	Lot Dimensions		Lot Area	# of Units
					Width	Depth		
R7B	717	60	R7-2/R8	3.44/ 6.02	Irr.	Irr.	8,170	51
	717	77	R8	6.02	100	109	10,900	82
	720	45	R8	6.02	50	99	4,950	37
	743	70/72	R8	6.02	175.2	120	21,024	158
	746	28	R8	6.02	59.4	98.9	5,875	44
R8A	722	57	R8	6.02	170	98.9	16,813	127
	772	47	C6-2M	6.02	75	98.9	7,418	56
	772	66	C6-2M	6.02	49.4	98.9	4,886	37
	772	72	C6-2M	6.02	50	98.9	4,945	37
	773	1	C6-2	6.02	197.6	100	19,760	149
R8B	716	7	R8	6.02	50	92	4,600	35
	716	13	R8	6.02	91.8	92	8,446	64
	716	57	R8	6.02	100	92	9,200	69
	716	66	R8	6.02	100	63.8	6,380	48
	717	5	R8	6.02	Irr.	Irr.	3,800	29
	717	7	R8	6.02	50	92	4,600	35
	738	10	C6-2M	6.02	75	103.5	7,762	58
	738	33	C6-2M	6.02	45	125	5,625	64
	738	54	R8	6.02	50	103.3	5,165	39
	742	39	R8	6.02	69.8	104	7,259	55
	743	47	R8	6.02	80.6	125	10,075	76
	764	12	C6-2M	6.02	50	103.3	5,165	39
	768	12	C6-2M	6.02	45.6	90.4	4,122	31
	770	76	R8	6.02	50.1	108.5	5,436	41
	771	29	R8	6.02	50	98.9	4,945	37
	791	60	C6-2M	6.02	50	103.3	5,165	39
	791	72	C6-2M	6.02	62.6	103.3	6,467	49
Total:								1,584

Source: NYC Department of City Planning
 Manhattan Community Board No. 4

TABLE 11
NUMBER OF HOUSING UNITS PERMITTED UNDER PROPOSED ZONING
BY BLOCK AND LOT

Proposed Zone	Block	Lot #	Existing Zoning	Proposed FAR	Lot Dimensions		Lot Area	# of Units
					Width	Depth		
R7B	717	77	R8	3	100	109	10,900	41
	720	45	R8	3	50	99	4,950.00	19
	743	40/72	R8	3	175.2	120	21,024.00	79
	746	28	R8	3	59.4	98.9	5,874.66	22
R8A	722	57	R8	6.02	170	98.9	16,813.00	127
	772	47	C6-2M	6.02	75	98.9	7,417.50	56
	772	66	C6-2M	6.02	49.4	98.9	4,885.66	37
	772	72	C6-2M	6.02	50	98.9	4,945.00	37
	773	1	C6-2	6.02/4	197.6	100	19,760.00	124
R8B	716	7	R8	4	50	92	4,600.00	23
	716	13	R8	4	91.8	92	8,445.60	42
	716	57	R8	4	100	92	9,200.00	46
	716	66	R8	4	100	63.8	6,380.00	32
	717	5	R8	4	Irr.	Irr.	0.00	19
	717	7	R8	4	50	92	4,600.00	23
	738	33	C6-2M	4	45	125	5,625.00	43
	742	39	R8	4	69.8	104	7,259.20	36
	743	47	R8	4	80.6	125	10,075.00	50
	764	12	C6-2M	4	50	103.3	5,165.00	26
	768	12	C6-2M	4	45.6	90.4	4,122.24	21
	770	76	R8	4	50.1	108.5	5,435.85	27
	771	29	R8	4	50	98.9	4,945.00	25
	791	60	C6-2M	4	50	103.3	5,165.00	26
	791	72	C6-2M	4	62.6	103.3	6,466.58	32
R10A	794	55	M1-5M	10	130	100	13,000	163
	795	1	M1-5M	10	Irr.	Irr.	8,084	101
	795	56	M1-5M	10	43	92	3,956	49
	796	48-53	M1-5M	10	232	92	21,344	267
	796	63	M1-5M	10	89	92	8,188	102
	797	79	M1-5M	10	100	98.9	9,890	124
	797	24	M1-5M	10	95.11	98.9	9,406	118
	797	74/75	M1-5M	10	50	98.9	4,945	62
	800	49	M1-6	10	Irr.	Irr.	15,641	196
	800	71	M1-6	10	55	98.9	5,440	68
Total								2,260

Source: NYC Department of City Planning
 Manhattan Community Board No. 4

Zoning Bulk Compliance

The standard methodology used to determine whether a specific zoning designation is appropriate for an area is to consider the quantity of existing buildings that would comply with the bulk, streetwall and use requirements of the proposed zone. Data for streetwall compliance was weighted by total streetwall frontage of each lot, while FAR data was weighted by total square feet of lot size. Compliance data by number of buildings is also available upon request and, while less accurate as a whole, does not allow a few large buildings to outweigh the compliance of a large number of small buildings that represent a historic character in which the larger buildings are intrusions.

While compliance under the proposed zoning is somewhat reduced, it still remains high for each new zone. The following tables describe the percentages of complying buildings or lots under the existing and proposed zoning for those portions of the Study Area to be rezoned R7A, R7B, R8A and R8B. The lot groupings are identical to the soft site and housing unit analyses. The raw data on which these tables are based are available. .

**TABLE 12
BULK AND STREETWALL COMPLIANCE**

Area #1: R7A zone at Ninth Avenue between 16th and 21st Streets. (Part of Blocks 740-744)
1919 feet of streetwall. 94, 895 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)	Proposed Zoning: R7A (4.0 FAR)
Minimum Streetwall: None	Minimum Streetwall: 40'
Maximum Streetwall: 85'	Maximum Streetwall: 65'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1760	92	1130	59	630	33	159	8	1760	92	88,605	93	69,145	73

Area #2: R7A zone West of Eighth Avenue to West of Ninth Avenue between 22nd & 23rd Streets. Part of Blocks 720-746
1196 feet of streetwall. 98,801 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)	Proposed Zoning: R7A (4.0 FAR)
Minimum Streetwall: None	Minimum Streetwall: 40'
Maximum Streetwall: 85'	Maximum Streetwall: 65'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1099	92	744	62	180	15	272	23	924	77	81,773	83	74,423	75

Area #3: R7B zone East of Tenth Avenue Between 24th and 25th Streets (Part of Block 722)
 674 feet of streetwall. 46,942 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R7B (3.0 FAR)
 Minimum Streetwall: 40'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square ft)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
674	100	416	62	258	38	0	0	674	100	46,942	100	46,942	100

Area #4: R7B zone West of Eighth to Tenth Avenues from 16th to 23rd Streets. (Part of Blocks 717-720 & 740-746)
 13,374 feet of streetwall. 1,178,239 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R7B (3.0 FAR)
 Minimum Streetwall: 40'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Compliance (square feet)		Compliance (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
12,329	92	10,439	78	1293	10	1643	12	11732	87	1,074,159	91	814931	69

Area #5: R8A zone from 23rd to 25th Streets from Ninth to Tenth Avenues. (Part of Blocks 721 & 722)
 3308 feet of streetwall. 268,778 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8A (6.02 FAR)
 Minimum Streetwall: 60'
 Maximum Streetwall: 85'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1162	35	586	18	576	17	2146	65	1162	35	95,528	36	95,528	36

Area #6: R8A zone West of Eighth to Tenth Avenues from 16th to 23rd Streets. (Part of Blocks 717-720 & 740-746)
 4886 feet of streetwall. 299,410 square feet of lot area.

Existing Zoning: C6-2 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8A (6.02 FAR)
 Minimum Streetwall: 60'
 Maximum Streetwall: 85'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
3867	79	1556	32	2311	47	1019	21	3867	79	214,676	72	214,676	72

Area #7: R8A zone East of Tenth Avenue between 18th and 19th Streets. (Part of Blocks 716-17)
 1341 feet of streetwall. 97,517 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8A (6.02 FAR)
 Minimum Streetwall: 60'
 Maximum Streetwall: 85'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1291	96	245	19	1016	78	50	3	1291	96	97,517	100	97,517	100

Area #8: R8B zone West of Sixth Avenue between Fourteenth and Sixteenth Streets. (Part of Blocks 790-92)
 2380 feet of streetwall. 239,470 square feet of lot area.

Existing Zoning: C6-2 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8B (4.0 FAR)
 Minimum Streetwall: 55'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
2270	95	904	38	771	32	705	30	1675	70	215,780	90	114,479	48

Area #9: R8B zone from 23rd to 25th Streets from Seventh to Eighth Avenue. (Part of Blocks 773-74)
 1902 feet of streetwall. 177,965 square feet of lot area.

Existing Zoning: C6-2 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8B (4.0 FAR)
 Minimum Streetwall: 55'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1188	62	593	31	453	24	856	45	1046	55	127,079	71	94,470	53

Area #10: R8B from 29th to 30th Streets from Eighth to Ninth Avenues. (Part of Blocks 753-54)
 2102 feet of streetwall. 198,628 square feet of lot area

Existing Zoning: C6-2 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8B (4.0 FAR)
 Minimum Streetwall: 55'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1784	85	346	16	1372	65	384	18	1718	82	165,958	84	136,456	69

Area #11: R8B Zone from 14th to 22nd Streets from Seventh to Eighth Avenues. (Part of Blocks 738, 740-46, & 764-72)
 15,153 feet of streetwall. 1,153,317 square feet of lot area.

Existing Zoning: R8 (6.02 FAR)
 Minimum Streetwall: None
 Maximum Streetwall: 85'

Proposed Zoning: R8B (4.0 FAR)
 Minimum Streetwall: 55'
 Maximum Streetwall: 60'

STREETWALL										BULK			
Existing Zoning		Proposed Zoning								Existing Zoning		Proposed Zoning	
Complying (feet)		Complying (feet)		Below Minimum (feet)		Above Maximum (feet)		Below Maximum (feet)		Complying (square feet)		Complying (square feet)	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
14,643	97	6116	40	6789	45	2248	15	12,905	85	1,113,013	97	778,252	67

Source: NYC Department of City Planning
 Manhattan Community Board No. 4

Use Conformance Analysis

There are three areas where the plan proposes changes from commercial to residential zoning. In these, commercial uses that are in conformance with existing zoning would be in non-conformance under the proposed zoning, except where they would be allowed in commercial overlays. One area is the proposed R8A zone that runs along Seventh Avenue between 19th and 23rd Street, and along 23rd Street from Seventh to Ninth Avenue. The second area is the proposed R8X zone along Seventh Avenue between 14th and 17th Streets. The final area is the proposed R8B zone along 14th Street between Seventh and Ninth Avenue.

Under the existing zoning in these areas, fully commercial buildings, fully residential buildings, community facility buildings, and mixed use buildings are permitted. Therefore, under the existing zoning, all current uses are conforming, and conformance is 100%. Under the proposed zoning, pursuant to Section 32-421 of the Zoning Resolution, in mixed use buildings used partially for residential or community facility uses, permitted commercial uses may not be located above the first story. Also, under the proposed zoning, no more than 2.0 FAR of commercial uses may be located in any building. Therefore, all commercial uses above the ground floor in mixed use buildings and all commercial uses above the second floor in fully commercial buildings would be legally non-conforming under the proposed zoning.

Table 13, which follows, indicates use conformance under proposed zoning in the three areas.

TABLE 13
USE CONFORMANCE IN CERTAIN AREAS UNDER PROPOSED ZONING

Area #1: 23rd Street and Seventh Avenue

Existing zoning: C6-2, C6-2M, C6-3X Proposed Zoning: R8A with commercial overlay

Type	Category	Total	Conforming #	Conforming %
Fully Commercial Buildings	Buildings	3	1	33
	Total Floor Area (square ft)	46,357	14,610	32
Mixed Use Buildings	Buildings	57	46	80
	Commercial Floor Area (square ft)	238,285	85,853	36
	Total Floor Area (square ft)	1,772,470	1,620,038	91
Community Facility Buildings	Buildings	2	2	100
	Total Floor Area (square ft)	141,997	141,997	100
All Buildings	Buildings	62	49	79
	Commercial Floor Area (square ft)	284,642	100,463	35
	Total Floor Area (square ft)	1,818,827	1,634,648	90

Area #2: 7th Avenue

Existing Zoning: C6-2M Proposed Zoning: R8X

N.B. All buildings in this area are mixed use buildings.

Category	Total	Conforming #	Conforming %
Buildings	14	10	71
Commercial Floor Area (Square feet)	140,583	104,284	74
Total Floor Area (Square feet)	1,315,569	1,279,270	97

Area #3: 14th Street

Existing Zoning: C6-2M Proposed Zoning: R8B

Type	Category	Total	Conforming #	Conforming %
Fully Commercial Buildings	Buildings	3	1	33
	Total Floor Area (Square feet)	173,725	36,493	21
Mixed Use Buildings	Buildings	21	20	95
	Commercial Floor Area (Square feet)	95,292	92,422	97
	Total Floor Area (Square feet)	371,017	368,147	99
Residential Buildings	Buildings	9	9	100
	Total Floor Area (Square feet)	82,667	82,667	100
Community Facility Buildings	Buildings	3	3	100
	Total Floor Area (Square feet)	34,900	34,900	100
All Buildings	Buildings	36	33	92
	Commercial Floor Area (Square feet)	269,017	128,915	48
	Total Floor Area (Square feet)	662,309	522,207	79

Source: NYC Department of City Planning
Manhattan Community Board No. 422

APPENDIX F
Consistency with Wider City Goals

Conformance with Sound Planning Policy

The Chelsea Plan has been concerned throughout with long-term consequences, as is shown by the concentration on the impact of long-term land-use issues governed by zoning on a community. The provisions for rezoning focus on preserving the present low-income housing stock, on providing opportunities for appropriate development and affordable housing, and on improving the physical environment by preserving a community and its historic buildings through rezoning. The maintenance of economic opportunities is evident in the provision of commercial space through overlays and other appropriate zoning wherever commercial activity is viable in this dominantly residential area. Care has explicitly been taken not to diminish or impinge on any manufacturing zoning, which provides jobs and opportunities for residents of the area and others.

Relationship to Applicable Policy Documents

The Chelsea 197-a Plan is consistent with goals set forth in the following planning policy documents produced by the City of New York: the City Planning Commission's Planning and Zoning Report; the Strategic Policy Statements issued by both the Mayor and the Manhattan Borough President, and the Mayor's Ten-Year Capital Strategy.

As a community-sponsored 197-a plan, the rezoning proposal is consistent with both Strategic Policy Statements and with the Planning and Zoning Report, which all support locally-initiated plans as a mechanism to empower communities and involve them in a proactive planning process. The most recent Mayor's Strategic Policy Statement emphasized such goals of the Chelsea Plan as producing and preserving affordable housing, strengthening neighborhoods through coordinated planning, using innovative techniques to encourage private developers to add to the stock of affordable housing, and using contextual zoning to protect neighborhood scale and character. The Manhattan Borough President's Strategic Policy Statement notes her commitment to strengthening public involvement through community-based planning, cites her efforts to redirect zoning and land-use policy to foster greater social and economic equity and improved protection of the environment, and affirms her support of planning designed to avoid displacement caused by gentrification, to encourage economic as well as racial/ethnic integration, and to preserve neighborhood context while providing opportunities for new housing.

The Planning and Zoning Report acknowledges the importance of reinforcing neighborhood fabric while accommodating opportunities to create new housing. The Commission is also cited as committed to scale zoning so as to preserve neighborhoods and to expand opportunities for rehabilitated housing. Related issues cited in the Report are the inappropriate mapping of commercial overlays and the obsolete mapping of commercial

districts, and the need to address quality of life issues and preserve neighborhood streetscapes through zoning. The creation of housing -- especially low-income housing -- is emphasized in this document and the Mayor's Ten-Year Capital Strategy. The Chelsea 197-a Plan balances the community's desire to preserve neighborhood scale and character against the citywide need for the development of new housing. By mapping contextual zones at appropriate densities and creating opportunities for development the rezoning would encourage new residential development in appropriate locations.

The Manhattan Borough President's Strategic Policy Statement recognizes the potential of zoning as a tool for preserving, stabilizing and strengthening communities. According to City Planning's Planning and Zoning Report, accommodating change in built-up neighborhoods, while maintaining the qualities that make neighborhoods desirable, is one of the major challenges in shaping the City's land use policies. Thus the Planning and Zoning Report indicates that sound planning seeks to weave new development into the fabric of a community at an appropriate scale, and at densities suitable to the available infrastructure. Recognizing that Quality Housing Zoning codifies certain physical characteristics -- housing type, lot size, yards, and height -- that form the built fabric of a neighborhood, the Report mandates similar development in the future. The proposed community-wide contextual zoning would be an effective tool in realizing these goals.

With regard to the Plan's goals of preserving the existing stock of affordable housing and providing new, the Manhattan Borough President's Strategic Policy Statement notes that New York City is experiencing a housing crisis of staggering proportions, affecting large numbers of middle-, moderate- and low-income families. The Mayor's Ten Year Capital Strategy, cites the need for affordable housing in New York City, and notes that the City is currently operating under a \$5.1 billion Ten-Year Housing Plan. Furthermore, the Strategy calls for producing more than 250,000 units of low-, moderate- and middle-income housing.

All of these policy documents state that new development opportunities should enhance the ethnic and economic diversity in our City's neighborhoods. The Planning and Zoning Report recognizes the need for a comprehensive inclusionary program to promote the economic integration of communities. Chelsea's diversity is reflected in its existing housing stock, which includes a mix of low-, moderate-, middle- and market-rate housing. The Chelsea rezoning plan would preserve this diversity by promoting the retention of existing housing and would reinforce it by providing new development opportunities for both market-rate and subsidized housing, using inclusionary-housing provisions to attain these goals.

Fair Geographic Distribution of City Facilities (Fair Share)

Analysis of the zoning shows that the Chelsea rezoning would not hinder the City's Fair Share policies. The rezoning of a few specified areas from commercial to residential districts will preclude the siting of some city facilities, such as offices and transportation/public parking facilities. However, it will not adversely affect the fair distribution of these city facilities to Chelsea because Chelsea presently contains many city facilities. For many types of facilities such as Sanitation facilities the Board ranks high in city listings. Alternative sites in the remaining commercial and manufacturing districts in Chelsea in and out of the Study Area. will remain available to locate such facilities, and many city facilities can be located in the proposed extended residential zones. The small residential facilities that current thinking regards as preferable for many populations can more easily be located in the proposed lower-density zoning. These proposed residential zones would permit those facilities included in Use Groups 3 and 4 of the Zoning Resolution; e.g., welfare centers, homeless shelters and drug rehabilitation centers. (See attached lists: *Community Facility Uses*; and *Public and Private Facilities in Manhattan Community Board No. 4*.)

Although the rezoning will remove a few opportunities for siting city facilities in Chelsea, it will also create new opportunities for siting facilities that do not currently exist. For example, in an effort to meet a citywide need for affordable housing, the new residential development targeted for East Chelsea is mandated to provide 30% low- and moderate-income housing and is explicitly designed to provide locations for subsidized housing developments. If low- and moderate-income units were sponsored by the City, this rezoning would facilitate the siting of these affordable units.

Community Facility Uses

Community facilities are not defined in the Zoning Resolution. Instead, a list of uses are provided that divide community facilities into two categories, Use Groups 3 and 4.

Use Group 3 can be characterized as institutionally oriented and in many cases permits sleeping accommodations. These uses include:

Community Facility Uses

- *Colleges or universities including professional schools but excludes business colleges and trade schools
- *College or school dormitories or fraternity or sorority houses
- *Adult homes under jurisdiction of New York Board or Social Welfare
- *Libraries, museums, or non-commercial art galleries
- *Monasteries, convents or noviates
- *Non-profit hospital staff dwellings
- *Nursing homes and health-related facilities, sanitariums, non-profit institutions with sleeping accommodations

- *Schools

Accessory uses

Use Group 4 can be characterized as community oriented, some open uses and do not permit sleeping accommodations. These uses include:

Community Facility Uses

- *Churches, rectories and parish houses
- *Non-commercial clubs
- *Community center or settlement houses
- *Government-operated health centers or independent out-of-hospital facilities
- *Medical offices or group medical centers including dentistry or osteopathy limited to the first story
- *Monasteries, convents, noviates used only for living purposes and that have been part of a religious institution prior to 1961
- *Non-commercial recreation centers
- *Non-profit hospital staff dwellings
- *Non-profit or voluntary hospitals and related facilities
- *Philanthropic or non-profit institutions without sleeping accommodations
- *Proprietary hospitals and related facilities, except animal hospitals
- *Seminaries
- *Welfare centers

Open uses

- *Agriculture uses
- *Cemeteries
- *Golf courses
- *Outdoor tennis courts
- *Public parks or playgrounds or private parks
- *Railroad or transit right-of-way

Accessory uses

Public and Private Facilities in Manhattan Community Board No. 4

City Facilities in Manhattan Community Board No. 4

Detention/Criminal Justice facilities

- ** Alternative to Detention Center (youth) - 147-49 West 22nd St.

Police

Midtown South Precinct - 357 West 35th Street

- ** 10th Precinct - 230 West 20th Street

Troop B Mounted Unit - 625 West 42nd Street

Midtown North Precinct - 306 West 54th Street

Fire

Engine Company #34, Ladder #21 - 440 West 38th Street

- ** Engine #3, Ladder 12, Battalion #7 - 146 West 19th Street

Rescue Company 1 - 530 West 43rd Street

Fire Marshall Base - 522 West 45th Street

Sanitation

Citywide Auxiliary Field Force - Pier 59

Manhattan Borough Repair Shop - currently at 613-619 W. 29th St., to be moved to 164-180 12th Avenue

- ** Sanitation Field Office - 136-146 W. 20th Street

- ** Sanitation Field Office - 218 W. 17th Street

Pier 97 and extending upland to 786 12th Avenue (650 W. 57th Street) - outdoor parking

Pier 99 - Solid Waste Transfer Station

Public Schools

- ** P.S. 11 - 320-340 West 21st Street
- ** P.S. 33 - 281 Ninth Avenue
- P.S. 51 - 520 West 45th Street
- P.S. 111 - 440 West 53rd Street
- P.S. 58 - 317 West 52nd Street
- ** I.S. 70 - 330 West 17th Street
- JHS 17 - 328 West 48th Street
- ** Fashion Industries HS - 225 West 24th Street
- ** HS of the Humanities - 351 West 18th Street
- HS of Communication and Graphic Arts - 439 West 49th St.
- ** Liberty HS - 250 West 18th Street
- Park West High School - 525 West 50th Street

Social Service

- ** Chelsea Health Center - 303 Ninth Avenue - health services, run by Dept. of Health
- 330 West 34th Street - HRA/Division of AIDS Services offices with caseworkers seeing clients

Parks and Gardens

- Clinton Community Garden - 430-43 West 48th Street
- Community Garden 722 11th Avenue
- ** Chelsea Park - 294 10th Avenue
- DeWitt Clinton Park - W. 52-54 Streets, 11th - 12th Aves.
- ** Clement Clark Moore Park - 480-82 West 22nd Street
- ** Gertrude B. Kelly Playground - 317 West 16th Street
- May Matthews Playground - 437-43 West 45th Street

McCaffrey Playground - 341-355 West 43rd Street

Hell's Kitchen Park - 10th Avenue, 47-48th Streets

** Penn South Playground - 313 8th Avenue

Ramon Aponte Park - 345-349 West 47th Street

Libraries

** Muhlenberg Library - 209 West 23rd Street

Columbus Library - 742 10th Avenue

The Annex Building - 521 West 43rd Street

City Agency Parking Facilities

Pier 60 - parking for Dept. of Transportation

Pier 76 - Parking for Dept. of Transportation

Pier 79 - Parking for NYPD

496 11th Avenue - Outdoor parking/NYPD

260 11th Avenue - outdoor parking/HRA

806-14 9th Avenue - indoor parking/MTA

522 West 45th Street - outdoor parking/DOT

Public Housing

** Robert Fulton Houses - 16th-20th Streets, 9th-10th Avenue

** Elliott-Chelsea Houses, Chelsea Addition - 25th-28th, 9th-10th Avenues

Harborview Terraces - 54th-56th Streets, 10th-11th Avenues

Other City Offices

Mayor's Office of Midtown Enforcement - 330 West 42nd St.

Dept. of Transportation field office - 601 West 50th St.

Group Residences for Special Needs Populations

- ** ACRMD facility at 333 W. 14th Street - Residence for 6 developmentally disabled and retarded adults
- ** Fleming House - 443 West 22nd Street - Residence for approximately 40 frail elderly
- ** Covenant House, Rights of Passage - 346 W. 17th Street - Long term residence, counseling and training programs for homeless youth
- ** Young Adult Institute - 120 W. 16th St. - residence for mentally retarded youth
- ** The Associated Blind - 135 W. 23rd St.
Clinton Gardens - 404 W. 54th Street - residence for seniors with on-site social services
- ** St. Zita's Village - 143 W. 14th Street - 46 beds for senior women
- ** Sisters of the Good Shepherd - 251 W. 14th Street - residence for 25 senior women
- ** Daytop Village - 226 W. 20th Street - supportive housing for seniors (65 beds)
- ** Bowery Mission - 218 W. 15th Street - home for 12-20 female ex-prostitutes and drug addicts
- ** Project Return - 133 W. 21st St. - residential and outpatient drug treatment programs
- ** St. Francis II - 155 W. 22nd St. - permanent SRO with 112 units for mentally ill
- ** St. Francis III - 148 8th Avenue (at 17th St.) - permanent SRO for mentally ill, 80 people
- ** (Planned) Volunteers of America - 226-228 West 20th St. - residence for formerly homeless PWAs
- ** (Planned) American Baptist Churches and Settlement Housing Fund - 527-531 W. 22nd Street residence for 50 formerly homeless PWAs.
454-458 West 35th Street (planned) - mixed 49 supported SRO residence for formerly homeless and low income individuals including the mentally ill
Fountain House Residence - 347 West 37th street - permanent and transitional housing for 39 homeless mentally ill
Urban Pathways' Sun Hotel - 606 8th Avenue - permanent residence for 42 mentally ill homeless women, psych, medical, counseling and other services provided onsite
Contemporary Guidance Services - 440 West 41st Street - Permanent Housing for 12 developmentally disabled adults

Holland Hotel - 351 West 42nd Street - Approved permanent housing for 296 homeless individuals including, 40 mentally ill, 40 with AIDS and 216 recovered substance abusers

Manhattan Plaza Complex - 9th to 10th Avenues, 42nd to 43rd Street, scattered site housing for 4 individuals with AIDS

Manhattan Plaza Complex - 9th to 10th Avenues, 42nd to 43rd Street, scattered site housing for 4 developmentally disabled adults

Times Square Hotel, 43rd Street and 8th Avenue - permanent housing for 650 individuals including 200 current SRO residents, 50 homeless with AIDS, 200 homeless and 200 working homeless to be referred by local unions

Samaritan Village - 327 West 43rd Street (to open in 1993) - Residential treatment center for 52 substance abusers

Fountain House Apartments - 424 West 47th Street - permanent housing for 33 mentally ill adults

Fountain House's Wanake Residence - 359 West 47th Street - Transitional housing for 36 homeless, mentally ill adults

Fountain House - 425 West 47th, residence for 24 mentally ill

Fountain House's Independent Living Center - 441 West 47th Street - permanent housing for 19 mentally ill adults

Fountain House permanent housing for 18 mentally ill adults, in scattered apartments within a one block radius from 425 West 47th Street

Independent Living Association (ILA) - 317 West 48th Street - planned single family residence for 14 developmentally disabled adults

Salvation Army Adult Rehabilitation - 535 West 48th Street - Residential treatment center for 192 substance abusers, job training, counseling, medical and referral services. Work program at 536 West 46th Street.

Postgraduate Center - 516-518 West 50th Street - Permanent housing for 20 mentally ill

Hannah House - 343 West 51st Street - residence for 2 senior citizen homeless women, and transitional housing for 16 women in the 20's

St. Clare's AIDS Hospice - 426 West 52nd Street - residence for 11 individuals with AIDS

NY Foundation for Senior Citizens - 54th Street between 9th and 10th Avenues - approved permanent residence for 100 frail, and well, elderly including social services on site

Fountain House - 300 West 55th Street - Residence for 5 mentally ill

Temporary Residences and Shelters for Homeless

Shelter for 9 battered women - to protect the women, address in Clinton cannot be disclosed

** Allerton Hotel - 302 W. 22nd St. Tier II facility (200 people)

** Allerton Annex 350 West 23rd St. - Hotel

Covenant House - 460 West 41st Street - transitional housing for 160 teens, counseling, schooling and referral

Urban Pathways' Travelers Hotel, 274 West 40th (8th Avenue) -- Transitional housing for 36 homeless women, food pantry, medical, psych and other social services

The Dwelling Place, 409 West 40th Street - Shelter for 24 homeless women

Covenant House, 460 West 41st Street - Transitional housing for 160 homeless teens (including teen mothers and children)

Red Cross Emergency Family Center - 515 West 41st Street - Transitional housing for 294 women and children

Center for Children and Families (Safe Space) - 447 West 47th Street - Approved transitional housing for 15 homeless teens testing HIV positive

Manhattan Bowery - 448 West 48th Street - Transitional housing for 57 homeless mentally ill

Homes for the Homeless aka Midtown Interfaith Family Inn - 521 West 49th Street - transitional residence for 83 mothers with children

St. Paul's House - 335 West 51st Street - Shelter for 10 men, food pantry, clothing counseling and referral services 7 days a week

Alexandra Abrams House (Women In Need WIN) - 341 West 51st Street - Transitional housing for 75 women and children, medical, counseling and referral services

Covenant House Residence aka Rites of Passage - 427 West 52nd Street - Transitional housing for 68 teen mothers and children

Trinity Presbyterian Church (and Partnership for the Homeless) - 422 West 57th -shelter for 6 men

St. Paul's Church (and Partnership for the Homeless) - 415 West 59th St. - shelter for 10 men

Drug and Alcoholism Treatment Programs:

- ** Greenwich House - 151 W. 19th Street - Outpatient alcohol treatment program
- St. Clare's AIDS Outpatient and Methadone Clinic - 426 W. 52nd Street
- St. Luke's Methadone Clinic 400 W. 59th Street - outpatient clinic for adults
- St. Luke's Alcohol Clinic - 353 W. 57th St. - outpatient clinic for adults
- ACGA - 333 West 57th Street -- Approved outpatient clinic for 70 substance abusers
- Richard Koepfel Methadone Treatment Program - 311 West 35th St. - methadone clinic for approximately 1000 individuals with heroin addiction
- WIN Substance Abuse Center - 406 West 40th Street services for 40-50 women with alcohol substance abuse problems including medical, psychiatric, job training and other social services
- Salvation Army - 536 West 46th - work program for residents from West 48th Street residential treatment center for alcohol substance abuse
- Beth Israel's Marie Nyswander Center - 721 9th Avenue (49th St.) - methadone program for 175 substance abusers
- National Recovery Institute (formerly Veritas Therapeutic Community) - 455 West 50th Street - Residential treatment facility for 80 substance abusers
- National Recovery Institute a/k/a Veritas Therapeutic Community - 458 West 50th Street - outpatient therapy
- AREBA Casriel - 500 West 57th Street - Residential treatment center for 80 substance abusers
- Barnett Association - 330 West 58th Street - drug treatment outpatient for adults
- Smithers Alcoholic Treatment Center - 410 West 58th Street - residential treatment/rehab for 43 adults

Food and Basic Services for Homeless and other Poor:

- ** Peter's Place - 123 W. 23rd Street - drop-in center for homeless
- ** Church of the Holy Apostle - 296 Ninth Avenue - soup kitchen
- ** Our Lady of Guadalupe - 229 W. 14th St. - soup kitchen
- ** St. Peter's Episcopal Church - 346 W. 20th St. - food pantry and clothing distribution

Metro Baptist Church - 410 West 40th Street - food kitchen for 42 adults

Manhattan Bowery and Partnership for the Homeless - Port Authority Bus Terminal South Wing at 41st and 9th Avenue - Walk in center offering referral services to 40/day homeless individuals

Times Square Church "Upper Room" - SW corner of 41st Street and 8th Avenue -drop in center

Times Square Church, "The Raven" Soup Kitchen - traveling soup kitchen, one major site is the Port Authority Bus Terminal

Urban Pathways' Open Door - 402 West 41st St. - walk in center for 175 homeless offering food, counseling, medical, and other social services

7th Day Adventists - 410 West 45th Street - food kitchen

St. Luke's Church - 308 West 46th Street - food kitchen, sanctuary for battered women and children, clothing

Sacred Heart Church - 457 West 51st - food kitchen

Counseling and Referral Services:

- ** Our House at St. Peter's Episcopal Church - 346 W. 20th St. - advocacy, counseling, referrals and medical care for youth and adults
 - ** GMHC - 129 W. 20th Street
 - ** AIDS Family Service of NY - 150 W. 26th Street
 - ** AIDS Resource Center - 275 Seventh Ave.
 - ** Puerto Rican Family Institute - 145 W. 15th Street - preventive and mental health services to Latino children and families at risk of placement in foster care
 - ** Federation of the Handicapped - 211 W. 14th Street - vocational education, counseling, etc. to emotionally and developmentally disabled and substance abusers
 - ** Veterans Assistance Center - 252 7th Avenue - job placement assistance for veterans and other eligibles
 - ** Center for Employment Training - 346 W. 17th St.
 - ** Committee for Hispanic Children and Families - 140 W. 22nd St. - day care, training and referral services
- Postgraduate Center - 344 West 36th Street - clinic for the mentally ill, membership

between 450-500 with approximately 200-300/day coming to clinic

Manhattan Bowery Medical/psych outreach van - one major site is the Port Authority Bus Terminal

Project Help - 450 West 48th Street - day facility for 25 homeless mentally ill adults offering medical/psych, counseling, and other social services

Covenant House's teenage outreach van - one major site is the Port Authority Bus Terminal

Fountain House "Club House" - 425 West 47th Street - center offering services to 380/daily, domiciled and homeless mentally ill including counseling, job training and social center. Total membership is approximately 800 individuals.

Rheedlen Place - 457 West 51st Street - medical, psychiatric care, job training, counseling and referral services to families

Westside Health Clinic - 789 9th Avenue - walk-in clinic offering medical and psychiatric help to youth

St. Lukes/Roosevelt Hospital - 428 W. 59th St. - onsite outpatient clinic for the mentally ill offering services to adults daily

Senior Citizen Services:

** Fulton Senior Center - 119 Ninth Avenue - Food and recreation programs, home care evaluations and services

** Penn South Senior Center - 290 Ninth Avenue - programs for seniors

Project Find/Coffeehouse - 551 Ninth Avenue

Project Find Clinton Senior Center - 530 W. 55th Street - lunch and recreation

Crossroads at St. Luke's - 306 W. 46th Street - lunch and recreation

Multi-service Centers:

** Hudson Guild - 441 West 26th Street

** McBurney YMCA - 215 West 23rd Street

Hartley House - 413 West 46th Street

Day Care and Headstart Centers:
(funded by Agency for Child Development)

- ** Hudson Guild - 441 W. 26th Street
- Children's DCC - JHS 17 - 328 W. 48th St.
- Polly Dodge Center - 538 W. 55th
- Hartley House - 413 W. 46th St.
- American Red Cross - 515 W. 41st St.

(Headstart)

Plaza Headstart - 410 W. 40th St.

- ** Hudson Guild Headstart - 459 and 441 W. 26th St.

Correctional Facility:

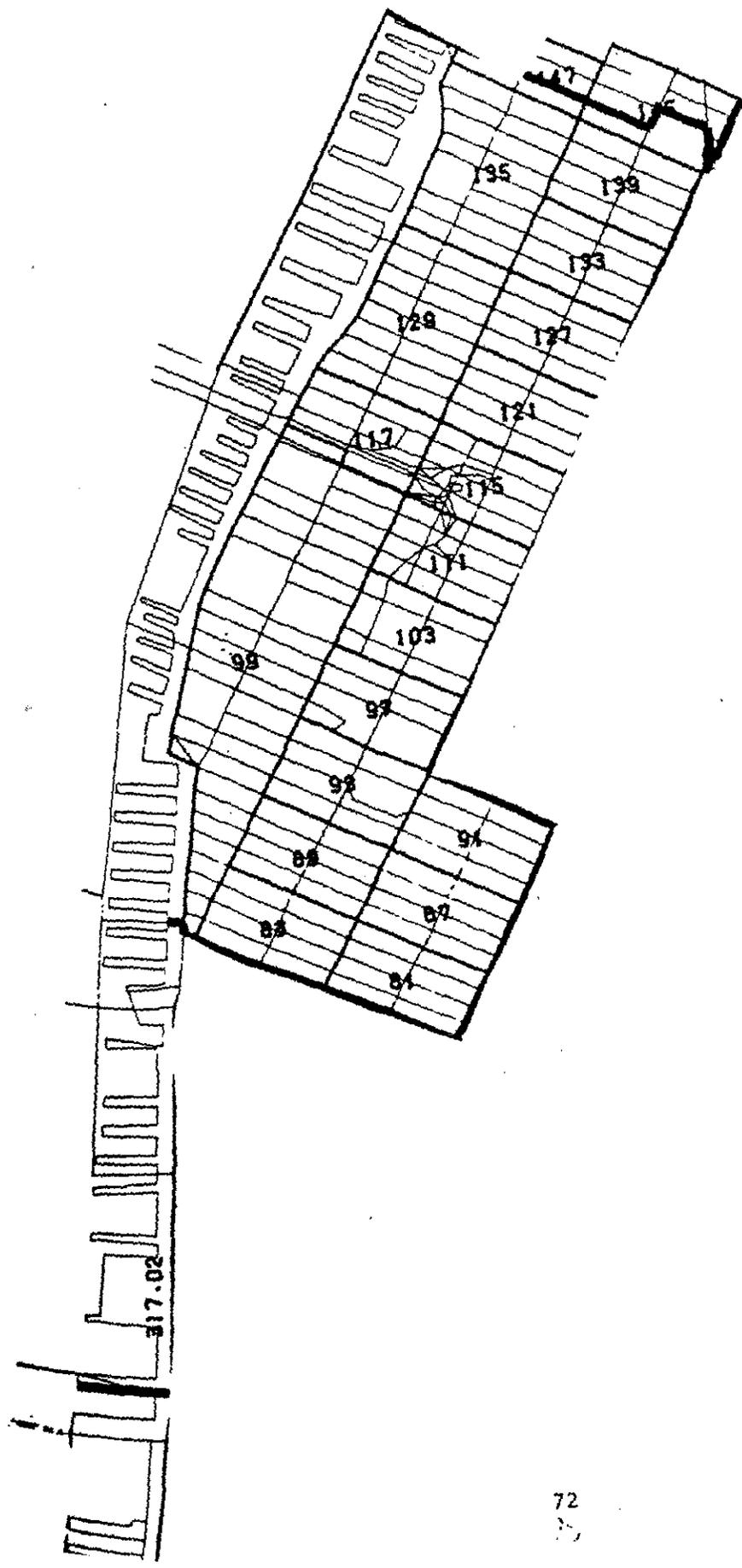
Bayview Correctional Facility - 550 W. 20th Street - State correctional facility with 197 beds

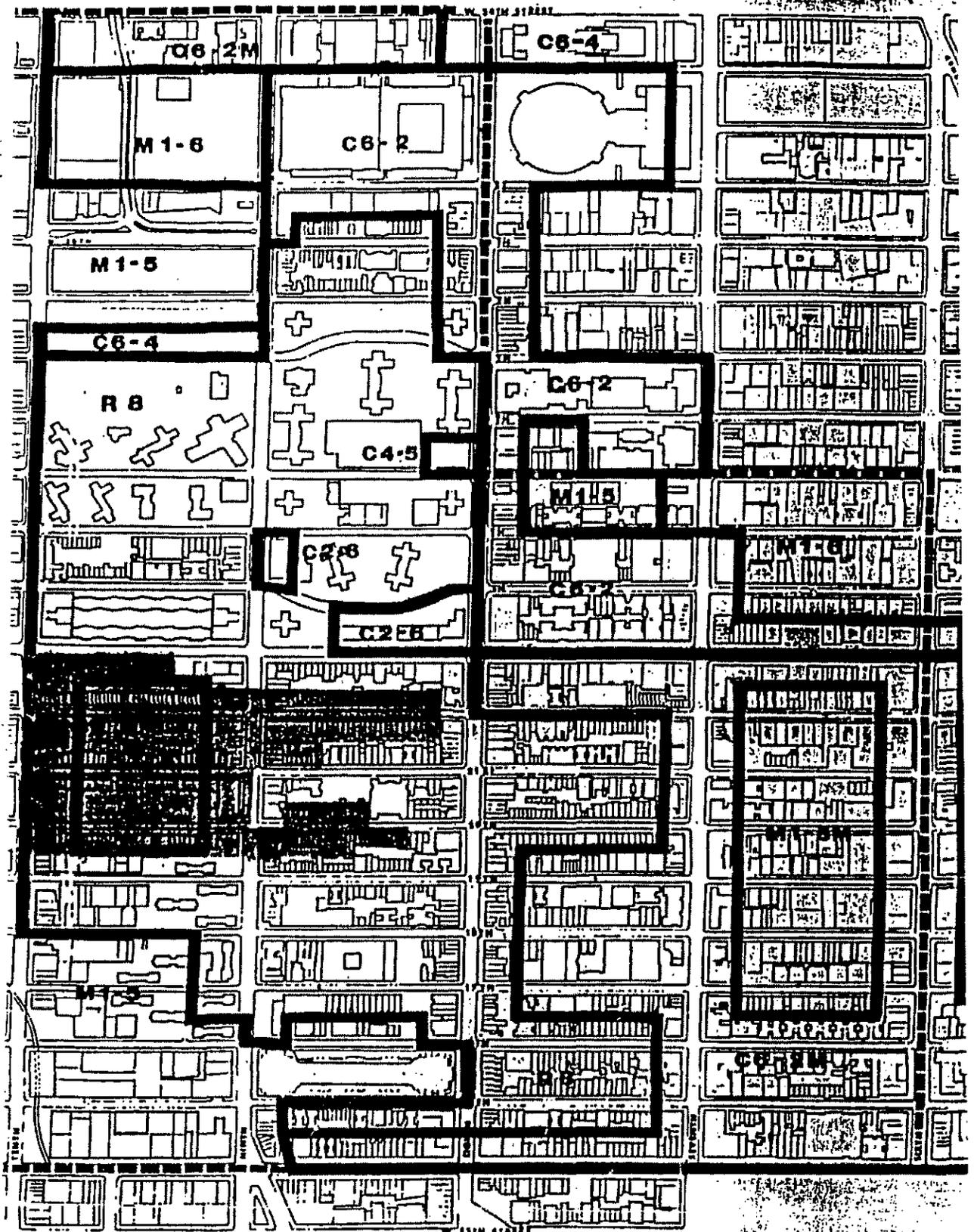
Health-related Facilities:

- ** St. Vincent's Hospital Chelsea Clinic - 365 W. 25th Street (privately run)
- St. Clare's Hospital - 451 W. 51st Street
- St. Clare's AIDS Hospice - 426 West 52nd Street
- St. Luke's/Roosevelt Hospital - 555 W. 57th Street
- West Side Health Clinic - 789 Ninth Avenue - walk-in clinic with medical and psychiatric help to children and youth

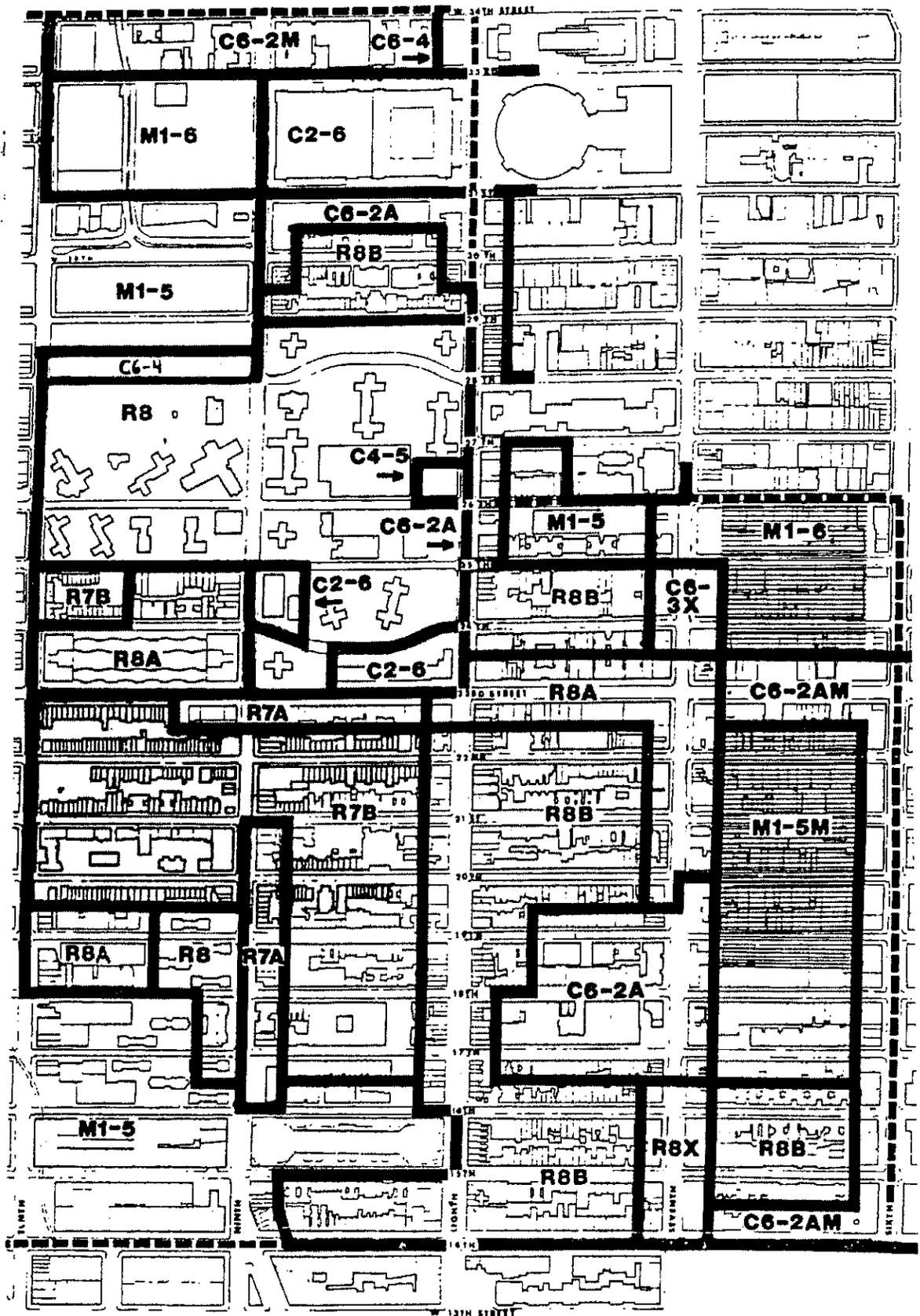
Source: Manhattan Community Board No. 4

1990 CENSUS TRACTS

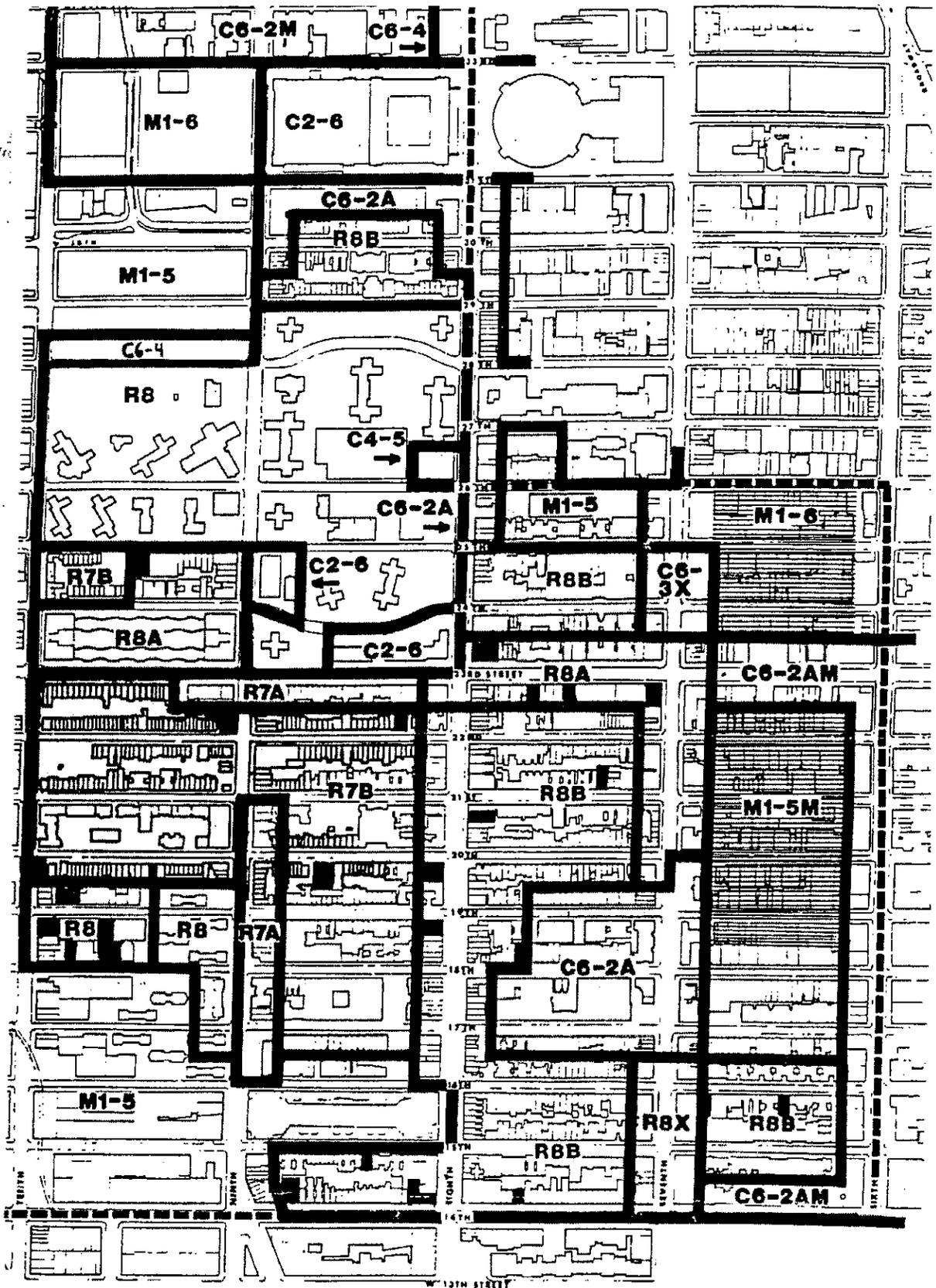




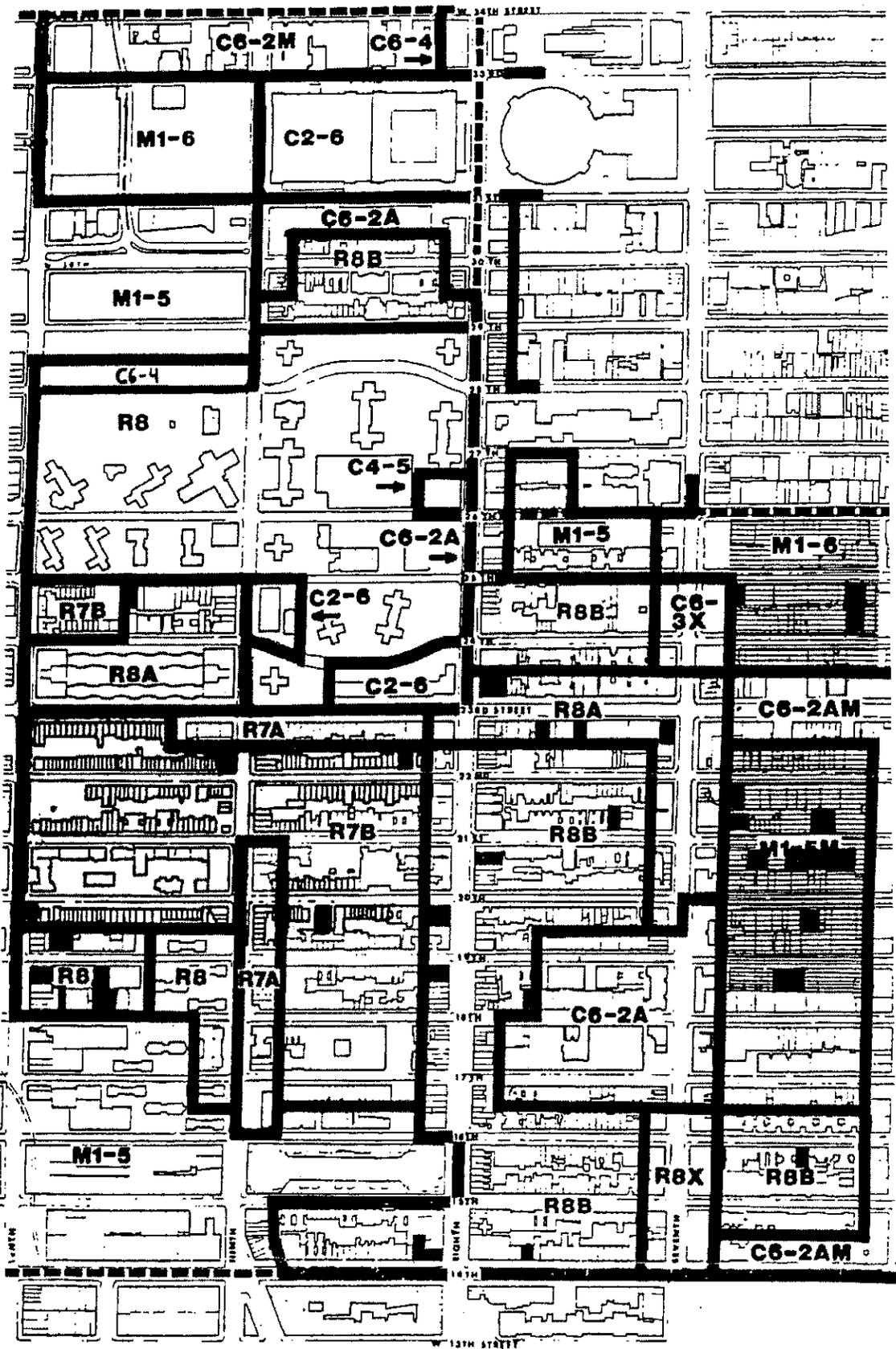
HISTORIC DISTRICT
CHELSEA'S EXISTING ZONING



 HISTORIC DISTRICT
 SPECIAL DISTRICT
CHELSEA ZONING PLAN



SOFT SITES UNDER EXISTING ZONING



SOFT SITES UNDER PROPOSED ZONING

POINTS OF AGREEMENT*

1. FINANCING

a. General

The Administration agrees to the financing plan adjustments made separately by the Budget Director and the Council, described in a separate document.

b. District Improvement Fund/Bonus

i. Uses West of 11th Avenue

The Administration agrees that no funds generated by the District Improvement Bonus will be used to pay for any improvements to the sites housing the New York Sports and Convention Center, the Jacob K. Javits Convention Center, the full-block park located between 33rd and 34th Street, or the community porch on the 33rd Street right-of-way. The Administration agrees to provide further language to emphasize that the District Improvement Fund cannot be used in any way to connect to or benefit the Javits Center or the New York Sports and Convention Center. Limitations to the use of the District Improvement Fund are described in the modified zoning text.

ii. Uses for neighborhood parks

The Administration agrees that the District Improvement Fund may be used to pay for neighborhood parks.

iii. Future of the District Improvement Fund

The Administration agrees that funds generated by the District Improvement Bonus will be used only to pay debt service on debt issued by the Hudson Yards Infrastructure Corporation (HYIC). Any excess in any given year will flow directly to the City's general fund for uses in the district consistent with the zoning resolution. Once the HYIC debt is fully repaid, all payments into the District Improvement Fund will flow directly to the City's general fund for uses in the district consistent with the zoning resolution.

iv. Sequencing of bonuses

The Administration agrees to alter the sequence of the District Improvement Bonus and the Inclusionary Housing Bonus so that the two bonuses are available to developers on a pari passu basis, in two tiers. The change is described in detail in the modified zoning text.

* As we have discussed, some of the items set forth in the Points of Agreement will require changes to the zoning resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable consents. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

v. Changes in per square foot payment into District Improvement Fund

The Administration agrees to the process for changes in the payment level into the District Improvement Fund, as detailed in the modified zoning text.

2. GOVERNANCE

a. HYIC

The HYIC board consists of the Deputy Mayor for Operations, the Deputy Mayor for Economic Development & Rebuilding, the Budget Director, the Speaker of the City Council, and the City Comptroller. The HYIC's powers are limited to ensuring the appropriate capture of designated revenue sources and the use of these revenue sources for debt service on authorized debt and other commitments of the HYIC. The HYIC is subject to the requirements of the Open Meetings Law. The Speaker, as member of the HYIC board, will receive appropriate notice of meetings and other actions by HYIC. The HYIC will commit to making annual reports to the Speaker and the Council of the projects financed by the HYIC, the amount of financing issued by HYIC for each project, related debt service and the status of projects.

b. Development entity

The precise form of the entity that will manage the development of the Hudson Yards has not been determined. The Administration agrees that any development entity will include the same board members as the HYIC plus a representative of Community Board 4, the local Councilmember, the Manhattan Borough President, the Commissioner of the Department of Housing Preservation & Development, the Commissioner of the Department of Parks and Recreation, the Commissioner of the Department of Small Business Services, the Chair of the City Planning Commission, and the President of the Economic Development Corporation. The development entity will be subject to the requirements of the Open Meetings Law. The development entity will commit to making annual reports to the Mayor and the Council of the development entity's budget for the upcoming fiscal year, together with its annually prepared financial statements. There will also be formed a Hudson Yards Community Advisory Board, to include representatives of the affected communities.

3. AFFORDABLE HOUSING

a. Total number of units

The table below summarizes the expected units that will be generated by the zoning incentives and other components of the Administration's proposal for affordable housing in the Hudson Yards. These unit totals will change slightly subject to recalculation of the market-rate and affordable housing build out under lower density in the Hell's Kitchen midblock area, as described in 4(b).

	# OF NEW UNITS	# OF PRESERVED UNITS
ERC proposal	2,220 (36% of total)	333 (5% of total)
Revised Administration proposal		
80/20 Expansion of 421(a) exclusion zone 80/20 and inclusionary housing combo	2,031	
Inclusionary housing Tiering of inclusionary bonus	411	421
Public sites Site M NYCHA Studio City	150 155 600	
Total	3,337 (54% of total)	421 (7% of total)

b. Harassment provisions

The Administration agrees to the harassment provisions provided separately, as part of a follow-up corrective action.

c. 421-a exclusion zone

The Administration would support Council action to expand the 421-a exclusion zone, in order to make the construction of affordable housing more likely. A proposed bill has been provided separately.

d. Permit City, State, and Federal programs in inclusionary program

The Administration agrees to allow developers to count affordable units created toward both the 80/20 requirement and the Inclusionary Housing Bonus. The Administration also agrees to allow developers to access any and all housing subsidy programs for the construction or rehabilitation of inclusionary housing. This will allow the Administration to increase the share of affordable units required under the inclusionary program and will result in both greater incentives for the production of affordable housing and permanent affordability for all affordable units in 80/20 buildings that make use of the inclusionary bonus.

e. Tiering of inclusionary bonus to higher income levels

The Administration agrees to allow developers to provide inclusionary housing units to higher income levels in exchange for providing more affordable units, as detailed in the modified zoning text.

f. Public sites

i. Site M

The Administration agrees to develop affordable housing on "Site M" located on the west side of 10th Avenue between 40th and 41st Streets. The Administration anticipates that this site will generate 150 affordable units, including 48 low-income units (up to 60% of

AMI) 51 moderate-income units (up to 135% of AMI), and 51 middle-income units (up to 165% of AMI). All units will be permanently affordable. HPD and the Hudson Yards development entity will lead the development of the site.

ii. NYCHA site

The Administration agrees, subject to HUD approval, to develop affordable housing on the “NYCHA Harborview Site” located at 56th Street just west of 11th Avenue. The Administration anticipates that this site will generate 155 affordable units, including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI). The new building will be no taller than the existing Harborview towers. The Administration and the Council will work together to select one of the following options for limiting the height of the tower: reducing the number of units or constructing a second building on additional space within Harborview to maintain the same unit total. All units will be permanently affordable. NYCHA and HPD will lead the development of the site.

iii. Studio City site

The Administration agrees to develop affordable housing on the “Studio City Site” located between 44th and 45th Streets, between 10th and 11th Avenues. The Administration anticipates that this site will generate 600 affordable units, including 120 low-income units (up to 60% of AMI), 240 moderate-income units (up to 135% of AMI), and 240 middle-income units (up to 165% of AMI). The Hudson Yards development entity will lead development of the site, working in close cooperation with HPD.

g. Citywide affordable housing fund

The Administration agrees to create an affordable housing fund of up to \$45 million – to be managed by HPD – using the proceeds received from the disposition of the Studio City site for affordable moderate- and middle-income housing in the Hudson Yards area and citywide. The fund also may be used to augment funding for construction and renovation at P.S. 51 on the Studio City site.

h. Income averaging

The Administration agrees to work with the Council and unions to find acceptable ways to allow income averaging whenever possible.

4. DENSITY

a. Commercial density

i. FAR at “four corners” at 34th Street at 10th/11th Avenues

The Administration agrees to establish a maximum FAR of 33 for each site, with an overall limitation of 7,363,600 square feet on the four corners by limiting the permitted distribution from the Eastern Rail Yards to 3,238,000. This represents a density reduction of 200,000 square feet.

ii. Limiting maximum permitted FAR on 11th Avenue

The administration agrees to limit the maximum FAR to 21.6 between 36th and 38th streets and to 20.0 between 38th and 41st streets. This results in a density reduction of more than one million square feet, as detailed in the table below:

SITE	MAXIMUM FAR	ZONING FLOOR AREA REDUCTION (SF)
1069A	20	332,640
711A	20	147,200
710A	20	277,656
709A	21.6	153,163
708A	21.6	139,416
Total		1,050,075

iii. Commercial overlay between 9th and 10th Avenues

The Administration agrees to restrict commercial uses in residential buildings to one floor. However, a stand-alone two-story commercial building would be permitted due to scope issues. The Administration also agrees to create language excluding conversion to retail where there are existing ground floor residential tenants, as part of a follow-up corrective action.

iv. Along 10th Avenue

The Administration agrees to alter the proposal so that developers on the west side of 10th Avenue can exceed 13 FAR (up to a maximum of 15 FAR) only with the provision of community facilities. This will result in a commercial density reduction of approximately 500,000 square feet.

v. Theater bonus

The Administration agrees to restrict the Theater Bonus to the south side of 42nd Street between 11th Avenue and Dyer Avenue.

vi. Site at NW Corner of 42nd Street and 8th Avenue

The Administration will upzone this site from an FAR of 14.4 to a higher FAR to be determined with the Council.

b. Residential density

The Administration agrees to modify the zoning of the Hell's Kitchen midblocks between 9th and 10th Avenues between 35th and 40th Streets to R-8A, which will reduce the maximum density from 7.5 FAR to 6.0 FAR.

5. OTHER PLANNING ISSUES

a. Neighborhood open space

i. Height bonus for open space

The Administration agrees to reduce the height bonus for provision of open space in the Hell's Kitchen midblocks from a maximum height of 200 feet to 180 feet. For sites affected by this change between 36th and 38th Streets, the Administration agrees to work with the Council to meet the resulting funding gap (if any).

ii. Port Authority sites

The Administration will establish a task force with the Council and the community to work toward creating open space on Port Authority sites in the Hell's Kitchen midblocks. This task force will undertake detailed site analysis to identify optimal locations for open space within the blocks bounded by 34th and 38th Streets. The task force will engage in discussions with the Port Authority, and participate in design and construction oversight. The task force will also consider management and governance options, including but not limited to park mapping, deed restrictions, or conveyance to a non-profit organization. In the event that negotiations with the Port Authority do not result in open space on their sites, the Administration agrees to work with the Council to acquire privately-owned sites for open space.

b. Subdistrict naming

The Administration agrees to rename the Tenth Avenue Corridor Subdistrict as part of the Hell's Kitchen Subdistrict.

c. Follow-up corrective actions

The Administration agrees that the local Councilmember and Community Board 4 will be co-applicants on all follow-up corrective actions, with any disagreements between the two being resolved by the local Councilmember.

d. Special permits

i. Parking requirements

The Administration agrees that parking garage construction in excess of the minimum will be subject to a special permit. This minimum provides a modest range to account for site-specific conditions. The Administration also agrees to the grandfathering of developments in the 42nd Street Perimeter Area with building permits prior to 12/31/04.

ii. Public access improvements

The Administration agrees to make this a special permit in the Hudson Yards area, but without generating a bonus.

e. Community facilities

The Studio City site will house an expanded elementary school to serve the area. The Administration has provided a separate letter detailing funding requirements for this school.

6. CONTRACTING AND EMPLOYMENT

a. Dedicated oversight

The Department of Small Business Services (DSBS) will create a special, focused office (“the Office”) to lead M/WBE contracting and minority employment initiatives in the Hudson Yards area. The key activities of the Office are described below in 6(b) and 6(c).

b. M/WBE

i. M/WBE certification partnerships

To maximize the number and value of Hudson Yards contracting opportunities available to City certified M/WBEs, the Office will seek to establish reciprocal certification agreements with the other public entities contracting for goods and services in the Hudson Yards district, such as the MTA.

ii. Bid matching and information sharing for Hudson Yards opportunities

The Office will apply DSBS’ database and bid matching/alert process to Hudson Yards contracting opportunities. E-mail alerts will be sent to certified M/WBEs to inform them of new Hudson Yards opportunities as they arise. The Office also will promote usage of DSBS’ online, searchable database of M/WBEs by Hudson Yards contractors and businesses.

iii. Technical assistance and preparation for contracting opportunities

The Office will tailor and target DSBS’ existing M/WBE technical assistance program for anticipated Hudson Yards contracting opportunities. This involves two major components. The first is identification of the types of goods and services contracting opportunities that are likely to arise in both the short- and long-term through Hudson Yards developers, businesses and tenants. The second component is the creation of a technical assistance curriculum to build M/WBE capacity to be competitive for such anticipated contracting opportunities.

iv. Private sector alliances linking M/WBEs to Hudson Yards opportunities

Building on DSBS’ current private sector partnership strategies, the Office will seek to connect M/WBEs to diversity contracting programs of major private sector developers, businesses and tenants in the new Hudson Yards district. The Office will also work with DSBS’ M/WBE Advisory Committee to develop such linkages.

v. Further actions

The Administration understands that the Council intends to release a disparity study in the near future. Once the disparity study is released, the Administration is prepared to consider programs specifically designed for growing M/WBE participation, as appropriate in light of the results of the disparity study.

The Administration has demonstrated its commitment to increasing the successful participation of M/WBEs in public and private sector contracting opportunities. So far, the Administration has dramatically simplified and shortened the certification process, increased the number of certified companies, and created certification partnerships with other public entities. The Administration also has created an on-line searchable database of M/WBEs, and modified small purchase procurements to insure their participation. In addition, the Administration has extended its initiatives beyond the public sector by linking its M/WBE program to private sector diversity contracting programs and forming a M/WBE Advisory Board of business and community leaders.

In partnership with the City Council, the Administration is committed to further growing M/WBE success by building upon these foundational efforts. The Administration is exploring a range of options to do that, such as a certification partnership with New York State, and additional private sector partnerships.

The Administration recognizes that other public entities have implemented race and/or gender based strategies, such as: adopting M/WBE goals or utilization plans for a municipality and/or its agencies; or requiring prime contractors to create M/WBE utilization plans or achieve M/WBE subcontracting goals. However, the Administration also recognizes that adoption of any of these options, or any other race or gender based program, would be premature prior to the release of the City Council's forthcoming disparity study.

Following the release of the City Council's forthcoming disparity study, the Administration is prepared to consider M/WBE program options such as these, or other program enhancements. We will evaluate program options in light of the results of the study, which covers the period of 1998-2002, as well as the achievements of the City's revitalized M/WBE program during the past two years. Our approach will be cognizant of the critical need to ensure that M/WBEs in construction and other industries have a full and fair opportunity to share in the success of the Hudson Yards project.

c. Workforce Participation

i. Pre-apprenticeship programs

The Administration and the Office will work with the Council towards an agreement with trade unions to establish and fund a pre-apprenticeship program that links economically disadvantaged New Yorkers from throughout the five boroughs to union careers in the construction trades. Specific eligibility criteria (e.g., language, math and literacy skills), training program curricula and program scale will be established through collaboration with the building trade unions, with scale based on demand for construction labor generated by Hudson Yards development.

ii. Job placement

The Office will coordinate large-scale hiring initiatives linking New York City job seekers to employment opportunities in the Hudson Yards district. These initiatives may be based at the Workforce1 Career Centers in each of the five boroughs, in collaboration with Community Based Organizations to assist with outreach to economically disadvantaged job seekers and/or communities. DSBS may eventually establish a Workforce1 Career Center affiliate in the Hudson Yards district.

93-542

Height and setback in Subareas D4 and D5

In Subareas D4 and D5 of Hell’s Kitchen Subdistrict D, the underlying height and setback regulations shall apply, except that:

- (a) the rooftop regulations set forth in Section 93-41 shall apply;
- (b) within the C2-5 District of Subarea D4, #commercial uses# shall be limited to two #stories# or a height of 30 feet, whichever is less;
- (c) within the C1-7A District of Subarea D5, recesses in the #street wall# of any #building# facing Ninth Avenue shall not be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except as provided for permitted corner articulation; and

(d) within 100 feet of a #wide street#, the #street wall# of a #building or other structure# shall rise without setback to a minimum height of 60 to max 85 feet or the height of the #building#, whichever is less, and a maximum height of 120 feet.

~~(d)~~ (e) the regulations set forth in paragraph (d) of Section 23-692 (Height limitations for narrow buildings or enlargements) shall be modified to allow portions of #buildings# with #street walls# less than 45 feet in width to reach the height of the tallest #abutting building# without regard to the width of the #street# onto which such #building# fronts.



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

DANIEL L. DOCTOROFF
DEPUTY MAYOR FOR
ECONOMIC DEVELOPMENT AND REBUILDING

June 20, 2005

Speaker Gifford Miller
New York City Council
City Hall
New York, NY 10007

Re: West Chelsea – City Council ULURP Actions

Dear Mr. Speaker:

Attached to this letter is a "Points of Agreement" reflecting recent discussions between the Administration and the City Council with respect to the consideration by the City Council of the West Chelsea zoning and related ULURP actions.

As we have discussed, some of the items set forth in the Points of Agreement will require changes to the zoning resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable approvals. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

The cooperation and input that we have received from members of the City Council thus far has been extremely valuable. We look forward to working further with you, and the entire Council, as the project progresses.

Sincerely,

A handwritten signature in cursive script that reads "Daniel L. Doctoroff".

Daniel L. Doctoroff

WEST CHELSEA – IMPROVEMENTS AT THE CITY COUNCIL

- **More affordable housing:** Increases the percentage of units projected to be affordable from 17% projected under the proposal approved by the City Planning Commission to at least 22% (more if the pursuit of affordable housing development on other publicly owned sites is successful). In total the number of affordable units has increased from 900 after the approval of the City Planning Commission (out of 5,329 total units) to 1,195 (out of 5,557 total units), or a 33% increase in the number of affordable units. In addition an affordable housing fund of up to \$10 million will create more units in the Community Board. Although the West Chelsea rezoning incorporates all of the programs and principles of recent rezonings, the final percentage is lower due to the requirements associated with transforming the High Line into public open space, the preservation of manufacturing zoning in the mid-blocks, and the dearth of large public sites. The comparable percentage adjusting for these requirements is 27% affordable.
- **Preservation of existing affordable housing:** Preserves additional 4% of units through anti-harassment provisions.
- **More permanent affordable housing:** Significantly increases the number of *permanent* affordable housing units from 295 affordable units (~33%) to about 900 affordable units (~63%).
- **Greater certainty of affordable housing production:** Extension of 421-a exclusion zone and allowing use of programs helps to insure developers actually build affordable housing.
- **More diverse range of incomes for affordable housing:** Of the roughly 900 affordable housing units created through the inclusionary housing program and on public sites, over 40% will be targeted toward moderate and middle income families.
- **Reduced height:** The maximum height limit on Tenth Avenue between W. 24th and W. 28th Street will be reduced to 125 feet. All new development along this stretch of Tenth Avenue will not exceed the height of the historic Williams Warehouse.
- **Further study:** Commits the Administration to examine possible further rezonings and historic preservation in the area.
- **MWBE participation:** Commits the Department of Small Business Services to using every tool at its disposal to ensure the participation of MWBEs in both the redevelopment of the High Line and the broader development of West Chelsea.

The Council achieved these improvements while ensuring the preservation and restoration of the High Line, a unique public open space that will represent a 15% increase in parkland in Council District 3, and that will provide a striking amenity for community residents, New Yorkers, and visitors from around the world.

In conjunction with the above, an agreement by property owners and developers representing approximately 75% of the projected housing units in the West Chelsea area will ensure that building services workers in the area will receive prevailing wages, benefits, and other protections.

WEST CHELSEA – POINTS OF AGREEMENT¹

1. AFFORDABLE HOUSING

a) 421-a exclusion zone

The Administration would support Council action to expand the 421-a exclusion zone to cover the entirety of the rezoning area as well as the land to the west, as detailed in the attached proposed bill, in order to increase the utilization of the 80/20 program, thereby making the construction of onsite affordable housing more likely.

b) Anti-harassment

The Administration agrees to work with the Council to extend the anti-harassment provisions developed for the Hudson Yards area to multiple dwellings in appropriate portions of the West Chelsea rezoning area as part of a follow-up corrective action.

c) Public sites

The Administration agrees, subject to HUD and any other necessary public approvals, to develop affordable housing on the Chelsea-Eliot NYCHA site located on the northwest corner of West 25th Street and Ninth Avenue. The Administration anticipates that this site will generate 128 affordable units, targeted to middle and moderate income families. All units will be permanently affordable. A portion of the units to be developed may be set aside for NYCHA residents or households on the waiting list through Section 8. Existing parking spaces on the site will be replaced by underground parking in the new development, corresponding to zoning and NYCHA regulations as required.

The Administration agrees, subject to HUD and any other necessary public approvals, to develop affordable housing on the Fulton Houses NYCHA site located on West 18th Street between Ninth and Tenth Avenues. The Administration anticipates that this site will generate 100 affordable units, targeted to middle and moderate income families. All units will be permanently affordable. A portion of the units to be developed may be set aside for NYCHA residents or households on the waiting list through Section 8. Existing parking spaces on the site will be replaced by underground parking in the new development, corresponding to zoning and NYCHA regulations as required.

Development on Fulton Houses at West 18th Street would displace a large trash compactor. After extensive site review, it has been determined that the only appropriate place for its relocation would be to the parking lot on the north side of West 19th Street, which does not front any residential building, but is a shallow lot, with a depth of only 75 feet and existing residential

¹ As we have discussed, some of the items set forth in the Points of Agreement will require changes to the Zoning Resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the City Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable consents. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

buildings on the lot line to the north. With a required rear yard of 30 feet, the remaining space for development on the West 19th Street site would not allow for an economically-feasible multi-family building. In the event that in the future the Department of Sanitation should determine that its lot located on 20th Street between 6th and 7th Avenues is no longer needed for operational purposes, the Administration will pursue the development of affordable housing on the site. Alternatively if it is decided to dispose of the site for another purpose (subject to Council approval) the Administration will pursue options under which the disposition of the site can be used to augment funds administered by HPD for affordable housing within the West Chelsea area. The Department of Sanitation agrees to examine within the next twelve months options identified by the community for relocating operations from this site.”

d) Permit City, State, and Federal programs in inclusionary program

The Administration agrees to allow developers to count affordable units created toward both the 80/20 requirement and the Inclusionary Housing Bonus in both the C6-3 and C6-4 districts. The Administration also agrees to allow developers to access any and all housing subsidy programs for the construction or rehabilitation of inclusionary housing. This will allow the Administration to increase the share of affordable units required under the inclusionary program and will result in both greater incentives for the production of affordable housing and permanent affordability for all affordable units in 80/20 buildings that make use of the inclusionary bonus.

e) Tiering of inclusionary bonus to higher income levels

The Administration agrees to allow developers to provide inclusionary housing units to higher income levels in exchange for providing more affordable units, as detailed in the modified zoning text.

f) Affordable Housing Fund

The Administration agrees to create a West Chelsea Affordable Housing Fund for affordable housing production in the community board. After 90% of the High Line Transfer Corridor floor area transfers to receiving sites or is otherwise used, developments may be able to purchase floor area from the City, or an entity to be established by the City, for the portion of the bonus that can be achieved only through the purchase of High Line Transfer air rights (5 to 6 FAR in C6-2, 5 to 6.25 FAR in C6-3, and 6.5 to 9.15 FAR in C6-4). The price of the floor area will be to comparable to the price of air rights at such time as 90% of the High Line Transfer Corridor floor area has been exhausted. Preliminary projections, using \$150 psf as an estimated cost of the bonus, show that the proceeds could generate up to \$10 million. However, price fluctuations may allow the fund to be higher or lower than this estimation. The fund can be used toward land acquisition for affordable housing production and to serve households at moderate and middle incomes.

g) Community preference

All affordable housing units created through the inclusionary program or on public sites will be subject to HPD’s standard 50% community preference requirements.

h) Conversions

The Administration agrees to introduce an Inclusionary Housing Bonus for conversions that mirrors the inclusionary housing density bonuses and income tiers in for new constructions buildings in each district. If a potential conversion building is overbuilt above the maximum

allowable residential FAR, such building will only be able to achieve their residential maximum density through inclusionary zoning.

Total number of affordable units

	AFFORDABLE UNITS
CPC proposal	900 (17% of total)
Revised proposal	
80/20 (non-IHB)	298
Permanent inclusionary	669
Public sites	228
Total	1195 (22% of total)
Preservation (Anti-harassment provisions)	230 (4% of total)
Total	1195+230 (22% of total + 4% preserved) + \$10 million fund

Matrix of Density Bonuses

	C6-2*	C6-3	C6-4
CPC proposal	FAR	FAR	FAR
Base FAR	5	5	7.5
Through High Line Transfer	5.65	6.65	9.15
Through High Line Transfer/ IHB	6	7.5	10
Through IHB			12
Total Inclusionary Bonus	0.35	0.85	2.85
Revised proposal			
Base FAR	5	5	6.5
Through High Line Transfer	6	6.25	9.15
Through High Line Transfer/ IHB		7.5	
Through IHB			12
Total Inclusionary Bonus		1.25	2.85

* C6-2 areas with a maximum of 6 FAR only, not including areas with 5 FAR maximum.

2. OTHER ZONING

a) Height

The Administration agrees to reduce the maximum height on Tenth Avenue between 24th and 28th Streets from 145 feet to 125 feet.

b) Adjust bonuses to maintain sufficient capacity for High Line floor area, increase High Line improvements, and increase amount of inclusionary housing

- i. Increase the Inclusionary Housing Bonus in C6-3 from 0.85 FAR (13%) to 1.25 FAR (20%) and require 10%-12.5%-15% affordable, depending on income levels served.
- ii. Provide that the top-tier of the C6-4 bonus between 9.15-12 FAR (31%) bonus can only be achieved through inclusionary housing and require 20%-25%-30% affordable, depending on income levels served.
- iii. Increase the High Line improvement bonus for Subarea I from 1.5 FAR to 2.5 FAR consistent with other High Line improvement bonus sites.

c) Further study

The Administration agrees that the Department of City Planning will study the areas to the immediate west and south of the rezoning area to consider possible future actions deemed appropriate for the neighborhood. As requested by Community Board 4, the Department would study the area bounded by Eleventh and Twelfth Avenues, between West 22nd and 29th Street, and West 15th and 17th Streets, between Tenth and Eleventh Avenues. The Department also believes it would be appropriate to include in the study the eastern blockfront of Tenth Avenue between West 15th and West 16th Streets. A letter from the Chair of the City Planning Commission has been provided.

d) Historic preservation

The Administration agrees that the Landmarks Preservation Commission will evaluate the community's historic preservation proposal and determine whether the area merits designation as a historic district or individual landmarks. The Commission will complete its assessment and make its recommendations by the end of FY 2006. A letter from the Executive Director of the Landmarks Preservation Commission has been provided.

3. MWBE CONTRACTING AND CONSTRUCTION OPPORTUNITY

a) Bid matching and information sharing for High Line and West Chelsea Special District ("West Chelsea") opportunities

The Department of Small Business Services (DSBS) will apply DSBS' database and bid matching/alert process to High Line sub-contracting and West Chelsea contracting opportunities. E-mail alerts will be sent to certified MWBEs to inform them of new High Line and West Chelsea opportunities as they arise. DSBS also will promote usage of DSBS' online, searchable database of MWBEs by High Line and West Chelsea contractors and businesses.

b) Technical assistance and preparation for contracting opportunities

DSBS will target its MWBE technical assistance program to anticipated High Line and West Chelsea contracting opportunities. This involves two major components. The first is identification of the types of goods and services contracting opportunities that are likely to arise in both the short- and long-term through High Line and West Chelsea developers, businesses and tenants. The second component is connecting MWBE contractors that provide such goods and services to DSBS' technical assistance curriculum to build their capacity to be competitive for such anticipated contracting opportunities.

c) Promoting MWBE participation during the pre-bid process

In connection with New York City Economic Development Corporation's (EDC) mandatory pre-bid meetings for High Line contracting opportunities, EDC shall encourage MWBE contracting and subcontracting on the High Line project by promoting DSBS' procurement and technical assistance programs for MWBEs and by organizing networking sessions between potential prime contractors and MWBE contractors to facilitate subcontracting opportunities.

d) Additional MWBE efforts

The Administration has demonstrated its commitment to increasing the successful participation of MWBEs in public and private sector contracting opportunities. So far, the Administration has dramatically simplified and shortened the certification process, increased the number of certified companies, and created certification partnerships with the State of New York and other public entities. The Administration also has created an on-line searchable database of MWBEs, and modified small purchase procurements to insure their participation. In addition, the Administration has extended its initiatives beyond the public sector by linking its MWBE program to private sector diversity contracting programs and forming a MWBE Advisory Board of business and community leaders. In partnership with the City Council, the Administration is committed to further growing MWBE success by building upon these foundational efforts.

The Administration recognizes that other public entities have implemented race and/or gender based strategies, such as: adopting MWBE goals or utilization plans for a municipality and/or its agencies; or requiring prime contractors to create MWBE utilization plans or achieve MWBE subcontracting goals. However, the Administration also recognizes that adoption of any of these options, or any other race or gender based program, would be premature until an evaluation of the City Council's disparity study has been completed.

Since the release of the City Council's disparity study, the Administration has been analyzing the study, as well as MWBE program enhancement options such as those described above. While a range of race and gender based options remain under consideration, in response to the disparity study, the Administration has already begun to expand its MWBE capacity building initiatives by offering new classes on bonding, responding to RFPs, forming joint ventures, finance, marketing, and legal issues. Also, City agencies have been holding networking events with MWBEs about specific City contracting opportunities.

Overall, the Administration's MWBE program strategy will be cognizant of the critical need to ensure that MWBEs in construction and other industries have a full and fair opportunity to share in the success of City-led development initiatives throughout the City, including the High Line project and new residential development in West Chelsea.

e) Commission on Construction Opportunity

As part of the Administration's continuing efforts to ensure that all New Yorkers benefit from economic development initiatives, the Mayor created a "Commission on Construction Opportunity" earlier this year. The Commission is comprised of private developers and contractors, including minority and women-owned businesses, union representatives, advocates, and government officials. It is co-chaired by Deputy Mayors Walcott and Doctoroff, and also includes seven City Commissioners, and Congressman Charles Rangel.

The Commission is charged with ensuring that all New Yorkers, particularly minorities, women, returning veterans and recent high school graduates, are well-prepared for and have access to quality, permanent jobs in construction in both the private and public sectors during the expected construction boom over the next ten years – driven by projects such as the development of West Chelsea and the restoration of the high Line. The Commission is looking at how these major development projects can provide long-term careers in construction for New Yorkers, rather than just temporary jobs on a single project.

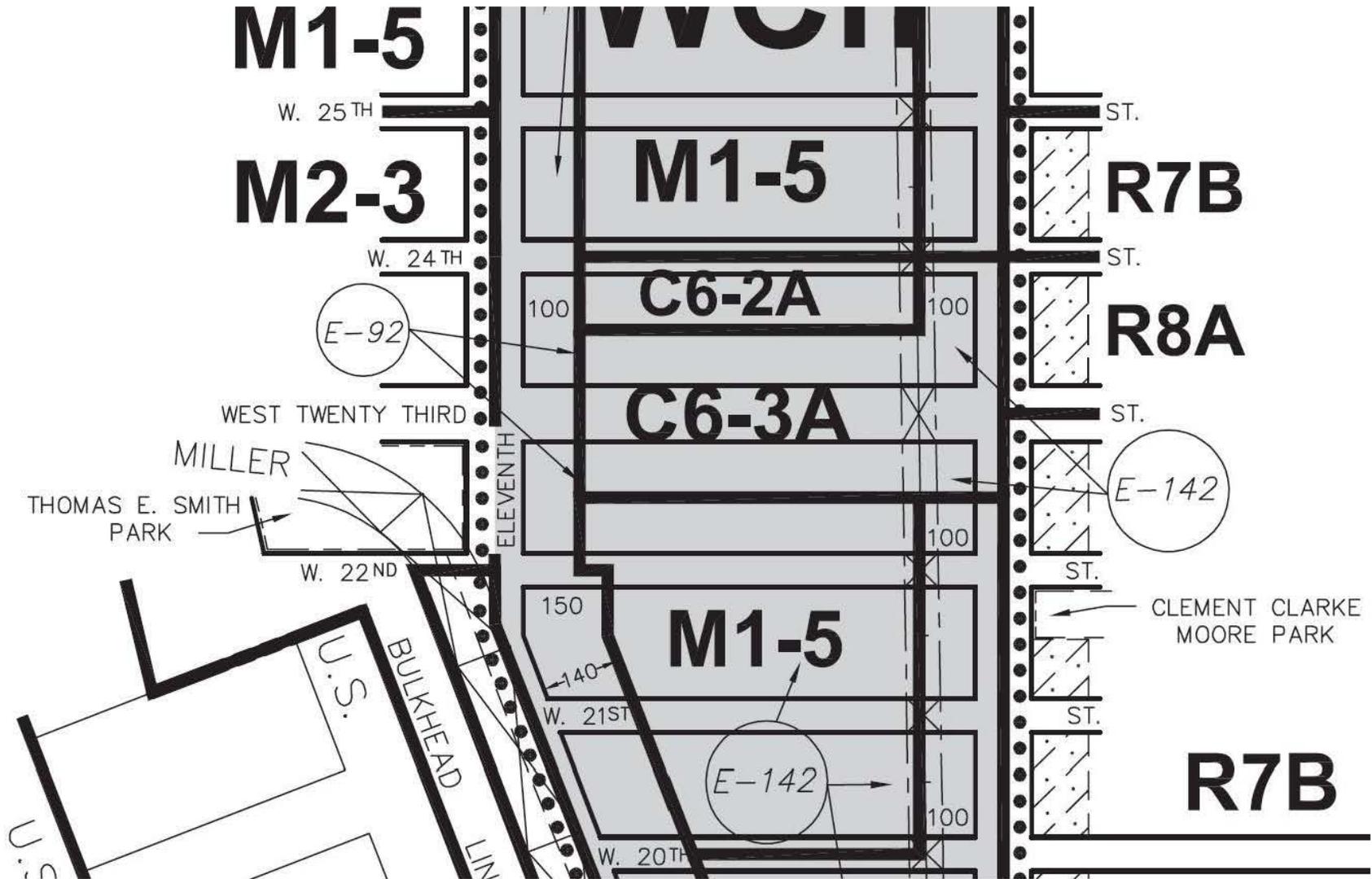
Since the Mayor's March 7th announcement of the formation of the Commission, the Commission has already met twice, in March and May, and is scheduled to meet again in July and September. While still in its early stages, the Commission is looking at a multi-pronged strategy, including increasing the number of apprentice slots, recruiting minorities and women for these slots, creating the infrastructure to prepare them and ensuring their success over the long term. The Administration is optimistic that thanks to this unique multi-sector partnership, New Yorkers from all boroughs will benefit from current and future private and public sector construction opportunities in West Chelsea and elsewhere.

4. BUILDING SERVICES WORKERS

Private developers in the West Chelsea neighborhood, the Service Employees International Union, Local 32BJ, the Mayor's Office, and the City Council have agreed to the following principles:

- a) All Building Service workers, such as porters, handypersons, doorpersons, security officers, watchpersons, elevator operators and starters, building cleaners, concierges, and building superintendents, who are employed at newly constructed residential buildings are entitled to a fair wage and benefits, taking into consideration the specific circumstances of each new building.
- b) With respect to buildings of 50 or more residential units where less than 50% of the apartments in a building are dedicated to housing that is affordable to individuals or families with a gross household income at or below 125% of the Area Median Income of the New York, NY PMSA, as determined by the U.S. Department of Housing and Urban Development Income, Building Service Employees should receive a wage not less than the "prevailing wage."
- c) Collective bargaining is the most appropriate mechanism to determine the wages and benefits for Building Service Employees at all newly constructed residential buildings in the West Chelsea neighborhood.

APPENDIX H – 23rd Street Underlying Zoning



APPENDIX I – Special West Chelsea District Proposed Text Amendments to ZQA

98-423

Street wall location, minimum and maximum base heights and maximum building heights

The provisions set forth in paragraph (a) of this Section shall apply to all #buildings or other structures#. Such provisions are modified for certain subareas as set forth in paragraphs (b) through (g) of this Section.

* * *

(a) For all #buildings#

(1) #Street wall# location provisions

On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along such entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in the table in this Section. On #narrow street# frontages, beyond 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along at least 70 percent of the #narrow street# frontage of the #zoning lot# up to at least the minimum base height specified in the table in this Section.

* * *

(2) Maximum #building# heights

(i) For C6-2A and C6-3A Districts

~~In C6-2A and C6-3A, the maximum base height, maximum #building# height and the maximum number of #stories# shall be as set forth in Section 23-662 (Maximum height of buildings and setback regulations) for the residential equivalent of an R8A and R9A District, respectively. For #developments# or #enlargements# providing #affordable independent residences for seniors#, where at least 20 percent of the #floor area# of the #zoning lot# is allocated to such #use#, such maximum heights and number of #stories# may be modified in accordance with the provisions of paragraph (a) of Section 23-664 for such districts' applicable residential equivalent. Separate maximum #building# heights are set forth within such Sections for #developments# or #enlargements# with #qualifying ground floors# and for those with #non-qualifying ground floors#, as defined in Section 23-662.~~

APPENDIX I – Special West Chelsea District Proposed Text Amendments to ZQA

Minimum and Maximum Base Height and Maximum Building Height by District or Subarea

District or Subarea	Minimum Base Height (in feet)	Maximum Base Height (in feet)	Maximum #Building# Height (in feet)
<u>C6-2A</u>	<u>60</u>	<u>85</u>	<u>120</u>
<u>C6-3A</u>	<u>60</u>	<u>102</u>	<u>145</u>

APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

213 Seventh Avenue

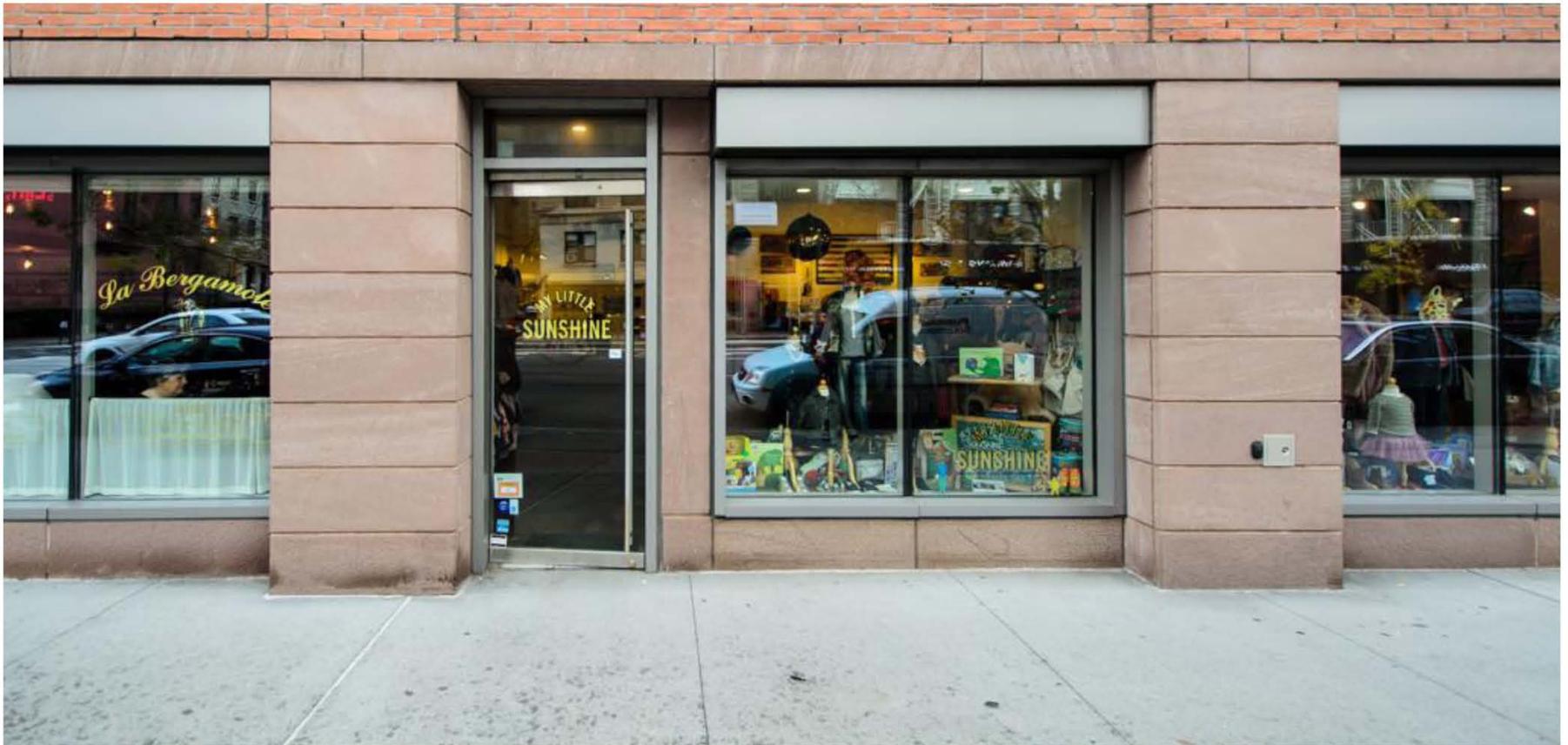


APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

176 - 172 Ninth Avenue



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits
177 Ninth Avenue



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

197 Ninth Avenue



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

231 Tenth Avenue



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

Tenth Avenue - West 17th to 24th Streets



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

500 West 23rd Street



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

154 Tenth Avenue



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

456 19th Street



APPENDIX J – Examples of Quality Ground Floor Retail with Existing Height Limits

401 West 25th Street



MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
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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 Zoning for Quality & Affordability 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 31 in favor, 0 opposed, 1 abstaining:

WHEREAS, The Department of City Planning proposes a text change to the Zoning Resolution that seeks to improve the quality and affordability of new buildings; and

WHEREAS, DCP seeks to make it easier to provide the range of affordable senior housing and care facilities needed to meet the varied needs of an aging population, and to help seniors remain in their communities; and

WHEREAS, DCP wants to enable Inclusionary Housing buildings, which provide mixed-income housing, to construct quality buildings that fit the full amount of housing they are allowed under zoning today; and

WHEREAS, DCP would like to reduce unnecessarily high costs of building transit-accessible affordable housing, and make taxpayer dollars go further toward meeting our affordable housing goals; and

WHEREAS, DCP wants to change rules that lead to flat, dull apartment buildings, to accommodate and encourage façade articulation, courtyards, and other elements that provide visual variety and make the pedestrian experience more interesting; and

WHEREAS, DCP believes these changes would encourage better ground-floor retail spaces and residential units with adequate ceiling heights; and

WHEREAS, CB5 believes that if DCP seeks a greater amount of ground floor retail, the department should consider requiring ground floor retail for properties on wide streets taking advantage of the increased height allowed under ZQA; and

WHEREAS, There are many positive policy changes within ZQA including elimination of a special permit for nursing homes, elimination of the 400 sq ft minimum unit size for residences and the modifications; and

WHEREAS, By designating all R10 Program areas as Inclusionary Housing Designated Areas (in Appendix F of the Zoning Resolution), there would be greater affordable housing production in Manhattan Community

District 5 and a greater share of the affordable units subsidized by the 421-a tax exemption would be permanently affordable (as opposed to the current situation where many publicly subsidized units will revert to market-rate after 35 years); and

WHEREAS, Though CB5 in its comments on the draft scope of work for the EIS and in subsequent discussions with DCP has expressed its position that all R10 program areas in Manhattan Community District 5 should become Inclusionary Housing Designated Areas, DCP has declined to modify the voluntary inclusionary housing program through ZQA which unfortunately will leave many permanently affordable units on the table; and

WHEREAS, The proposed Zoning Text Amendment would bring the maximum as-of-right height in the Ladies Miles Historic District from 185 feet to 225 feet, a drastic height increase that may encourage development proposals that are not historically contextual; and

WHEREAS, The current height, setback, rear yard rules were revised recently (2004) and allow a flexible enough building envelope to generate affordable housing especially in conjunction with the 74-711 special permit; and

WHEREAS, Changing the height limits could have a detrimental impact on the historic district and its scale; and

WHEREAS, Because inclusionary housing development in the Ladies Mile Historic District oftentimes now seeks a special permit which affords CB5 and the City Council the opportunity to negotiate such terms as affordable access for low-income tenants to such building spaces as a children's play room or roof common space, the proposed changes could make it more likely that new developments exclude low-income tenants from being full members of their building which would not further goal of integration; and

WHEREAS, The ZQA should leave the height regulations of the Ladies Mile Historic district unchanged; and

WHEREAS, While "Affordable Independent Residence for Seniors" would be entitled to build to 12 FAR, we are concerned that these residences for seniors may not be permanently affordable (and that the time line for affordability would only be subject to negotiations with the NYC Department of Housing Preservation & Development, the results of which community boards would have no opportunity to comment)

RESOLVED, Manhattan Community Board Five **recommends denial unless** the following conditions are met:

- 1) The R10 program areas in Manhattan Community District 5 are designated as Inclusionary Housing Designated Areas pursuant to Appendix F of the Zoning Resolution; and
- 2) The existing height maximums should remain in the Ladies Mile Historic District
- 3) For a developer to build "Affordable Independent Residence for Seniors," the zoning text must require that the site be permanently affordable for the life of the building

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



THE CITY OF NEW YORK
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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: Zoning for Quality and Affordability (ZQA) text amendment.

Full Board Vote: 33 In Favor 0 Against 0 Abstentions 0 Present

The amendment to the Zoning Resolution proposed by the Department of City Planning and titled "Zoning for Quality and Affordability" (ZQA) has the twin goals of encouraging development of affordable housing, particularly for seniors, and improving building design. Community Board 7/Manhattan applauds the effort and shares DCP's goals. However, the proposed Amendment contains certain undesirable features, as detailed below, which prevent CB7 from endorsing the proposed amendment as it is currently drafted. Additionally, provisions in ZQA intended to improve building design do not allow sufficient flexibility to encourage truly superior architecture.

1. Affordable and Senior Housing:

The proposed amendment would permit an increase in floor area ratio (FAR) for buildings providing affordable senior housing and long-term care facilities. In R-10 and R-10A zones the increase would be 20% from 10FAR to 12 FAR; somewhat smaller increases would apply in zones permitting lower FAR. The proposed amendment recognizes that it is frequently difficult for a developer to utilize all of the increased FAR allowable for senior housing without increasing the permitted height of the affected buildings. Accordingly, DCP is proposing to increase the maximum height of buildings in various zoning categories by 20-40' feet in contextual districts, and by comparable amounts in non-contextual districts. The height increases would apply on both wide and narrow streets and in historic districts (subject to a Certificate of Appropriateness permit from the Landmarks Commission). The relaxation of height restrictions would also apply to narrow (45' or less), or "sliver," buildings. DCP is also proposing to increase the maximum base height to minimize the effects of an increase in total height; and to permit shared accessory space on the ground floor and in rear yard areas (other than in "B" districts). Maintenance of the building for senior affordable housing would be for a period of 30 years.

CB7 findings and recommendations For Affordable Senior Housing: CB7 supports the general goal of encouraging affordable Senior Housing and long-term care facilities, and recognizes that there is a growing need, particularly in the CB7 district for such facilities. Modest changes in maximum height, intended to encourage development of senior facilities only are acceptable. However, CB7 **opposes** the following proposed height increases:

- Maximum height increases on narrow streets-- narrow streets in the CB7 district have a distinctive appearance which would be threatened by new buildings of excessive height;
- Maximum height increases in historic districts- CB 7 believes that the Landmarks Commission is ill-equipped to balance the social goal of increased senior housing against the aesthetic goal of preservation of the historic districts;
- Maximum height increases for sliver buildings-- generally, sliver buildings are limited in height to the width of the facing street and CB 7 believes that this restriction should continue to apply to all developments.

Additionally, CB7 **opposes** the limitation of the requirement for affordable senior housing to 30 years, and urges that such housing be made a requirement in perpetuity.

If the foregoing proposed height increases were eliminated CB 7 would support the proposed zoning amendment with respect to Affordable Senior Housing.

2. Inclusionary housing areas:

The proposed amendment would provide for an increase in the maximum heights of buildings in providing inclusionary (affordable) housing. In CB7, these areas generally are the West End Avenue-and Broadway corridors, and portions of Central Park West and Riverside Drive including side streets. As with the proposal for Affordable Senior Housing, the proposed amendment does not differentiate between wide and narrow streets. Height increases on narrow streets would be either 30 or 40'.

CB7 findings and recommendations for inclusionary housing areas: CB 7 continues to support the general goal of the inclusionary housing program, but opposes the proposed maximum height increases for narrow streets, historic districts or sliver buildings for the reasons itemized in item 1 above.

3. Basic residential changes in maximum building heights:

The proposed amendment provides for an increase in maximum allowable building heights for all new developments in contextual and non-contextual districts. In contextual districts the increases are from 5-10' on both wide and narrow streets; for non-contextual districts the proposed increases range from 5-20', including a proposed 20' increase on narrow streets in R-8 districts.

CB7 findings and recommendations for changes in maximum building heights: CB 7 agrees that minor relaxation of the maximum height requirements for wide streets is appropriate but opposes any increase in maximum building heights on narrow streets.

4. Changes to the building envelope:

In addition to proposed changes in building heights, DCP is proposing a variety of changes in the building envelope requirements of the zoning resolution. These will:

- permit alignment to adjacent structures providing discretion to incorporate building features such as bay windows, solar shading elements or other types of façade articulation to extend 12" beyond the street wall / property line;
- encourage better ground floor retail space and or residential units with adequate ceiling heights;
- allow for increased height of the ground floor by 5', if the second level of the building begins at a height of 13';
- provide greater flexibility in the placement of recesses in the street wall facades and create entrance courts; and
- address irregular site conditions and shallow or sloping lots.

For buildings with residential units on the ground floor, the proposal would permit raising the height of the lowest residential floor with the option of leaving the lobby area to be at street level and providing interior access via interior stairs or the elevator. For buildings zoned for ground floor commercial space, the increased ceiling heights would encourage commercial use. To compensate for the increase height of the ground floor maximum building heights would be increased by 5'. The maximum base height would also be increased by 5'. In order to encourage higher floor to ceiling heights of 10', DCP also proposes to set a limit on the number of stories a building can rise.

Additionally, the proposal would modify street-wall regulations to require that buildings "line up" with immediately adjacent buildings, rather than buildings within 150' as currently provided. The proposal would also relax rear yard requirements to accommodate a deeper building.

The DCP proposal would also change rules for corner buildings, by increasing the maximum lot coverage from 80% to 100%, and would amend the current requirement that corner buildings step down or transition from their maximum permitted height to the permitted height in an adjacent lower density district for a distance of 25'. The proposed amendment would permit the step down to be set at the lower of the permitted height on the zoning map or 75'. DCP proposes to eliminate the rear yard requirement for corner buildings.

CB7 findings and recommendations for changes to the building envelope: CB7 welcomes the efforts by DCP to improve grade level appearance and for commercially feasible lots, increased retail space, increase the building

height for the ground floor, relax rules for articulation, however, the location of where the additional 5' is located should be left to the discretion of the Architect and Owner to diversify both the appearance of the building and provide user amenity where it is best suited to the project requirements. This can include an intermediate floor that contains a building wide community space, fitness center, playroom or other associated residential activity and for senior housing create a mid-level cafeteria, library, visiting area or other associated communal space or suite of rooms. If the additional floor height were moved to the top level, this could create a roof terrace, with associated residential activity, and encourage the use of green roofs and sustainable architecture. Other areas that we believe are beneficial to a better streetscape and neighborhood appearance are the relaxation of the alignment regulations to be located no closer than the adjacent building and the opportunity for setbacks at the street wall up to 10' in non-contextual buildings and thereby encourage planting at the street wall; , relax rules for a step-down in height from corner buildings, and compensate for additional height of the ground floor by a modest increase (no more than 5') in building height.

CB 7 **opposes** elimination of the rear yard setback for any buildings.

CB7 **opposes** the proposed increase in lot coverage for corner buildings from 80 to 100%. Full lot coverage creates the risk of diminishing light and air, particularly in residential buildings. Should a developer believe that limiting lot coverage to 80% would create a hardship, the developer may apply for a variance from the BSA.

Although the proposed Quality-related amendments represent a significant step toward improving new building quality, CB7 is concerned that the proposal is still too rigid to permit novel and creative architecture, and urges DCP, working with architects and the Community Board, to revisit the proposal with a view toward greater flexibility. Recognizing that relaxation of zoning envelope rules runs the risk of inferior housing design, CB7 nonetheless believes that some mechanism should exist to permit the design of buildings to fit unique needs or conditions or to encourage superior architecture. One possible solution would be the establishment of a Special Permit system by which developers wishing to modify the rules for a particular building would be able to seek permission from DCP, after review by the Community Board. The significance of this requirement would be to design buildings that respond to specific and intimate neighborhood character and architecture regardless of whether the building is in a zoned contextual district, or not, with the aim to eliminate the tendency to create repetitive, unvaried and uniformly similar building and streetscape.

5. General comments:

CB7 is disappointed that DCP has not taken advantage of the opportunity afforded by a major proposed zoning amendment to review rules for zoning lot mergers and to construct more meaningful limitations on the height of buildings resulting from such transfers in areas where height restrictions do not exist.

CB7 urges the Department of City Planning, the Buildings Department and the Department of Housing Preservation and Development to coordinate enforcement of provisions relating to housing for seniors and affordable housing.

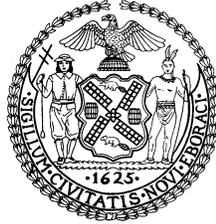
CB 7 urges that a comprehensive study of both ZQA and MIH be conducted periodically by the Department of City Planning in order to evaluate the results and effectiveness of the program in neighborhoods around the city and that such a study be available for public comment.

CONCLUSION

Community Board 7/Manhattan encourages DCP to make the changes suggested by this resolution. If all of these changes are made, CB7 could support the proposed amendment.

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

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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.

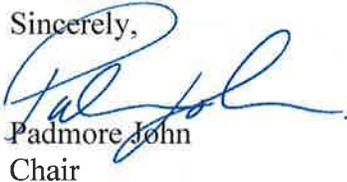
Be it further resolved that CB9 requests that the period for public comment be extended to allow for additional study, particularly of the possible impacts the proposals may have on existing affordable units and of the possibility that the proposals could encourage the tearing down of existing high-quality 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

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RESOLUTION

Date: November 23, 2015

Committee of Origin: Executive

Full Board Vote: 29 In Favor, 2 Opposed, 1 Absentions, 0 Present/Not Voting

Resolution on the Proposed Zoning for Quality and Affordability Plan

WHEREAS, the development of new and 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, affordable senior housing is a particularly grave concern as East Harlem’s and NYC’s senior population require both improved and increased affordable housing dedicated to their population;

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, 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 has proposed the implementation of the Zoning for Quality and Affordability Plan (“ZQA”) to improve and modernize the Zoning Resolution, specifically to promote the development affordable senior housing and related care facilities as well as to improve the quality of residential and commercial development that reflect current development practices and improve the urban environment;

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 ZQA;

WHEREAS, CB11 has recognized the benefits ZQA offers to the East Harlem community but has also identified a number of deficiencies in ZQA that, if addressed and corrected, would substantially improve the purpose of and anticipated result of ZQA and further benefit the East Harlem community;

THEREFORE BE IT

RESOLVED, that ZQA’s proposal to permit the removal of existing parking in a “transit zone” that meets the parking requirements for all housing units should be subject to review by the New York City Board of Standards and Appeals so as to ensure a standardized process for the removal of all types of existing parking requirements, as well as to require community board input on such decisions;

FURTHER RESOLVED, that affordable senior residences outside Mandatory Inclusionary Housing areas developed using ZQA’s floor area bonus should have permanent affordability as is provided to affordable housing that created under the Mandatory Inclusionary Housing program.

FURTHER RESOLVED, that ZQA’s reliance on transit zones should be reevaluated to further consider the appropriateness of including northern Manhattan, including East Harlem, within the same transit zone definition as the outer boroughs; northern Manhattan, including East Harlem, is generally higher density with better access to, and use of, transit and a finer grained approach to the goals of the transit zones is appropriate in East Harlem, especially as it relates to parking requirements for market-rate housing;

FURTHER RESOLVED, the minimum unit dwelling size of 400 square feet should be restored, and no smaller minimum unit dwelling size should be proposed under ZQA.

FURTHER RESOLVED, that ZQA’s proposed revision to the Zoning Resolution to reduce the required spacing between residential buildings –on the same zoning lot should not extend to zoning lots currently owned and/or operated by NYC agencies, including developments owned and/or operated by the New York City Housing Authority, and, instead, any such revisions to the Zoning Resolution should be addressed separately as part of a broader community-driven plan specific to such zoning lots; and

FURTHER RESOLVED, that CB11, on behalf of the East Harlem community and upon extensive consideration of ZQA’s potential effects on East Harlem, does not support or express approval of ZQA, 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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Tel: 718-626-1021, Fax: 718-626-1072
E-mail: qn01@cb.nyc.gov

Melinda Katz
President, Queens
Vicky Morales
Director, Community Boards
Joseph Risi,
Chairperson
Florence Koulouris,
District Manager

**OFFICE OF THE
CHAIRPERSON**

NOV 20 2015
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November 13, 2015

Hon. Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

RE: N160049 ZRY Zoning for Quality and Affordability zoning text amendment

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 29 in favor, 4 opposed and 0 abstaining to **approve with stipulations** the proposed zoning text amendment N160049 ZRY Zoning for Quality and Affordability. **The stipulations supported by CB1Q include:**

A. PARKING

1. Affordable housing and affordable senior housing developments should require mandatory parking for no less than 20% of the affordable units in addition to meeting regular parking requirements for the market rate units in the development. **Parking waivers should not be permitted for new developments.**

The proposed zoning text would make required parking optional for new buildings with affordable housing and affordable senior housing units when located within designated Transit Zones. Since Transit Zones use a half-mile catchment area around each station and bus route, the entire District, with the exception of the northeast section of CD1Q (Astoria Heights and Woodside neighborhoods), is covered by Transit Zones making a parking requirement optional for any new developments with affordable units. Although the N/Q elevated line, the R line below-ground and one F train station serve parts of the District, only the 21st Street/Queensbridge station in the southern part of the District is ADA accessible. Surface transit in the district is inefficient at best with circuitous bus routes and long headways between buses.

BOARD MEMBERS (cont.)

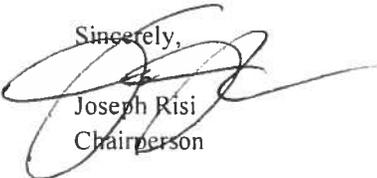
Rose Anne Alafogiannis
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Gerald Caliendo
Joanna D'Elia
Dolores DeCrescenzo
Mary Demakos
Antonella Disaverio
Katie Ellman
Elizabeth Erion
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Stella Nicolaou
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Nancy Silverman
Dominic Stiller
Danielle Tharrington
Marie Tomiali

Eliminating a parking requirement for new development will significantly and negatively impact the quality of life for area residents who already deal with an extremely limited supply of on-street parking spaces in the District.

B. GENERAL INCENTIVES TO ENCOURAGE AFFORDABLE HOUSING IN NEW CONSTRUCTION

1. **In each new development exclude a percentage of affordable-unit floor area from countable floor area** to provide an additional number of affordable housing units or to increase the size of those units in the new building. This would be in addition to the proposed reduction of the floor area factor that would increase maximum density per development.
2. **Change or remove some of the zoning regulations that restrict provision of parking in districts where the Quality Housing Program applies**, (i.e. curb cut prohibitions, location of on-site parking areas) to allow more flexibility to meet market demands for parking.

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
Woodside, New York 11377

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Email qn02@cb.nyc.gov

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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

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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:

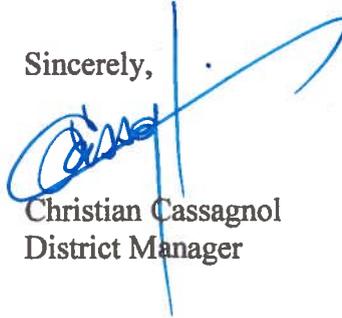
- The lack of parking for any new affordable housing
- Undoing various rezoned areas

- 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 No. 5

Borough of Queens
Ridgewood, Maspeth, Middle Village and Glendale
61-23 Myrtle Avenue • Glendale, NY 11385
(718) 366-1834
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E-mail: qnscb5@nyc.rr.com



Vincent Arcuri, Jr.
Chairperson

Gary Giordano
District Manager

November 30, 2015

Hon. Carl Weisbrod, Chairperson
and Commissioners
N.Y. City Planning Commission
120 Broadway (31st Floor)
New York, N.Y. 10271

Re: CB5Q Opposition to Proposed Zoning for Quality and Affordability
Text Amendment (Applic. #: N 160049 ZRY)

Dear Chairperson Weisbrod & Commissioners,

At their monthly meeting of Wednesday, November 4, 2015, the members of Community Board 5, Queens voted to accept the recommendation of their Zoning and Land Use Review Committee, in opposition to The Proposed Zoning for Quality and Affordability Text Amendment, for the following reasons:

- The increased height allowances in R4, R5, R6, R6B and R3-2 Zoning Districts could negatively affect neighborhood character significantly, in specific parts of Community District 5, Queens.
- Significantly reducing parking requirements for senior housing would limit the mobility of many senior residents, who are closer to age 65, and likely be a deterrent to many seniors otherwise seriously considering moving into a senior housing facility.

Sincerely,

Gary Giordano
District Manager

CC: Hon. Melinda Katz, Borough President of Queens
Hon. Elizabeth Crowley, Hon. Antonio Reynoso, Hon. Karen Koslowitz & Hon. James Van Bramer- City
Council Representatives
John Young, Director-Queens Office, NYC Dept. of City Planning
Vincent Arcuri, Chairperson & Walter Sanchez, Land Use Comm. Chairperson – CB5Q



COMMUNITY BOARD 6, QUEENS

104-01 METROPOLITAN AVENUE · FOREST HILLS, NY 11375-4136

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WWW.QUEENSCB6.ORG



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

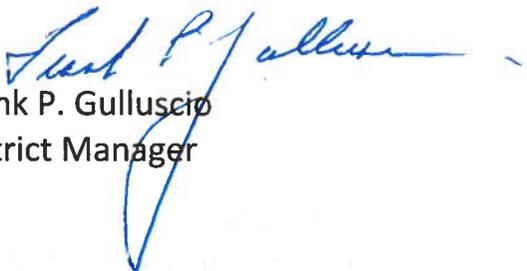
Dear Mr. Young:

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

197-15 Hillside Avenue
Hollis, NY 11423-2126
Telephone: (718) 264-7895
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,

A handwritten signature in blue ink that reads "Alvin Warshaviak" with a circled initial "mao" to the right.

Alvin Warshaviak
Chairman

AW/mao

City of New York



COMMUNITY BOARD NO.9

Queens Borough Hall
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Kew Gardens, NY 11424

(718) 286-2686
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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

"SUPPORT A DRUG FREE COMMUNITY BOARD NO. 9"
Woodhaven, Ozone Park, Richmond Hill, & Kew Gardens

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 7, 2015

OFFICE OF THE
CHAIRPERSON

OCT 21 2015
2 28 83

Carl Weisbrod, Chair
City Planning Commission
Calendar Information Office
22 Reade St., Room 2E
New York, NY 10007

Re: Zoning for Quality and Affordability
N160049ZRY

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.

Members are concerned that this proposal will create buildings that are higher and bulkier in our low density neighborhoods. They object to the reduction in parking requirements in areas such as ours which are car dependent due to limited public transportation.

Additionally, over the past eight years the Community Board worked closely with the DCP to rezone the neighborhoods to protect and preserve their character. If approved, members feel that this proposal negates the efforts made to protect overdevelopment.

Thank you for your consideration.

Sincerely,

Christine L. Haider

Chaihttps://broker.gotoassist.com/h/doitt?Question=DR529-624-516r



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

90-28 161st Street
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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.

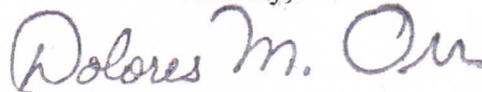


Our Land Use and Housing Committee made the following comments in their motion to the Board to object to the proposed text amendment:

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 Text 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: Zoning for Quality and Affordability
ULURP Number N160049ZRY

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 Zoning for Quality and Affordability Text Amendment, ULURP Number N160049ZRY. There was no opposition to the rejection and no abstentions.

WHEREAS, the Zoning for Quality and Affordability Text Amendment one size fits all approach does not work for each community;

and, the ZQA's Text Amendment would increase project density, floor area, building height and unit count;

and the ZQA's Text Amendment would reduce light and air quality while overshadowing the lower scale buildings in our community;

and, the amendment would allow for developers to build out of character with our neighborhoods.

BE IT RESOLVED that, we, the members of Community Board 2 **reject** the Zoning for Quality and Affordability Text Amendment 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 #: **N160049ZRY**

Project Name: **Zoning for Quality and Affordability**

CEQR Number: 15DCP104Y

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 #C100000ZSQ"
 - 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 Department of City Planning as part of the City's coordinated efforts under Housing New York - the Mayor's ten-year, five-borough housing plan - the Department of City Planning is proposing a set of targeted changes to zoning regulations to support the creation of new affordable housing and encourage residential buildings.

Applicant(s): NYC Department of City Planning		Applicant's Representative: Beth Lebowitz
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 Road, 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 <input type="checkbox"/> See Attached Resolution		
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



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.N160049ZRY, Zoning for Quality and Affordability Text Amendment "ZQA."

WHEREAS, Community Board 3, Staten Island received the Zoning for Quality and Affordability Text Amendment "ZQA" Department of City Planning "DCP" Application No. N160049ZRY on October 1, 2015;

WHEREAS, on October 14, 2015 the Community Board 3 Land Use Committee held a public hearing and representatives from DCP presented the Zoning for Quality and Affordability Text Amendment Application at that hearing;

WHEREAS, November 5, 2015 Community Board 3 convened a special meeting to review the Zoning for Quality and Affordability Text Amendment;

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 ZQA was not a product of community based planning and nullifies many of the advances in Community Board 3 Staten Island and does not take into account the neighborhood character safeguards provided by the Special South Richmond Development District "SRD" and the Staten Island Growth Management Task Force;

WHEREAS, the ZQA 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 ZQA allows developers to construct apartments as small as 250 square feet for senior citizens;

WHEREAS, the ZQA increases the density, floor area, height and dwelling unit count of affordable senior housing across the City, which will significantly diminish air, light, open space and living space;

WHEREAS, Community Board 3 Staten Island is opposed to any text amendment that increases the allowable density in existing zoning districts, as well as revising district boundaries inside existing zoning districts that allow for as of right increased density;

WHEREAS, the ZQA reduces or entirely eliminates the required parking for new developments ignoring the different and critical transportation needs of neighborhoods and the ability or willingness of government to provide sufficient and efficient public transportation to meet the needs of residents — present and prospective;

WHEREAS, the ZQA is an unprecedented action, allows an otherwise impermissible use, which increases dwelling unit count and building height, by permitting multiple dwelling unit buildings called Continuing Care Retirement Community "CCRC" to be located in single family R1 and R2 Districts without any necessity for affordable units:

WHEREAS, the ZQA while claiming that the new CCRC use is not as-of-right, allows these multiple dwelling unit buildings in R1 and R2 Districts by only a City Planning Commission authorization, thereby avoiding ULURP, the Community Board and City Council review;

WHEREAS, the ZQA'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 EAS concludes that there are no issues in need of mitigation disregarding the real infrastructure needs of the affected communities and the environments effects of the resulting new development on the public health, safety, and welfare of our citizenry.

WHEREAS, many of the proposed zoning changes will increase pressure on acquisition and demolition of underdeveloped property for purposed of redevelopment resulting in changing the character of our neighborhoods;

WHEREAS, the ZQA is not a good fit for the Community Board 3 Staten Island residents as the lack of transportation public alternatives (buses and trains) has compelled our citizens to be motor vehicle dependent community;

WHEREAS, Staten Island has one of the longest commuter times in the country, and our limited Express Bus Service is insufficient;

WHEREAS, Staten Island does not have a true mass transit system, the only train is the one-line Staten Island Railway, and we do not have subways like the other four boroughs;

WHEREAS, the south shore of Staten Island has a major deficiency in sanitary and storm sewers it does not make the south shore suitable for increased density;

WHEREAS, Staten Island is dependent on only two Sewer Treatment Plants which are currently overburdened;

WHEREAS, many of our schools are over-crowded, especially our high schools; and the fact that one was already forced into implementing a split session;

WHEREAS, our schools lack the resources to adequately offer children educational opportunities they need and deserve and increased density would further drain these resources;

WHEREAS, health care services within Community Board 3 Staten Island are limited (the only borough without a HHC hospital),with one private hospital the influx of the proposed inclusionary housing would be a burden;

WHEREAS, any mandated affordable housing proposal is subsidized housing whether it is funded by the government or the private sector;

WHEREAS, the ZQA does not decree that this affordable housing program is temporary assistance and encourage people to become independent as soon as possible;

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, our Community Board would prefer to see our industrial zones developed in a manner that would contribute to creating jobs and to our economic development;

NOW, THERFORE,

BE IT RESOLVED THAT, Community Board 3 Staten Island is opposed to the Zoning for Quality and Affordability Text Amendment No.N160049ZRY in its entirety.



**The City of New York
Bronx Community Board Three**

1426 Boston Road, Bronx, NY 10456
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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
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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.

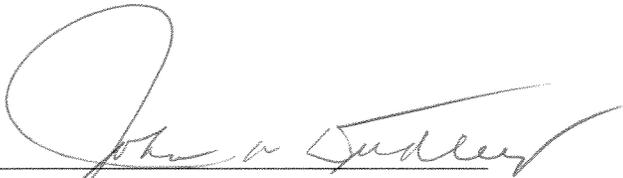
DCP has also provided other considerations including a payment in lieu option for buildings between 11-25 units, into a development fund. Requirements for affordable units could be reduced or waived through BSA, where they would make the development infeasible (legal requirement for hardship relief).

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

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The Bronx, New York 10457
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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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Demetrius McCord

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Steven Froot

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Charles G. Moerdler

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Martin Wolpoff

Libraries & Cultural Affairs

Marvin Goodman

Parks & Recreation

Bob Bender

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: Zoning for Quality and Affordability Text Amendment DCP Land Use Review Application No. N160049ZRY

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 ten-year plan for affordable housing that recommends the construction of 80,000 new units and the preservation of 120,000 units;

WHEREAS, among a range of initiatives, the Mayor has set forth two, city-wide zoning text changes, one of which is Zoning for Quality and Affordability ("ZQA");

WHEREAS, the proposed zoning text amendment known as ZQA was certified to Bronx Community Board 8 ("Bronx CB 8" or "CB 8") on September 21, 2015;

WHEREAS on October 28, 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 ZQA, 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 unique understanding of the special character of its neighborhoods and is in the best position to determine the impact of zoning text changes;

WHEREAS, in 1997 Bronx CB 8 undertook an extensive public outreach process with the goal of developing a community-wide comprehensive 197-a Plan entitled “CD8 2000: A River to Reservoir Preservation Strategy” with many stated goals, including 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 197-a Plan submitted by Bronx CB 8;

WHEREAS, the ZQA was not a product of community based planning, nullifies many of the advances of the 197-a Plan created by Bronx CB 8 and does not take into account the special character of CB 8;

WHEREAS, the ZQA is a one-size-fits-all approach to planning, attempting to finance affordable housing through zoning to the detriment of and without regard to the character or changing character of communities for generations to come;

WHEREAS, the ZQA allows developers to construct affordable senior citizen apartments as small as 250 square feet for its residents across the City of New York;

WHEREAS, the ZQA 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;

WHEREAS, the ZQA reduces or entirely eliminates the required parking for these new developments across the City of New York ignoring the different and critical transportation needs of neighborhoods within the City of New York and the ability or willingness of government to provide sufficient and efficient public transportation to meet the needs of residents—present and prospective;

WHEREAS, ZQA identified “transit zones” with diminished parking that are located within one half-mile of subway stations but fails to note that only one subway station in CB8, at West 231st Street, is accessible to those with disabilities and senior citizens with impaired mobility,

WHEREAS, ZQA, in an unprecedented action, allows an otherwise impermissible use, which increases dwelling unit count and building height, by permitting multiple dwelling unit buildings called Continuing Care Retirement Community (“CCRC”), to be located in single family R1 and R2 Districts without any necessity for affordable units;

WHEREAS, ZQA, while claiming that the new CCRC use is not as-of-right, allows these multiple dwelling unit buildings in R1 and R2 Districts by only a City Planning Commission authorization, thereby avoiding ULURP, the community board and City Council review;

WHEREAS, the ZQA's draft environmental impact statement ("DEIS") was not certified 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, City Planning was specifically asked to submit and has failed to establish how and in what particular respects the ZQA 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, the DEIS concludes that there are no issues in need of mitigation disregarding the real infrastructure needs of the affected communities and the environmental effects of the resulting new development on the public health, safety and welfare of our city;

WHEREAS, the DEIS is silent on the number of affordable housing units expected as a result of the zoning text changes and has failed to demonstrate how the ZQA will significantly advance the creation of affordable housing;

WHEREAS, the ZQA impairs the goals of contextual zoning which were embodied in Bronx CB 8's 197-a Plan by increasing height, eliminating yards, allowing construction in rear yards and reducing the distance between buildings;

WHEREAS, the changes to contextual zoning are proposed for aesthetic reasons only and do not produce any affordable housing units;

WHEREAS, many of the proposed zoning changes will increase pressure on acquisition and demolition of underdeveloped property for purposes of redevelopment resulting in the likely removal of already affordable housing, thus changing the character of our neighborhoods;

WHEREAS, Bronx CB 8 believes that resources that would be spent on the ZQA could be used more efficiently in other plans rooted in community planning to create and preserve affordable housing;

WHEREAS, Bronx CB 8 supports the underlying general principles of the Mayor's initiative to create 80,000 new units of affordable housing and preserving 120,000 units of affordable housing as outlined in his plan, Housing New York;

WHEREAS, Bronx CB 8 supports all housing programs including the Article 8A Loan Program which create low interest loans and other financial incentives for owners to preserve already existing affordable housing;

WHEREAS, Bronx CB 8 supports the increase of the bonding cap for NYCHDC which creates low interest loans for developers to create new affordable housing;

WHEREAS, Bronx CB 8 supports the funding of city and state programs that protect the rights of tenants of rent-stabilized and other affordable housing units to remain in their homes;

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;

BE IT RESOLVED THAT, Bronx CB 8 is opposed to any zoning text amendment that permits multiple dwelling unit buildings to be created in single-family districts;

BE IT RESOLVED THAT, Bronx Community Board No. 8 is opposed to any zoning text amendment that increases the height for contextual buildings and eliminates yards, allows rear yard construction and lessens distance between buildings;

BE IT RESOLVED THAT, Bronx CB8 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 any zoning text amendment that reduces or eliminates parking;

BE IT RESOLVED THAT, Bronx CB 8 is opposed to the Zoning for Quality and Affordability text amendment.

Sincerely,



Daniel Padernacht
Chairman

Originals sent to:

Mayor Bill de Blasio
Carl Weisbrod, Chair, NYC Planning Commission
NYC Council Speaker Melissa Mark-Viverito
Bronx Borough President Ruben Diaz, Jr.

Carbon Copy sent to:

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

BRONX RIVER

**CASTLE HILL/
 ZEREGA**

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

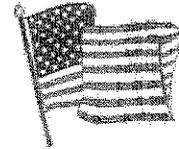
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Martin A. Prince
Chairperson

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.



COMMUNITY BOARD 11
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Borough President Ruben Diaz Jr.

Chairman Anthony Vitaliano

District Manager Jeremy Warneke

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*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.

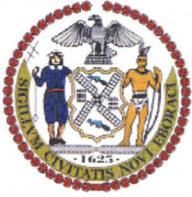
If you have any questions, please do not hesitate to contact the Community Board 11 Office.

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)

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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

**The Honorable Bill de Blasio
Mayor of the City of New York
27 November 2015
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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 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 west of West 22nd Street 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 neighborhood 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 waivers appear 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.

ZONING FOR QUALITY AND AFFORDABILITY (ZQA)

**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 DEFINITIONS, USE, BULK, AND PARKING REQUIREMENTS FOR RESIDENTIAL, COMMUNITY FACILITY, AND MIXED-USED BUILDINGS IN MEDIUM AND HIGH DENSITY RESIDENTIAL OR EQUIVALENT DISTRICTS.

WHEREAS, The Department of City Planning (DCP) seeks a text amendment (N 160049 ZRY) in order to address the needs of affordable housing construction, aid in the efficient use of housing subsidies, and encourage higher-quality residential buildings in the city's medium and high density neighborhoods; and

WHEREAS, The City of New York is continuing to struggle with an ongoing affordable housing crisis due to a combination of rapidly disappearing rent-regulated and government-subsidized units, high percentage of rent-burdened residents and an insufficient amount of new quality affordable multifamily housing construction due to the technical obstacles of dense development in urban centers, contemporary design and construction methods conflicting with modern municipal restrictions, scarcity of sites, cost of land, and high costs of materials and labor; and

WHEREAS, A changing trend in housing preference has resulted in a migration of young families and seniors attracted to the city's vibrant culture and transit-oriented lifestyle over that of the suburbs; and

WHEREAS, As a result, the city grew to 8.4 million people by 2013 and the population is expected to continue to rise, surpassing 9 million residents by 2040. This population growth is a reflection of the city's success but it also brings with it a growing need for housing at all affordability levels; and

WHEREAS, A mechanism proposed by DCP to address the issues stated above is the citywide text amendment, N 160049 ZRY, known as Zoning For Quality and Affordability (ZQA) which consists of changes to various zoning provisions with citywide applicability. The Proposed Action can be summarized in the following three components:

1. Promote Affordable Senior Housing and Care Facilities

2. Modify Rules That Shape Buildings to allow for new construction methods and design flexibility
3. Reduce Parking Requirements for Affordable Housing; and

WHEREAS, The current proposed action reflects changes made after a draft scope of work was issued on February 20, 2015. At that time Manhattan Borough President Gale A. Brewer and 30 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 March 25, 2015 to Chair Weisbrod of the City Planning Commission outlining concerns about the proposed actions. In response to the letter, submitted technical comments, community board input, and other public testimony provided throughout the public comment period for the draft scope of work, DCP made several amendments to their proposed actions which included:

1. Extending the comment period for the environmental scope for almost an additional month to April 30, 2015
2. A set of refinements to the proposed height changes for R6B, R7A and R8B zoning districts
3. Creating individual profiles for each Community Board that explained those elements of the proposal that would or would not apply in each community
4. Providing presentations to all 59 Community Boards to discuss the proposal with them prior to the formal public review process; and

WHEREAS, The current proposed text and draft environmental impact statement (DEIS) was released by DCP in September 2015; and

WHEREAS DCP's analysis found no significant adverse impacts related to the chapters on land use, zoning, or public policy, socioeconomic impacts, community facilities and services, open space resources, natural resources, water and sewer infrastructure, transportation, solid waste and sanitation services, public health, neighborhood character, and construction. The DEIS also concluded that the proposed action would be consistent with the city's greenhouse gas (GHG) and climate change goals. DCP's analysis did find that the proposal would potentially result in adverse impacts related to incremental shadows, new sensitive receptors closer to existing train operations on elevated train tracks, additional in-ground disturbance that could occur on sites where hazardous materials exist and on sites where archaeological remains exist; 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 Zoning for Quality and Affordability 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 denial of the Zoning for Quality and Affordability zoning text amendment unless certain conditions are met; and

WHEREAS, On November 24, 2015 the full board of Community Board 3 approved a resolution recommending denial of the Zoning for Quality and Affordability zoning text amendment; and

WHEREAS, On November 4, 2015 the full board of Community Board 4 approved a resolution recommending denial of the Zoning for Quality and Affordability zoning text amendment unless certain conditions are met; and

WHEREAS, On November 12, 2015 the full board of Community Board 5 approved a resolution recommending denial of the Zoning for Quality and Affordability 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 Zoning for Quality and Affordability zoning text amendment; and

WHEREAS, On November 19, 2015 the full board of Community Board 7 approved a resolution recommending denial of the Zoning for Quality and Affordability 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 Zoning for Quality and Affordability zoning text amendment; and

WHEREAS, On November 19, 2015 the full board of Community Board 9 approved a resolution recommending denial of the Zoning for Quality and Affordability 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 Zoning for Quality and Affordability 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 Zoning for Quality and Affordability 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 Zoning for Quality and Affordability, at which 55 speakers testified, of which 47 speakers testified in opposition to the proposal and 8 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 ZQA:

1. The additional bulk allowed for senior housing is not required to be permanently affordable;
2. The proposal undermines the Sliver Law for projects that involve any affordable housing, paving the way for out-of-character, too-tall midblock construction;
3. The proposal fails to fix the flaws in the inefficient Voluntary Inclusionary Housing and R10 affordable housing programs, even though it may afford significant height increases for developments in these programs; 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 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 160049 ZRY; and

WHEREAS, the Manhattan Borough Board believes, based on the aforementioned information, that the following proposed changes to the Zoning Resolution represent strengths with the text as written:

1. Changes to bulk envelopes are now explicitly tied to the provision of affordable housing;
2. Reduction of parking requirements are similarly tied to the provision of affordable housing;
3. The proposal contains language clarifying its intent, as well as clarifying language, and better organization of certain provisions in the Zoning Resolution designed to make it easier to read;
4. A cap on number of stories for all zoning districts would be established;
5. The proposal adopts many significant elements of the enhanced commercial district streetscape regulations including transparency and glazing requirements and would apply them universally;
6. Irregular lot size rules would be rationalized;
7. Certain barriers to good design would be removed; and

WHEREAS, the Manhattan Borough Board believes the following concerns are universal to the Borough of Manhattan:

1. The removal of the distinction between wide and narrow streets would impact “hills and valleys;”
2. The elimination of the Sliver Law would negatively impact streetscape;
3. Removal of rear yard encroachment rules at the ground floor would impact the “historic donut;”
4. The proposed height changes may not be the minimum necessary to achieve the goals of the text;
5. Tying bulk changes to a particular construction technique may not be appropriate and certain construction techniques could cause a loss of jobs in the construction sector;
6. The proposal’s potential impact on historic resources, and the work of the Landmarks Preservation Commission;
7. The proposal’s impact on construction safety;
8. Incentivized senior housing may not be permanent, but the height and FAR increases would be; and
9. R10/Voluntary Inclusionary Housing programs have significant problems not addressed by the current proposal but are being used as the qualifying programs for additional height under ZQA; now

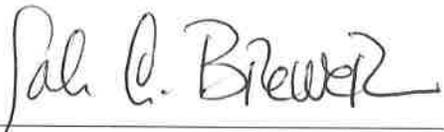
THEREFORE BE IT RESOLVED, the Manhattan Borough Board in its authority recommends disapproval of the citywide text amendment, N 160049 ZRY, known as Zoning For Quality and Affordability, unless the following conditions are satisfied:

1. The text amendment for the City of New York Zoning Resolution (ZR) is revised to maintain the distinction between wide and narrow streets in order to reduce impacts to the historic “hills and valleys” that characterize the development of Manhattan;
2. The applicability of the Sliver Law as it exists today in the ZR remains in place;
3. Applicability of rear yard encroachment rules at the ground floor will be retained in the ZR for residential and residential accessory uses;
4. The proposed height increases are reduced for contextual districts where the impact is greatest on narrow streets and/or in recently rezoned areas;
 - a. Existing A and B contextual zones will remain as currently written and ZQA text will be applied only after individual review and City Planning Commission determination that the change will not harm preservation resources or neighborhood character in the specific zone.
 - b. A and B contextual zoning text as currently written may be applied in the future to zones if there is a City Planning Commission determination that a preservation purpose will be served.
5. The Zoning Resolution will be neutral as to elevating a particular construction technique over another;

6. The administration will recognize and address that changes to the bulk envelopes will spur additional development in historic districts, and that resources be put in place to ensure that all of the work of the Landmarks Preservation Commission, including designation, is not adversely impacted by an increase in permits;
7. The Administration recognizes and responds to the need for construction safety and a plan that addresses current concerns and accounts for the potential for an increase in problems;
8. The text is revised to clarify the permanency of affordable senior housing and if permanency cannot be guaranteed than text should be provided that will ensure permanent affordability for the building regardless of age restrictions;
9. A commitment is made to immediately begin studying and correcting current flaws within the existing opt-in R10 and Voluntary Inclusionary Housing programs; and

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 #160049 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 promote affordable housing, including mandatory inclusionary housing, contextual height and set back changes, modifications to senior and supportive housing regulations and parking requirements.

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:

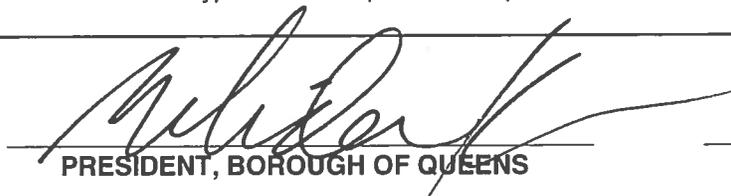
- o The Department of City Planning has filed this application known as Zoning for Quality and Affordable Housing (ZQA) to encourage better and more efficient buildings and to allow full utilization of zoning incentives to provide affordable housing;
- o Adds or replaces definitions for types of senior housing and care facilities;
- o Allows height increase to accommodate elevators in lower density districts not to exceed 4 or 6 stories for senior housing;
- o Elimination of parking requirements for affordable or senior housing in transit zones;
- o Increase ground floor heights to allow better residential or commercial spaces in medium and high density districts;
- o Allows flexibility in design of buildings in relation to the sidewalk, garden areas, courtyards, windows, setbacks and lot coverage;
- o The Department of City Planning has made presentations of the proposals at numerous meetings with all of the Queens Community Boards and the Queens Borough Board;
- o Concerns have been raised at these meetings regarding several aspects of the ZQA proposal;
- o Increased numbers of residents in denser taller buildings will place additional burdens on an already taxed infrastructure system. There are concerns that the schools, streets and transportation systems, sanitation and other services will not be able to handle them adequately
- o Reduction or elimination of parking for affordable and senior housing within the newly defined "transit zone" (areas within one half of a mile from a subway station) on the basis that utilization rates are low for senior housing and that residents do not want to pay for the offstreet parking. The concerns raised are: Queens is not well served by mass transportation. The "transit zones" as identified already are the destination points for many who drive to those areas and park on the streets before getting on mass transit because there is nothing closer to their homes. Another concern is that the actual car ownership rates and patterns differ from the research based on registration data.;
- o The application also includes proposals in medium and higher density districts that would affect how buildings relate to each other in regards to courtyards, setbacks from the sidewalk and location of garden areas. There are concerns that these design changes could impact the overall visual continuity of an area.;
- o Community Board 1 approved this application with conditions by a vote of 29-4-0 at a public meeting held on November 10, 2015. The conditions were as follows: parking must be provided for any affordable housing built, exclusion of some affordable housing floor area from countable floor area and that incentives should be given to produce bigger units to promote a better quality of life, revise Quality Housing Program rules that restricts provision of parking;

- o Community Board 2 disapproved this application with conditions by a vote of 28-2-3 at a public meeting held on November 5, 2015. The conditions were as follows: parking should be provided for affordable housing, except for ground floors increased building heights should not be allowed, irregularly shaped lots should not be developed, and there should not be a Board of Standards and Appeals hardship process;
- o Community Board 3 approved this application by a vote of 16-11-0 at a public meeting held on November 12, 2015;
- o Community Board 4 disapproved this application by a vote of 22-3-3 at a public meeting held on November 10, 2015;
- o Community Board 5 disapproved this application by a vote of 37-1-1 at a public meeting held on November 4, 2105;
- o Community Board 6 disapproved this application by a vote of 22-2-3 at a public meeting held on November 12, 2015;
- o Community Board 7 disapproved this application by a vote of 35-1-1 at a public meeting held on November 9, 2015;
- o Community Board 8 disapproved this application by a vote of 32-0-0 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 at a public meeting held on November 10, 2015
- o The Queens Borough Board approved a motion to disapprove this application by a vote of 12-2-6 at a public meeting held on November 16, 2015. The 6 abstentions cast were for cause.

RECOMMENDATION

Based on the above consideration, the Queens Borough Board recommends disapproval of this application in its present form for the following reasons:

- Parking should be provided in any new affordable or senior affordable housing because Queens residents own cars and rely on the cars for all aspects of their lives. Without reliable mass transit, cars are necessary to get to their jobs, doctor's appointments, shopping or bringing their children to school.;
- Over forty neighborhoods in Queens were rezoned over the last decade or so. Each of these rezonings were done with extensive neighborhood participation that was solicited by the Department of City Planning to assure that each proposal addressed the most pressing issues and were sensitive to the density and heights of those neighborhoods. Some of the ZQA proposals would undo the carefully sculpted rezonings that were the result of a collaborative effort to protect our neighborhoods from overdevelopment;
- Many of the neighborhoods were rezoned with new contextual tools that helped to encourage the best of how the buildings in each area related to each other in terms of the distances from the sidewalks, depth of yards and other attributes that give a neighborhood a built character. Some of the proposed text may alter some of the features that contribute to an areas appeal.;
- There should not be a new special permit that would allow the Board of Standards and Appeals to modify or reduce bulk requirements for a development with at least 50 % of floor area for affordable housing or long term care on an irregular lot. There is already a Board of Standards and Appeals variance procedure to address this type of hardship for development.





 PRESIDENT, BOROUGH OF QUEENS

 DATE

Application #: N160049ZRY CEQR #: 15DCP104 Y	Project Name: ZONING FOR QUALITY AND AFFORDABILITY Borough: STATEN ISLAND Community District(s): 1, 2 & 3
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Please use the above application number on all correspondence concerning this application

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 support the creation of new affordable housing and encourage better residential buildings. To incorporate these goals, various sections of the Zoning Resolution will be amended.

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 Pages 2 & 3
See Borough Board Resolution Addendum on Page 4

Related Applications:

Contact:
Address questions about this recommendation to:
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

12/15/15
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 "Zoning for Quality and Affordability" (ZQA).

- On November 24, 2015, Community Board 3 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 8, 2015, Community Board 1 overwhelmingly adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 9, 2015, Community Board 2 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 10, 2015, the Staten Island Borough Board overwhelmingly adopted a Resolution (appended hereto) recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)

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 agree and support all of the conditions cited in the aforementioned resolutions.

I therefore recommend the **DISAPPROVAL** of the proposed application with the following modifications:

1. Remove all proposed parking reductions, waivers and modifications for Lower Density Growth Management Areas (LDGMA) in the Borough of Staten Island with the exception of future Mandatory Inclusionary Housing Areas (MIH) pursuant to Appendix F:

- Section 25-251 ZR – Income-Restricted Housing Units
Retain current parking requirements per income-restricted housing unit pursuant to current §25-25 ZR. Coordinate §128-51 ZR as required.
- Section 25-252 ZR – Affordable Independent Residences for Seniors
Remove parking reductions for income-restricted housing units outside transit zones in R3-R7B zones
- Section 128-51 ZR – Required Off-Street Parking and Loading (Special St. George District)
Remove exception provision for income restricted housing units facilitated through Section 25-252 ZR - Affordable Independent Residences for Seniors

2. Clarify provisions for buildings used partially for community facility uses, buildings containing certain community facility uses in LDGMA, special provisions for long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations and quality housing buildings:

- Section 24-012 (a),(b),(c) and (d) - Exceptions to the Bulk Regulations for Community Facilities in Residence Districts

3. Remove increase in lot coverage from 80% to 100% for corner lots containing residential buildings in C4-2 Districts within the Special St. George District - Upland Subdistrict:

- Section 128-22 ZR – Maximum Lot Coverage – request percentage remain as originally approved

Explanation of Recommendations, Conditions or Modification (continued):

4. Remove applicability of modifications of parking and bulk regulations for LDGM areas in the Borough of Staten Island pursuant to BSA approvals:

- Section 73-435 ZR – Reduction of Existing Parking Spaces For Affordable Independent Residences For Seniors
Remove LDGM areas in the Borough of Staten Island regarding modifications of use or parking waivers pursuant to §73-435 ZR for zoning lots outside the Transit Zone
- Section 73-623 ZR – Bulk Modifications for Quality Housing Buildings on Irregular Sites

5. Develop more contextual senior housing options to be included in the text for LDGMA in the Borough of Staten Island:

- The components of ZQA do not go far enough to address the types of independent senior housing and unique flexibility required to integrate low-density senior housing options into the vast majority of Staten Island communities

6. Remove all R1 and R2 districts in the Borough of Staten Island from provisions applicable to buildings containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations:

- Section 24-013 ZR (a)(1) & (b)(1) – Special Provisions for Certain Community Facility Uses

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
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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 neighborhood 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 waivers appear 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 160049 ZRY – Zoning for Quality and Affordability 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 definitions, use, bulk and parking requirements for residential, community facility, and mixed-used buildings in medium and high density residential or equivalent districts. The text amendment, known as Zoning for Quality and Affordability, or ZQA, was put forth in order to address the needs of affordable housing construction, aid in the efficient use of housing subsidies, and encourage higher-quality residential buildings in the city's medium and high density neighborhoods.

While I support these goals, I must recommend disapproval with conditions of this text amendment at this time. I appreciate that a lot of time and effort was put in on behalf of the department to craft this text, and I appreciate the unprecedented move of providing an annotated version of the proposed changes prior to the start of formal public review. However, I have a number of concerns related to the implementation of these changes in Manhattan which I have outlined below. Additionally, I believe that the proposed text will require targeted, specific, neighborhood-appropriate changes in order to fully respond to the individual Community Board resolutions.

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 160049 ZRY. For more information on the background behind my consideration, please see the Appendix to this letter.

BOROUGH PRESIDENT RECOMMENDATION

Since I last reviewed this proposal during environmental scoping, DCP made a number of revisions to the text to reflect public input, including Community Board recommendations. A significant new strength in this proposal is the text explicitly tying changes to bulk envelopes to the provision of affordable housing, just as the reduction of parking requirements are similarly tied to the provision of affordable housing. Other beneficial changes include language clarifying various requirements' intent and better organization of certain provisions in the Zoning Resolution designed to make it easier to read. In addition, for the first time outside of a few special districts, there will be a cap on the number of stories for all zoning districts. Furthermore, the proposal adopts many significant elements of the enhanced commercial district streetscape regulations including transparency and glazing requirements and would apply them universally. Lastly, the goal of rationalizing irregular lot size rules is appreciated.

A number of changes are proposed to promote quality in design. While good design is still not guaranteed, a number of the proposed changes would, I believe, remove some of the existing barriers to good design by the average development proposal. A lively and vibrant streetscape is critical to the health and vitality of our urban fabric, and the following changes are positive steps to ensuring that. The changes that meet this threshold are:

- Efforts to improve the ground floor use requirements so that they would be consistent citywide. These improvements would include standardizing the rules regarding minimum depth requirements, requirements for transparency, width of ground floor lobbies, and parking wrap requirements;
- Text modifications that provide guidance on how to determine line-up provisions for street façades when there are architectural features like bay windows;
- Street wall requirements to apply beyond 50 feet of a wide street, where no street wall requirements currently exist;
- Efforts to remove barriers to architectural articulation and interesting façades, like allowing for window recesses and structural expressions within set limits;
- Modifications of court requirements to be more flexible and allow for a variety of spaces to qualify at the street or interior yard level so as to allow more opportunities for natural light. An example of this is the proposed change to allow for small, inner courts to accommodate courts with non-legally required windows, such as those found in kitchens and bathrooms;
- Modifications to allow greater building articulation at the ground floor level on wide streets in our high density commercial districts;
- Modifications to the transition rules which govern heights for corner lots in medium and high-density districts adjacent to lower-density districts to ensure a consistent street wall; and
- Removal of the double-pane window requirement from the Quality Housing Program and a few special districts, since building code requires that as a minimum standard and the zoning requirement makes it harder to provide a window of higher quality or energy efficiency.

While it is unfortunate that more time was not given at the Community Board, Borough Board, and Borough President levels to consider the changes made and the full available text, the

minimum referral timeframe was doubled from 30 to 60 days; in addition the text was made available 30 days prior to referral and included plain English annotations explaining the various changes. This is after individual presentations at all of the community boards following scoping to outline the provisions of the proposal, followed by another round post-referral of individual committee presentations and after multiple presentations and opportunities for discussion at Manhattan Borough Board. Public engagement and process matter, and the hearing held by my office on November 16, 2015 was an opportunity to engage the populace in a discussion on two text amendments that have the potential to reshape our built environment and how we construct affordable housing in the decades to come. What has become clear is that more time with this zoning text has not increased New Yorkers' comfort with the broad stroke changes it proposes for this city, and giving additional time to this first stage in public review will not help that fact. More changes are needed. Many of the concerns directly shaped the substance of this letter, and I would like to thank those who attended, who spoke, and who wrote in with their concerns and most importantly to all for their constructive ideas for how to improve this incredibly complicated and dense zoning text amendment.

- 1) Environmental Review:** It is troubling that the DEIS found no significant adverse impacts to public policy considering the whole premise of these text amendments potentially undoes years of neighborhood planning efforts and negotiations around contextual districts and height caps in one fell swoop. However, that is a flaw in the CEQR manual threshold criteria and beyond the scope of the analysis framework, or generic modeling, used for the environmental review. With that in mind, the Administration was made aware of this shortcoming as early as March 2015 by comments submitted at the scoping session for the DEIS, and the proposal should have designed a neighborhood-by-neighborhood approach that allowed final modifications reflecting specific geographic language responsive to local concerns and diversity of uses and space.

It would be fair to assume that lifting obstacles to new construction technologies that include the “block and plank” technique and modular construction will have an important impact on construction and other skilled trade labor. The economic impact to this critical employment sector should have been assessed under the socioeconomic conditions chapter in CEQR and those results made available for public consideration.

It is also concerning that the proposed text would result in the potential for unavoidable adverse impacts with respect to shadows, historic resources, hazardous materials, and noise. Again, because this was a generic environmental review, with theoretical models, and no list of specific development sites, there is no analytical path to deal with these potential scenarios. This is in and of itself reason for pause.

- 2) Neighborhood character and planning:** After much consideration I found a significant number of proposed changes greatly troubling, with the potential for serious impacts to the built environment. I also remain unconvinced that these changes holistically will truly solve the issues of affordability or quality the text amendment seeks to address and result in beneficial changes to Manhattan. I believe some of these measures may undermine the work already undertaken by local residents to set their communities on the path to smart growth while protecting their unique neighborhood character. For example, one proposed

change would adjust the maximum building envelopes in Special Districts that did not include any special FAR or building envelope rules under the premise that this is a technical change to bring them in line with changes proposed for the Quality Housing option. However, this change disregards the fact that just because a new height wasn't established does not mean height was not part of the original community discussion or consideration.

In addition, in order to truly address the need for individual community study, existing A and B contextual zones should remain as currently written and ZQA text applied only after individual review and City Planning Commission determination that the change will not harm preservation resources or neighborhood character in the specific zone. Lastly, as part of a future neighborhood study, the City Planning Commission should consider whether existing affordable units would be adversely impacted if the proposal's current maximum building heights in A and B contextual zoning text were to be applied.

- 3) **Wide vs. narrow streets:** Other changes may be equally misguided, while the intent is admirable. In order to fix an alleged mismatch between the bonus floor area granted under the Voluntary Inclusionary Housing program with bonus floor area actually used due to existing maximum building height caps, the text proposes a series of height increases, ranging up to 50 feet. What is most troubling is that the proposed increases eradicate, in some cases, the clear distinction and height differential between our wide and narrow streets. Other changes to the text are consciously made to extend street wall requirements and protections onto narrow streets. The applicability of the Sliver Law is also clarified to distinguish between wide and narrow streets. Thus, it is baffling that the text proposes additional height levels that would effectively undermine what protects our "hills and valleys" rhythm of taller buildings on wide streets or avenues which can accommodate the height and shadow impacts and more residential, medium to low-rise character of our mid-blocks.

In order to address these concerns, the ZQA proposal should be revised to maintain the distinction between wide and narrow streets in order to reduce impacts to the historic "hills and valleys" that characterize the development of Manhattan. The proposed height increases should be reduced for contextual districts where the impact is greatest on narrow streets and/or in recently rezoned areas.

- 4) **Sliver Law:** Another concerning change is the proposed elimination of the applicability of the Sliver Law, as ZR Section 23-692 is affectionately known, for buildings containing a portion of affordable housing. The only time I have argued for a broad change in applicability of the Sliver Law, and indeed the only time I would, is in a case where the underlying bulk and height controls are tighter and more restrictive than the rules contained in the Sliver Law. Such was the case in my prior recommendation for a change in a special district (N 150083 ZRM – Hudson Yards D4, D5 text amendment) where the height rules were more restrictive. Only when tighter controls are in place does it make sense to eliminate a rule in conflict. Therefore, while I appreciate the changes made to clarify the intent of this rule, I would recommend that its applicability remain in place and not be modified to preclude a subset of residential development.

- 5) **Rear yards:** Instituting a cap on the number of stories will ensure better floor to ceiling heights, and the reduction of rear yard setback requirements could allow for more efficient floor plates. However, allowing the rear yard to be encroached upon at the ground floor for residential or residential accessory uses will not result in a multitude of affordable units and impedes upon a significant characteristic of Manhattan neighborhoods. As I have pointed out in a number of ULURP applications seeking such a rear yard waiver for residential uses, a unique attribute of Manhattan’s blocks is, in general, a consistent street wall along the perimeter of all four sides of the block. We do not have a road system that includes alleys; instead, we have “donuts.” These donuts were historically formed by the rear yards of townhouses, built speculatively by developers as the residential development of Manhattan expanded ever northward in response to a post-Civil War population boom and the opening of Central Park. Today, it is the City of New York’s Zoning Resolution through its requirements for open space, minimum yards, and distance between buildings that maintains and ensures these open areas will remain in perpetuity to provide light and air. But this proposed change may seriously degrade these spaces and the aggregate impact was not accounted for in the DEIS. While similar rules exist for community facility uses, the overwhelming Manhattan experience has been one of poor enforcement and these accessory spaces are too easily converted to a non-compliant use. The applicability of rear yard encroachment rules for residential and residential accessory uses at the ground floor should be retained in the ZR.
- 6) **Construction and preservation:** The height and setback changes proposed in this text amendment garnered the most visceral reaction and amount of discussion. As a result, while a number of targeted changes could address some level of universal concern, the idea of increasing heights and allowing for increased envelope flexibility also gave voice to other concerns regarding construction practice and safety, an increase in development and the associated quality of life concerns that come with any construction project, and impacts to the historic resources of the city. I will echo the Manhattan Borough Board resolution conditions here: The Zoning Resolution should be neutral as to elevating a particular construction technique over another, and I recommend that the administration recognize and address that changes to the bulk envelopes will spur additional development in historic districts, and that resources should be put in place to ensure that all of the work of the Landmarks Preservation Commission, including designation, is not adversely impacted by an increase in permits. The Administration should respond to the need for construction safety with a plan that addresses current concerns and accounts for the potential increase in problems. This plan must give special focus to the needs of existing tenants, especially those in rent-regulated units, who may fall outside the scope of administration targeted measures for anti-harassment and tenant protections.
- 7) **Senior housing:** Another topic that generated a significant amount of discussion and consideration was in regards to the changes proposed to promote the construction of senior housing. While no one seemed to diminish the need for senior, especially affordable senior, housing in the city, opinions differed greatly as to the substance of how to accomplish this. ZQA attempts to solve this conundrum on the building envelope side, with mixed degrees of success. Elimination of obsolete terms is a good thing, as is

allowing all program types to be treated the same for the purposes of floor area in order to simplify construction. Even allowing pathways to convert under-utilized required parking spaces can be positive, if the right conditions and considerations are set forth to ensure no adverse impacts and the resulting infill is also appropriate. The most problematic aspect of the proposal component for senior housing is again the additional height. The need for this housing is not in doubt. But if the solution involves additional height, then communities must be assured that a permanent height increase will not result in senior housing that is not permanent. The changes proposed for senior housing require further refinement. The text should be revised to clarify the permanency of affordable senior housing and if permanency cannot be guaranteed, then text should be provided that will ensure permanent affordability for the building regardless of whether it can be permanently for seniors. The last thing we want is in 20-30 years for this housing to become prohibitively expensive senior housing.

Additionally, though the intention to create more affordable senior units using a mixed-use development model is commendable, allowing accessory spaces to be built on the ground floor in the rear yard area may result in the disturbance of rear yard areas. Moving accessory uses into those spaces may disturb the quality of life for surrounding neighbors and constricts open space, light and air for neighboring back yards. The exemption to allow affordable senior housing, long-term care facilities, and not-for profit institutions with sleeping accommodations (NPISAs) the ability to co-exist in a single facility may be appropriate in lower density areas and may be the current trend in senior care, but is not viewed favorably in Manhattan. The text should be careful not to elevate one model of senior housing or long-term care over any other.

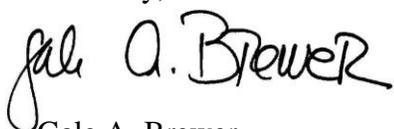
- 8) Voluntary program:** Lastly, I have respectfully requested multiple times for changes to the existing opt-in affordable housing programs. Considering I have been writing on the topic since August 2014, I was incredibly disappointed that, even though time is spent re-organizing the relevant sections of the Zoning Resolution, no substantive changes are proposed to address concern with aspects of the program, such as the two-door option for affordable housing, and the practice of “double-dipping” with 421a. I have also emphasized the need for provisions to adjust the bonus to create additional units in areas where floor area is highly valuable, and to ensure affordable home ownership units are affordable in perpetuity. These concerns were echoed in the March 2015 letter when this office and a host of other elected officials once again reiterated the need to improve the flawed, existing Voluntary program, as it will still be the basis upon which ZQA would be applied. And finally, these concerns were reiterated yet again in the November 2015 letter co-signed by most other Manhattan elected officials at the local, state and federal levels. While I am encouraged to have received a written commitment to a review of the Voluntary and R10 programs, I would have hoped to be further along with correcting the current flaws within the existing opt-in program that serve as the foundation for the ZQA amendments.

Since my concerns and that of the Manhattan Borough Board touch upon various topic areas, and in some cases on particular subsections of the proposed changes, and to truly address the principal concern regarding sweeping changes to the underlying height requirements across the

Borough and city, the proposed text will require targeted, specific, neighborhood appropriate changes in addition to the general Manhattan thematic changes outlined in this recommendation. And that type of intervention may well be beyond the capabilities of the timeframe allotted. The City Planning Commission should seriously consider the recommendations from the individual Community Boards, Borough Boards, and Borough Presidents and decide whether specific, targeted changes will be sufficient to address enough of these issues to justify this text amendment moving forward in the public review process. Therefore, I cannot support this text amendment at this time until these conditions are addressed.

My staff and I are appreciative of the thoughtful responses DCP, HPD and other members of the Administration have come to the table with in our recent conversations about the aforementioned concerns. They have shown a sincere willingness to consider our amendments and think of ways to digest the feedback we've provided through our previous letters and public meetings. We hope this recommendation will serve as a means of continuing those conversations and the work to reach our shared goals of creating more affordable senior, supportive and residential housing, encouraging quality buildings and streetscape design, and encouraging a balanced community-based approach to smart growth in our communities.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer
Manhattan Borough President

APPENDIX I. Text Amendment

PROJECT DESCRIPTION

The Department of City Planning referred out on September 21, 2015 a citywide text amendment known as ZQA (N 160049 ZRY) which proposes changes to the ZR to support the creation of affordable housing and encourage better residential buildings. The text amendment has three main components: 1) the promotion of affordable senior housing and care facilities; 2) the modification of rules that shape buildings to allow for new construction methods and design flexibility; and 3) a reduction in parking requirements for affordable housing.

Background

Existing Inclusionary Housing Programs

There are currently two voluntary Inclusionary Housing programs that are open to New York City developers: the R10 program and the expanded “Designated Areas” program.

R10 program

Created in 1987 for high density R10 residential districts and commercial districts with equivalent density, the R10 program remains applicable in those areas today. For each square foot of floor area dedicated to affordable housing, an eligible development can receive between 1.5 and 3.5 square feet of bonus floor area, depending on a variety of factors including whether the affordable housing is provided on-site or off-site, and whether public funding is used for financing. The floor area bonus caps at 20 percent of the maximum permitted residential floor area, thus increasing the maximum FAR from 10.0 to 12.0. Qualifying affordable housing units must remain permanently affordable to households at or below 80 percent of the United States Department of Housing and Urban Development’s (HUD) Area Median Income (AMI).

Designated Areas program

Building on the R10 program, the Designated Areas Program was created in 2005 to encourage the creation and preservation of affordable housing in medium and high density neighborhoods throughout the City that were being rezoned to create new housing opportunities. These designated areas include parts of the Bronx, Brooklyn, Manhattan, and Queens.

This program allows up to a 33 percent floor area bonus for developments that devote at least 20 percent of their residential floor area to housing that will remain permanently affordable to households at or below 80 percent of AMI. In certain special districts, a portion of the affordable housing units may be targeted to higher incomes (below either 125 or 175 percent of AMI) if a greater percentage of affordable units is provided.

Barriers to Building Affordable Housing

In June of 2014, the Citizen’s Housing & Planning Council published “The Building Envelope Conundrum,” a report that highlighted certain difficulties to affordable housing development that related to existing building envelope restrictions. This report, in combination with other barriers that impede the construction of affordable housing, served as the impetus for the current text amendment.

Contextual Building Envelopes

Contextual zoning established in 1987, regulates the height and bulk of new buildings, their setback from the street line, and their width along the street frontage to produce buildings that are consistent with existing neighborhood character. However, feedback from the affordable housing development community has reflected certain shortcomings of these regulations.

First, the dimensional rules for lot coverage, setbacks, courts, side yards, and others were designed for a rectangular 100 foot deep lot. They become complicated and more restrictive when applied to irregular lots, which are increasingly common in such a mature, developed city as New York. The typical floor to ceiling height for an apartment has also changed; while the 1987 regulations assumed an 8 foot floor to ceiling height, typical height in a residential building is now over 9 feet. Finally, new construction practices such as modular construction and “block and plank” construction are also restricted by the contextual envelope regulations. These techniques are seen as potential cost effective ways to construct mid-rise residential buildings, which is particularly significant for non-luxury and affordable housing developments. However, the building envelope rules do not allow for the optimal floor to ceiling heights and lot depths for these construction practices. All of this combined, makes it hard for housing developers to fit in the FAR that they are allowed within the building envelope.

The development of additional FAR has become an essential tool of public policy. In addition to incentivizing affordable housing, it is also used to secure a variety of other public goods such as sustainable design and open space. Restrictions on use of the full FAR that is allowed to developers could impede the realization of affordable housing and other public benefits.

Parking Requirements

Off-street parking can be very expensive to construct, and residents of affordable housing often cannot pay the high fees necessary to offset the cost of these spaces. In these cases, the provided spaces could sit empty as low-income residents who do own cars opt to park them on the street. In other less-dense areas where parking might cost less to build, they nonetheless take up considerable space that might be developed into more housing or better-used public amenities. There is also evidence from data collected by the Department of City Planning that lower-income households own fewer cars, and low-income seniors in particular own very few.

By imposing significant development costs that cannot be sustained by parking revenues, and taking away space from potentially better uses, these parking requirements could act as a restriction on the amount of affordable housing that is built.

Opportunity to Improve Existing Inclusionary Programs

Recognition of potential barriers to building affordable housing has become the impetus to revise old zoning regulations. However, this office believes that it is also a welcomed opportunity to improve the underlying Voluntary Inclusionary Housing program itself.

This office has repeatedly called for reforms to the existing inclusionary program, as it will continue to be an important vehicle for building affordable housing. On August 1, 2014, I first wrote to Chair Weisbrod of the City Planning Commission and Commissioner Been of the Department of Housing Preservation and Development (HPD) requesting that the city remove

the option to build income-segregated buildings from the Zoning Resolution. This letter also outlined other ways the voluntary program could be strengthened and said that the city should institute a mandatory program citywide, as I believe every unit of luxury housing has an adverse impact on the affordability of neighborhoods. I wrote again on October 31, 2014, following a briefing outlining a proposal for a mandatory program, and again asked that the opportunity be taken to fix the current program. I wrote a third time on February 10, 2015, reiterating the need for a citywide mandatory program and fixes to the existing program. From all of these letters dating back to August of 2014, I have clearly expressed concern with aspects of the program, such as the two-door option for affordable housing and the practice of “double-dipping” with 421a. I have also emphasized the need for provisions to adjust the bonus to create additional units in areas where floor area is highly valuable, and to ensure affordable home ownership units are affordable in perpetuity.

The Draft Scope of Work on Zoning for Quality and Affordability was issued on February 20, 2015. In March of 2015, this office and a host of other elected officials once again reiterated the need to improve the flawed, existing Voluntary program, as it would still be the basis for the application of ZQA. At that time, 30 other Manhattan elected officials at the city, state, and federal levels and I, after reviewing the proposal, and in consultation with community groups, wrote a letter dated March 25, 2015 to Chair Weisbrod of the City Planning Commission outlining concerns about the proposed actions. In response to the letter, submitted technical comments, community board input, and other public testimony provided throughout the public comment period for the draft scope of work, DCP made several amendments to their proposed actions, including:

1. Extending the comment period for the environmental scope for almost an additional month to April 30, 2015;
2. A set of refinements to the proposed height changes for R6B, R7A and R8B zoning districts;
3. Creating individual profiles for each Community Board that explained those elements of the proposal that would or would not apply in each community; and
4. Providing presentations to all 59 Community Boards to discuss the proposal with them prior to the formal public review process.

In addition, an annotated version of the proposed text was provided online in August 2015, approximately one month prior to referral for public review.

Proposed Text Changes

ZQA represents one part of the City’s multi-pronged approach to achieving the Mayor’s *Housing New York* ten-year, five-borough strategy to create or preserve 200,000 units of affordable housing. The proposed actions are comprised of a set of targeted changes to zoning regulations to support the creation of new affordable housing and encourage better residential buildings. These suggested changes are in response to the agency’s conversations with architects, developers and construction professionals about existing financial and structural difficulties in producing affordable and senior housing, aiding the efficient use of housing subsidies, and encouraging higher quality residential buildings in the city’s medium- and high-density neighborhoods.

The changes are grouped into two principal buckets: changes to promote affordability and changes to promote quality. In order to promote affordability, changes are proposed to the rules for affordable senior housing and long-term care facilities, the height and setback regulations for Inclusionary Housing buildings, and changes to parking requirements for various types of affordable housing. In order to promote quality, changes are proposed to ground floor requirements, street wall, court, and height and setback requirements, building envelope changes, and related, rules regarding corner and irregular lot sizes, and unit size and configuration.

To achieve the aforementioned objectives, modifications are being proposed across several areas of the Zoning Resolution:

1. Modifications to the language of the Zoning Resolution to make its provisions clearer to the reader and remove obsolete terms
2. A major reorganization of the residential bulk regulations found in Article II, Chapter 3 in order to separate the regulations for R1 through R5 districts from the regulations for R6 through R10 districts, and better organize the various FAR and height and setback controls for medium- and high-density zoning districts
3. Limited organizational changes to the community facility bulk regulations of Article II, Chapter 4, and the commercial zoning district regulations found in Article III, Chapter 2 through Chapter 5.

Parking

ZQA proposes to modify parking requirements for affordable senior housing and affordable housing. These instances include:

- In Transit Zones, areas that are served by a variety of public transportation options and are generally within one-half mile of a subway station, parking for new affordable senior housing and affordable housing will no longer be required and existing affordable senior housing development would be allowed to remove existing parking as-of-right;
- New BSA special permits will be created to allow for the development of affordable senior housing and affordable housing. BSA Special Permit for Section 73-434 will allow existing affordable housing developments to remove existing required parking spaces, and BSA Special Permit Section 73-433 will allow new buildings to reduce or eliminate their required parking in exchange for mixed-income residential development;
- Outside of the Transit Zone, parking requirements for new affordable senior housing would be lowered to 10 percent with existing affordable senior housing buildings receiving the same reduction in required spaces through a new BSA special permit;
- Comparable modifications would be permitted by the City Planning Commission as part of the General Large Scale Development special permits; and
- No changes to parking requirements for other affordable housing in multi-family zoning districts outside the Transit Zone and for as-of-right parking requirements for market-rate housing.

Senior Housing

To meet the projected increase of the City's growing senior population and the current shortage of available or appropriate affordable senior housing, long-term care facilities, and not-for profit

institutions with sleeping accommodations (NPISAs), ZQA proposes several changes to incentivize construction of this type of development. These changes include:

For Affordable Independent Senior Housing:

- Allow for a wider range of non-profit and for-profit entities to provide affordable senior housing by replacing the zoning definition “non-profit residence for the elderly” with a new term, “affordable independent residence for seniors;”
- Require qualifying sites to participate in a regulatory agreement from a City or State agency with a minimum term of 30 years with incomes restricted to seniors making less than 80% of AMI;
- Establish a higher FAR for “affordable independent residences for seniors” in high-density districts (R8 through R10) and a number of medium-density contextual zoning districts; and
- Exempt affordable senior housing from unit density controls to allow for higher unit counts.

For Long-term Care Facilities:

- Create “long-term care facility” as a new defined term, a Use Group 3 community facility use, to replace obsolete terms such as “nursing homes and health-related facilities.” The change would account for the range of care facilities licensed by the New York State Department of Health. The facilities would still be required to secure the necessary certification and authorizes licensees;
- Remove the following required special permits (Section 74-90, 74-902) and allow all “long-term care facilities” in R3 through R10 districts, including nursing homes, as-of-right; and
- Set-up discretionary protocols for long-term care facilities in low-density, single-family zoning districts.

For the Mixing of Residences and Care Facilities:

- Simplify requirements for calculating recreation space, residential amenities, and daylight in shared corridors when mixed-uses are occupying qualifying buildings in R6 through R10 contextual districts and for buildings in non-contextual districts that follow the Quality Housing regulations;
- Remove FAR restrictions in R6 and R7-1 districts for long-term care facilities. The restrictions would only apply to other community facility uses not addressed by ZQA;
- Modify the formula for calculating the unit density factor to exclude floor area dedicated to either affordable senior housing, long-term care facilities, and not-for profit institutions with sleeping accommodations (NPISAs) before determining the number of allowable regular residential units in mixed-residence buildings; and
- Modify provisions in special districts that state that “non-residential” uses cannot be located on the same floor or above residential uses to exempt affordable senior housing, long-term care facilities, and not-for profit institutions with sleeping accommodations (NPISAs).

Affordable Senior Housing and Long Term Care Facility Building Envelopes

- Permit in R6 through R10 contextual districts limited additional height for buildings that provide affordable senior housing or long-term care facilities. For buildings that provide at least 20 percent of their floor area as either affordable senior housing or long-term care facilities the proposal would:
 - Permit a higher maximum height and number of stories to allow the full development of permitted FAR in qualifying districts
 - Permit an increase in the maximum base height in qualifying districts
 - Relax rear yard restrictions and allow accessory spaces to be built on the ground floor in the rear yard area
 - Remove the restrictions established by the “Sliver Law;”
- Permit in R6 through R10 non-contextual districts any allowable increase in height or FAR be tied to compliance with the Quality Housing Program available in the qualifying non-contextual districts. Those buildings would be subject to the above mentioned conditions. In a situation where a site is located near a barrier that makes development difficult, a more flexible Quality Housing envelope would be offered so that units are shifted away from the adverse element; and
- Replace an existing Commission authorization for R3-2, R4 and R5 non-contextual districts with a special as-of-right building envelope the would permit a maximum height of 45 feet close to the street and a maximum height of 65 feet for the portion of lots more than 25 feet from the street. The Commission authorization will continue to exist to allow for additional flexibility.

Changes to Building Envelopes

While the text amendment materials refer to two general purposes, promoting affordability and promoting quality, for the purposes of understanding the text this section will discuss the proposed building envelope changes proposed as part of ZQA. Building envelope often refers to the shape of a building and how it will look from the street – how tall is it, where the ground floor is located, what the ground floor looks like, what the façade looks like in terms of articulation or shape. Changes to internal configurations and requirements can also impact the outside of a building. ZQA proposes modifications to the following items: Inclusionary Housing building envelopes, ground floor requirements, street walls, corner buildings, setback requirements, building envelopes and number of stories, unit size and configuration, and irregular site conditions.

Inclusionary Housing Building Envelopes rules can be generally found in Article II, Chapters 2 thru 5 of the Zoning Resolution. The rules are proposed to be modified to:

- Permit a higher maximum height and number of stories to allow the full development of the permitted FAR in a high-quality building form, based on the volume necessary to accommodate the higher permitted FAR through participation in the program;
- Allow an increase in the maximum base heights in some zoning districts to maintain the current proportionality of the building envelope;
- Allow for the development of shared spaces on the ground floor in the rear yard area, so as to allow for more efficient buildings; and
- Remove an impediment to the creation of affordable housing on narrow sites by removing the special height restrictions placed on narrow lots.

Ground Floor requirements rules can be generally found throughout the Zoning Resolution, with different rules for different types of uses and different commercial districts. The ZR is proposed to be modified to:

- Establish a new definition known as “qualifying ground floor,” which refers to the ground floor of a development or enlargement where the level of the finished floor to ceiling is 13 feet or more in height;
- Allow a five foot height increase across all districts for any Quality Housing buildings built with a qualifying ground floor;
- Allow interior ramps in the residential lobbies a floor area exemption of 100 square feet for each foot the ground floor is raised above curb level; and
- Simplify and improve the ground floor use requirements to be consistent citywide. These improvements would include standardizing the rules regarding minimum depth requirements, requirements for transparency, width of ground floor lobbies, and parking wrap requirements.

Street Wall requirements can be generally found in Article II, Chapter 3 of the Zoning Resolution for residential buildings. Quality Housing regulations today include rules that regulate the location of the street wall, design flexibility, and what kind of building articulation is permitted. ZQA proposes to modify:

- Line-up provisions to require buildings to locate their street wall in relation to only directly adjacent buildings and to adjust the maximum setback from the property line to 10 feet. The text is also modified to provide guidance on how to determine line-up provisions when there are architectural features like bay windows;
- Street wall requirements to apply beyond 50 feet of a wide street, where no street wall requirements currently exist;
- Allow for window recesses and structural expression to be permitted within depths or projections of 12 inches from the street wall and allow deeper architectural features to be permitted for a limited percentage of the street wall’s overall width;
- Permit a 1:1 width-to-depth ratio for courts less than 30 feet wide, allow courts that are 30 feet or wider to have no depth restrictions. Court requirements would also be modified to allow for small, inner courts to accommodate courts with non-legally required windows, such as those found in kitchens and bathrooms; and
- Modify street wall requirements on wide streets in commercial districts to allow for building articulation at the ground floor and the extension of the street wall rules beyond 50 feet of a wide street.

Corner Buildings, those buildings that front on two streets, rules are proposed to be modified for R6 thru R10 districts to:

- Increase the maximum permitted lot coverage for Quality Housing buildings from 80 percent to 100 percent within 100 feet of a corner; and
- Modify the transition rules which govern heights for corner lots in medium and high-density districts adjacent to lower-density districts. The proposed changes would allow

portions of a building within the 25-foot transition zone to reach the maximum base height of the zoning district, or a height of 75 feet, whichever is less.

Setback Requirements rules are generally found in Article II, Chapter 3 of the Zoning Resolution. A setback occurs at the maximum base height before a building may rise to its maximum permitted height. The rules today measure front and rear setbacks of Quality Housing buildings differently. The changes proposed are:

- Removal of the rear yard setback requirement for Quality Housing buildings; and
- Reduction of the front setback by one foot for every foot that the building is set back from the property line, but at minimum a five foot setback from the street wall must be provided.

Building Envelopes and Number of Stories requirement changes are as follows:

- Increasing the maximum base heights applicable in some zoning districts by five feet to accommodate “qualifying ground floors;”
- Adding a maximum number of stories in relation to maximum height requirements in contextual districts;
- Modifying optional Quality Housing rules to align wide and narrow street requirements with the comparable contextual district wide and narrow street requirements and to match the proposed revised maximum number of stories rules; and
- Where the Special District did not include any special FAR or building envelope rules, adjusting the maximum building envelopes to bring them in line with changes proposed for the Quality Housing option.

Unit Size and Configuration rules are proposed to be modified as follows:

- Removal of the 400 square foot minimum unit size requirement;
- Revisions to existing density factors in R8 through R10 districts to make them consistent with what is already required in R6 and R7 districts. The new density factor would be 680 square feet;
- Removal of the double-pane window requirement from the Quality Housing Program and a few special districts; and
- To allow for the City’s Office of Environmental Remediation to modify the sound-attenuated window requirement based on site conditions.

Irregular Site Conditions rules are proposed to be modified as follows:

- Provides a framework to adjust in proportion rear yard and lot coverage requirements in concert with lot depth;
- Allow for greater flexibility in street wall location for buildings that are located on acutely-angled sites;
- Modify the slope allowance requirement for using a sloped base plane to determine maximum base and building heights from 10 percent to five percent;

- Reduce the minimum distance between buildings from 60 feet to 40 feet; and
- Create a BSA special permit for Quality Housing buildings on irregular sites, to allow limited modifications to the rules that shape residential buildings.

ANTICIPATED IMPACTS

On September 18, 2015, the Department of City Planning issued its Notice of Completion of the Draft Environmental Impact Statement (DEIS) for the Zoning for Quality and Affordability Text Amendment (CEQR No. 15DCP104Y). DCP's analysis found no significant adverse impacts related to the chapters on land use, zoning, or public policy, socioeconomic impacts, community facilities and services, open space resources, natural resources, water and sewer infrastructure, transportation, solid waste and sanitation services, public health, neighborhood character, and construction. The DEIS also concluded that the proposed action would be consistent with the city's greenhouse gas (GHG) and climate change goals. DCP's analysis did find that the proposal would potentially result in adverse impacts related to incremental shadows, new sensitive receptors closer to existing train operations on elevated train tracks, additional in-ground disturbance that could occur on sites where hazardous materials exist and on sites where archaeological remains exist. However, no practicable mitigation measures were identified which would reduce or eliminate these impacts.

COMMUNITY BOARD COMMENTS

At its Full Board meeting on November 19, 2015, CB 1 voted to oppose the text amendment as currently proposed. The Board stated concerns with the impact of eliminating the Sliver Law for affordable housing development, impact of this proposal on the R10 and Voluntary Inclusionary Housing programs and the potential of the program to encourage out-of-context development. Additionally, the Board did not find that the program encourages mixed-income neighborhoods and had issues with height increases for affordable senior housing that is not permanently affordable.

At its Full Board meeting on November 20, 2015, CB 2 voted to oppose ZQA but supported increasing inclusionary housing and creating buildings that are more in context at a street level. The Board opposed the development of sliver buildings and rear yard obstructions outside of commercial zones, and believes this proposal should be examined on a case-by-case, community-by-community basis.

At its Full Board meeting on November 24, 2015, CB 3 voted to oppose ZQA per their resolution passed on July 28, 2015. In the previous resolution, CB 3 raised concerns about general height increases and particularly in contextual zones.

At its Full Board meeting on November 4, 2015, CB 4 voted to deny the text amendment unless certain modifications are made. CB4 stated they cannot support additional bulk without permanent affordable senior housing. The Board stated taller ground floors would be out of context with surrounding buildings. Further, the Board requested height and setback limits in Clinton and West Chelsea special districts that are consistent with their 2005 rezonings and a

rezoning of East Chelsea/ a geographic area under the Chelsea 197-a Plan to establish height and setback limits that are consistent with their 1996 plan.

On November 12, 2015, CB 5 recommended denial of the text amendment unless certain conditions are met. The Board requested the Voluntary Inclusionary Program be applied to the R10 areas of the district, the height maximums in the Ladies Mile Historic District remain, and the affordable senior housing to remain affordable in perpetuity.

At its Full Board meeting on November 18, 2015, CB6 voted unanimously to recommend denial with certain conditions. CB6 requested that zoning lot mergers have a height limit, rear yard provisions be reduced, affordable senior house be permanent, and an additional 90 days to review the proposal.

At its Full Board meeting on November 4, 2015, CB7 voted to oppose the proposal with conditions. The Board opposed the proposed height increases on narrow streets and historic districts and the development of sliver buildings.

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 –and additionally that the Board requests notification when developers submit applications to HPD. The Board reiterated it supported developing more affordable housing through zoning but requested that the affordable senior housing be permanent. The Board opposed lifting the Sliver Law restrictions and expressed concern about waiving the rear yard requirements.

In a letter dated November 6, 2015, CB10 stated the Board had inadequate time to review the proposal and therefore could not appropriately vote. The Board requested permanent affordable senior housing and more incentives for developers to construct senior buildings.

At its Full Board meeting on November 23, 2015, CB11 voted to deny the text amendment unless certain conditions are met. The Board requested a re-evaluation on the parking requirements in transit zones and permanent affordable senior housing. The Board also expressed concerns about the spacing of residential buildings on the same zoning lot and the reduced minimum size of dwelling units.

At its Full Board meeting on November 24, 2015, CB12 voted to deny the proposal unless certain conditions are met. The Board expressed concern that the proposal would alter the neighborhood character, cause displacement and unattractive buildings. The Board requested 50 percent community preference for all affordable housing developed under this proposal.

BOROUGH BOARD COMMENTS

The Manhattan Borough Board met on a number of dates to consider the proposal known as ZQA, receiving its first briefing on February 19, 2015, and a subsequent briefing on the proposal on October 15, 2015. As part of the chair report, Borough Board members discussed both the ZQA and MIH proposals on November 19, 2015. 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 ZQA unless the following conditions are satisfied:

1. The text amendment for the City of New York Zoning Resolution (ZR) is revised to maintain the distinction between wide and narrow streets in order to reduce impacts to the historic “hills and valleys” that characterize the development of Manhattan;
2. The applicability of the Sliver Law as it exists today in the ZR remains in place;
3. Applicability of rear yard encroachment rules at the ground floor will be retained in the ZR for residential and residential accessory uses;
4. The proposed height increases are reduced for contextual districts where the impact is greatest on narrow streets and/or in recently rezoned areas;
 - a. Existing A and B contextual zones will remain as currently written and ZQA text will be applied only after individual review and City Planning Commission determination that the change will not harm preservation resources or neighborhood character in the specific zone
 - b. A and B contextual zoning text as currently written may be applied in the future to zones if there is a City Planning Commission determination that a preservation purpose will be served
5. The Zoning Resolution will be neutral as to elevating a particular construction technique over another;
6. The administration will recognize and address that changes to the bulk envelopes will spur additional development in historic districts, and that resources be put in place to ensure that all of the work of the Landmarks Preservation Commission, including designation, is not adversely impacted by an increase in permits;
7. The Administration recognizes and responds to the need for construction safety and a plan that addresses current concerns and accounts for the potential for an increase in problems;
8. The text is revised to clarify the permanency of affordable senior housing and if permanency cannot be guaranteed than text should be provided that will ensure permanent affordability for the building regardless of age restrictions; and
9. A commitment is made to immediately begin studying and correcting current flaws within the existing opt-in R10 and Voluntary Inclusionary Housing programs.

The Borough Board resolution furthermore stated that 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.

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 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 160049 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. Public engagement and process matter, and this was an opportunity to engage the populace in a discussion on two text amendments that have the potential to reshape our built environment and how we construct affordable housing in the decades to come. The hearing was attended by over 250 persons and 55 speakers testified regarding the text amendments. The Manhattan Borough President recommendation letter, dated December 10, 2015, submitted in regard to the MIH application (N 160051 ZRY) discusses in more detail the comments concerning that proposal.

Of the 55 speakers who came to testify at the hearing, 47 speakers testified in opposition to the ZQA proposal, and 8 speakers testified in favor. Those who spoke in opposition to the proposal included citywide organizations such as the Metropolitan Council on Housing, CAAAV Organizing Asian Communities, League of Women Voters, New York Landmarks Conservancy and prominent neighborhood groups such as FRIENDS of the Upper East Side Historic Districts, Good Old Lower East Side (GOLES), the Greenwich Village Society for Historic Preservation (GVSHIP), and Landmarks West!. In addition, Community Boards 4, 5, and 10 came to testify regarding their concerns with ZQA as did New York City Councilmember Ben Kallos. For a full list of organizations that testified or submitted comments to the Manhattan Borough President, please see Table 1 on page 21.

An overarching theme within the testimonies was that the proposed text was a blunt solution to the question of how to construct more affordable and quality housing development in New York City and that in striving to solve the affordable housing crisis the text ignored critical neighborhood differences and important height controls. Many voiced that the text could serve to undo prior robust public engagement processes that resulted in targeted contextual district zoning changes throughout the city.

Of equal concern was whether the proposed changes would actually contribute to either quality or affordable buildings and units in perpetuity. Testimony raised concerns that allowing height increases, rear yard encroachments, and the elimination of the Sliver Law for affordable housing, while removing barriers to good design, do not actually guarantee it. In addition, the financing structure around senior housing does not guarantee permanency in affordability, and serious discomfort was expressed with the concept of what many speakers felt was a gift, increased permanent height, for a needed public good that may not exist beyond a 20 year term sheet.

Additional concerns were raised 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.

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), Municipal Art Society (MAS), Citizens Housing Planning Council (CHPC), and the West Side Federation for Senior and Supportive Housing (WSFSSH). Those in favor spoke to the complexity of the text but highlighted a number of positive changes and thoughtful revisions they felt had been made in this text amendment to the Zoning Resolution. The highlighted changes were those that had the potential to promote the construction of senior housing, the removal of parking minimums so that more affordable units could be constructed, and encouraging more vibrant streetscapes with uniform changes to ground floor requirements. These speakers focused on the need for affordable housing, senior housing, and changes in construction technology and practice as the trade-off in accepting those elements in the proposal that may be perceived as less than positive, such as height increases.

Table 1: Organizations who submitted testimony or comments regarding Zoning for Quality and Affordability 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

Queens Borough President Recommendation

APPLICATION: ULURP #160049 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 promote affordable housing, including mandatory inclusionary housing, contextual height and set back changes, modifications to senior and supportive housing regulations and parking requirements.

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 and 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:

- The Department of City Planning has filed this application known as Zoning for Quality and Affordable Housing (ZQA) to encourage better and more efficient buildings and to allow full utilization of zoning incentives to provide affordable housing;
- Adds or replaces definitions for types of senior housing and care facilities;
- Allows height increase to accommodate elevators in lower density districts not to exceed 4 or 6 stories for senior housing;
- Elimination of parking requirements for affordable or senior housing in transit zones;
- Increase ground floor heights to allow better residential or commercial spaces in medium and high density districts;
- Allows flexibility in design of buildings in relation to the sidewalk, garden areas, courtyards, windows, setbacks and lot coverage;
- The Department of City Planning has made presentations of the proposals at numerous meetings with all of the Queens Community Boards and the Queens Borough Board;
- Concerns have been raised at these meetings regarding several aspects of the ZQA proposal;
- Increased numbers of residents in denser taller buildings will place additional burdens on an already taxed infrastructure system. There are concerns that the schools, streets and transportation systems, sanitation and other services will not be able to handle them adequately
- Reduction or elimination of parking for affordable and senior housing within the newly defined "transit zone" (areas within one half of a mile from a subway station) on the basis that utilization rates are low for senior housing and that residents do not want to pay for the offstreet parking. The concerns raised are: Queens is not well served by mass transportation. The "transit zones" as identified already are the destination points for many who drive to those areas and park on the streets before getting on mass transit because there is nothing closer to their homes. Another concern is that the actual car ownership rates and patterns differ from the research based on registration data.;
- The application also includes proposals in medium and higher density districts that would affect how buildings relate to each other in regards to courtyards, setbacks from the sidewalk and location of garden areas. There are concerns that these design changes could impact the overall visual continuity of an area.;
- Community Board 1 approved this application with conditions by a vote of 29-4-0 at a public meeting held on November 10, 2015. The conditions were as follows: parking must be provided for any affordable housing built, exclusion of some affordable housing floor area from countable floor area and that incentives should be given to produce bigger units to promote a better quality of life, revise Quality Housing Program rules that restricts provision of parking;
- Community Board 2 disapproved this application with conditions by a vote of 28-2-3 at a public meeting held on November 5, 2015. The conditions were as follows: parking should be provided for affordable housing, except for ground floors increased building heights should not be allowed, irregularly shaped lots should not be developed, and there should not be a Board of Standards and Appeals hardship process;

- Community Board 3 approved this application by a vote of 16-11-0 at a public meeting held on November 12, 2015;
- Community Board 4 disapproved this application by a vote of 22-3-3 at a public meeting held on November 10, 2015;
- Community Board 5 disapproved this application by a vote of 37-1-1 at a public meeting held on November 4, 2105;
- Community Board 6 disapproved this application by a vote of 22-2-3 at a public meeting held on November 12, 2015;
- Community Board 7 disapproved this application by a vote of 35-1-1 at a public meeting held on November 9, 2015;
- Community Board 8 disapproved this application by a vote of 32-0-0 at a public meeting held on November 12, 2015;
- Community Board 9 disapproved this application by a vote of 33-0-1 at a public meeting held on November 10, 2015;
- Community Board 10 waived their hearing on this application;
- Community Board 11 disapproved this application by a vote of 24-1-2 at a public meeting held on October 5, 2015;
- Community Board 12 disapproved this application by a vote of 29-0-0 at a public meeting held on October 21, 2015;
- Community Board 13 disapproved this application by a vote of 32-7-0 at a public meeting held on October 26, 2015;
- Community Board 14 disapproved this application by a vote of 32-0-0 at a public meeting held on November 10, 2015
- The Queens Borough Board approved a motion to disapprove this application by a vote of 12-2-6 at a public meeting held on November 16, 2015. The 6 abstentions cast were for cause.

RECOMMENDATION

Based on the above consideration, I hereby recommend disapproval of this application in its present form for the following reasons:

- Over forty neighborhoods in Queens were contextually rezoned over the last decade or so. Many of these neighborhoods were rezoned during my tenure as the Chair of the NYC Council Land Use Committee. Each of these rezonings were done with extensive neighborhood participation that was solicited by the Department of City Planning to assure that each proposal addressed the most pressing issues and were sensitive to the density and heights of those neighborhoods. Some of the ZQA proposals would undo the carefully sculpted rezonings that were the result of a collaborative effort to protect our neighborhoods from overdevelopment;
- Many of the neighborhoods were rezoned with new contextual tools that helped to encourage the best of how the buildings in each area related to each other in terms of the distances from the sidewalks, depth of yards and other attributes that give a neighborhood a built character. Some of the proposed text may alter some of the features that contribute to an areas appeal;
- There should be an option where incentives are provided to get more affordable housing built within the existing neighborhood context, particularly in the lower and medium density districts, without altering the built character of those areas;
- Parking should be provided in any new affordable or senior affordable housing. Queens residents rely on their cars for many aspects of their lives. Subways are only available in one third of the borough. Without reliable mass transit, cars are necessary to get to their jobs, doctor's appointments, shopping or bringing their children to school.;
- There is also concern that affordable independent senior housing not built as a Mandatory Inclusionary Housing development with termed financing would not be permanently affordable. This oversight would be contrary to the overall goal of generating permanent affordable housing particularly for seniors as a group who are severely affected;
- There should not be a new special permit that would allow the Board of Standards and Appeals to modify or reduce bulk requirements for a development with at least 50% of floor area for affordable housing or long term care on an irregular lot. There is already a Board of Standards and Appeals variance procedure to address this type of hardship for development.



 PRESIDENT, BOROUGH OF QUEENS



 DATE

Application #: N160049ZRY CEQR #: 15DCP104 Y	Project Name: ZONING FOR QUALITY AND AFFORDABILITY Borough: STATEN ISLAND Community District(s): 1, 2 & 3
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Please use the above application number on all correspondence concerning this application

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 support the creation of new affordable housing and encourage better residential buildings. To incorporate these goals, various sections of the Zoning Resolution will be amended.

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 Pages 2 & 3
See Borough Board Resolution Addendum on Page 4

Related Applications:

Contact:
Address questions about this recommendation to:
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

12/15/15
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 "Zoning for Quality and Affordability" (ZQA).

- On November 24, 2015, Community Board 3 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 8, 2015, Community Board 1 overwhelmingly adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 9, 2015, Community Board 2 unanimously adopted a Resolution recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)
- On December 10, 2015, the Staten Island Borough Board overwhelmingly adopted a Resolution (appended hereto) recommending the disapproval of Department of City Planning Application #N160049ZRY – Zoning for Quality and Affordability (ZQA)

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 agree and support all of the conditions cited in the aforementioned resolutions.

I therefore recommend the **DISAPPROVAL** of the proposed application with the following modifications:

1. Remove all proposed parking reductions, waivers and modifications for Lower Density Growth Management Areas (LDGMA) in the Borough of Staten Island with the exception of future Mandatory Inclusionary Housing Areas (MIH) pursuant to Appendix F:

- Section 25-251 ZR – Income-Restricted Housing Units
Retain current parking requirements per income-restricted housing unit pursuant to current §25-25 ZR. Coordinate §128-51 ZR as required.
- Section 25-252 ZR – Affordable Independent Residences for Seniors
Remove parking reductions for income-restricted housing units outside transit zones in R3-R7B zones
- Section 128-51 ZR – Required Off-Street Parking and Loading (Special St. George District)
Remove exception provision for income restricted housing units facilitated through Section 25-252 ZR - Affordable Independent Residences for Seniors

2. Clarify provisions for buildings used partially for community facility uses, buildings containing certain community facility uses in LDGMA, special provisions for long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations and quality housing buildings:

- Section 24-012 (a),(b),(c) and (d) - Exceptions to the Bulk Regulations for Community Facilities in Residence Districts

3. Remove increase in lot coverage from 80% to 100% for corner lots containing residential buildings in C4-2 Districts within the Special St. George District - Upland Subdistrict:

- Section 128-22 ZR – Maximum Lot Coverage – request percentage remain as originally approved

Explanation of Recommendations, Conditions or Modification (continued):

4. Remove applicability of modifications of parking and bulk regulations for LDGM areas in the Borough of Staten Island pursuant to BSA approvals:

- Section 73-435 ZR – Reduction of Existing Parking Spaces For Affordable Independent Residences For Seniors
Remove LDGM areas in the Borough of Staten Island regarding modifications of use or parking waivers pursuant to §73-435 ZR for zoning lots outside the Transit Zone
- Section 73-623 ZR – Bulk Modifications for Quality Housing Buildings on Irregular Sites

5. Develop more contextual senior housing options to be included in the text for LDGMA in the Borough of Staten Island:

- The components of ZQA do not go far enough to address the types of independent senior housing and unique flexibility required to integrate low-density senior housing options into the vast majority of Staten Island communities

6. Remove all R1 and R2 districts in the Borough of Staten Island from provisions applicable to buildings containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations:

- Section 24-013 ZR (a)(1) & (b)(1) – Special Provisions for Certain Community Facility Uses

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



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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.

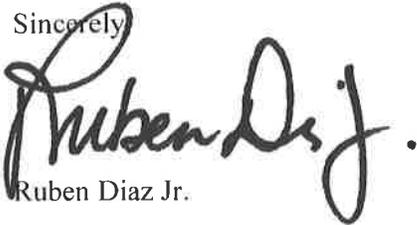
The language as it is currently written does not assure that the affordability options being offered to Council Members are actually financially feasible, or that adequate subsidies will be provided to implement them. Additionally, the options offered do not fully address the broad range of incomes, 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.