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 RESDIENTIAL 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