

NYC

PLANNING

DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation  
Pursuant to the Uniform Land Use Review Procedure

Application #: <b>160051 ZRY</b>	Project Name: <b>Mandatory Inclusionary Housing</b>
CEQR Number:	Borough(s): Brooklyn Community District Number(s): 12

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

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto: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 on Mandatory Inclusionary Housing. (See attachment)

Applicant(s):  Department of City Palnning		Applicant's Representative:  Jonah Rogoff	
Recommendation submitted by: Community Board 12			
Date of public hearing:		Location:	
Was a quorum present? YES <input type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 25% of the appointed members of the board, but in no event fewer than seven board members.	
Date of Vote: November 24, 2015		Location: Amigo Senior Center - 5501 - 13th Avenue, 3rd Floor	
RECOMMENDATION			
<input type="checkbox"/> Approve		<input type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove		<input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting			
# In Favor: 26		# Against: 2	
# Abstaining: 2		Total members appointed to the board: 50	
Name of CB/BB officer completing this form Barry Spitzer		Title District Manager	Date 12/1/2015

## **Mandatory Inclusionary Housing & Zoning for Quality and Affordability Summary**

The Zoning & Variance Committee met on November 10th to hear a presentation from City Planning on the Zoning for Quality and Affordability and Mandatory Inclusionary Housing Text Amendment for New York City. You have all received a copy of our Community Board profile for Zoning for Quality and Affordability.

Mayor de Blasio, as one of his key initiatives along with City Planning has come up with a proposal for a Mandatory Inclusionary Housing program that would require, through zoning changes, a share of new housing to be permanently affordable.

The requirement would work together with City housing subsidies, other zoning changes and 421a reforms achieved in Albany in June of this year. This Mandatory Inclusionary Housing would be the most rigorous zoning requirement for affordable housing of any major city. The Dept of Housing Preservation and Development consulted as well. This proposal is a zoning text amendment which will require approval of the City Council.

The main features of the policy are that affordable housing would be mandatory. Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing whether rezoned as part of a neighborhood plan or a private rezoning application. Affordable housing would also be permanent.

Mandatory Inclusionary Housing would make more affordable housing for a more New Yorkers.

Under the proposal the City Planning Commission with the approval of the City Council, would apply one or both of the following requirements to each MIH area:

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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

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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.

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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 limited 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 to 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 oversight 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 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 Equivalents

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 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 than 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.

*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 addition factors in determining the amount of parking spaces to reduce or waive.*



**Community/Borough Board Recommendation**  
Pursuant to the Uniform Land Use Review ProcedureApplication #: **160049 ZRY**Project Name: **Zoning for Quality & Affordability**

CEQR Number:

Borough(s): Brooklyn


Community District Number(s): 12

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<b>Applicant(s):</b>  Department of City Planning		<b>Applicant's Representative:</b>  Jonah Rogoff	
<b>Recommendation submitted by:</b> Community Board 12 			
<b>Date of public hearing:</b>		<b>Location:</b>	
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input checked="" type="checkbox"/>		<i>A public hearing requires a quorum of 20% of the appointed members of the board. Not in session. Date: 11/24/2015</i>	
<b>Date of Vote:</b> November 24, 2015		<b>Location:</b> Apollo Senior Center - 5901 - 13th Avenue, 3rd Floor	
<b>RECOMMENDATION</b>			
<input checked="" type="checkbox"/> Approve		<input checked="" type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove		<input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets as necessary.			
<b>Voting:</b>			
# In Favor: 24		# Against: 4	
# Abstaining: 2		Total members appointed to the board: 50	
<b>Name of CB/BS officer completing this form</b> Bary Spitzer		<b>Title</b> District Manager	<b>Date</b> 12/1/2015

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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 limited 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 to 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 oversight 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 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 Equivalents

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 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 than 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.

*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 addition factors in determining the amount of parking spaces to reduce or waive.*