

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

November 13, 2015

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Resolution on the Mandatory Inclusionary Housing Text Amendment.

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, November 12, 2015, the Board passed the following resolution with a vote of 30 in favor, 0 opposed, 2 abstaining:

WHEREAS, The Department of City Planning proposes to add a new section to the Zoning Resoution to establish a framework for Mandatory Inclusionary Zoning; and

WHEREAS, Production of affordable housing would be a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing, whether rezoned as part of a city neighborhood plan or a private rezoning application; and

WHEREAS, There would be no expiration to the affordability requirement of apartments generated through Mandatory Inclusionary Housing, making these new units a long-term, stable reservoir of affordable housing; and

WHEREAS, DCP has proposed two options for affordability requirements available in the Manhattan Core; and

WHEREAS, Option One would require that 25% of residential floor area must be for affordable housing units for residents with incomes averaging 60% AMI (\$46,620 per year for a family of three), and

WHEREAS, Option Two would require that 30% of residential floor area must be for affordable housing units for residents with incomes averaging 80% AMI (\$62,150 per year for a family of three); and

WHEREAS, While the proposed MIH contemplates an additional "Workforce Option" where 30% of residential floor area must provide affordable housing units for residents with incomes averaging no more than 120% AMI (\$93,240 per year for a family of three), this option does not permanently ensure the presence of units for low- or moderate-income households in a new development; and

WHEREAS, The 2010-2012 American Community Survey 3-Year Estimates show that 43.6% of renters in our Public Use Microdata Area (comprising Community Boards 4 and 5) pay 30% or more of their household income on rent and therefore are considered to be "rent burdened;" and

WHEREAS, According to data from Zumper, rents in Manhattan Community District neighborhoods of NoMad, the Flatiron District, Koreatown, the Garment District, and the Theater District all are among the priciest NYC neighborhoods with median asking rents for a One-Bedroom exceeding \$3,500 per month; and

WHEREAS, The 2010-2012 American Community Survey 3-Year Estimates show that 55.5 percent of the households in our Public Use Microdata Area have incomes of less than \$100,000 per year; and

WHEREAS, The 2010 Census shows that while 22.8% of the population in our city is Black Non-Hispanic and 28.6% of our city is of Hispanic origin, only 4.1% of our community district's population is Black Nonhispanic and only 7.7 is of Hispanic origin;

WHEREAS, Given the high rent burden in Manhattan Community District 5, very high asking rents for market rate apartments, and a demographic profile that includes far fewer Black or Hispanic households than the city as a whole, we believe it would serve an important public interest for furthering affordable housing goals and goals of neighborhood integration for the MIH text to include an "Option Four" that has a 50% affordable set aside for a range of incomes (from low-income to middle-income) where units serve households with an average income of 75% AMI; and

WHEREAS, The Bay Area Economic Market and Financial Study on Mandatory Inclusionary Housing prepared for the New York City Housing Development Corporation shows, on Table 21 and Table 22, that in "Very Strong" markets like those in Manhattan Community District 5, a 50% affordable set aside where household income averages 75% of AMI (\$58,275 per year for a family of three) is more than economically feasible for both rental development benefiting from a 421-a tax exemption (though not even using 4% LIHTC and Tax-Exempt Bond Financing) and condominium development; and

WHEREAS, While it is critical that many of the new units in development facilitated through an increase in permitted residential floor area serve low-income households (i.e. 40% AMI and 60% AMI), a sizable number of units in a new building could, under our proposed "Option Four," be set aside to serve households with income at 100% AMI or more (\$77,700 per year for a family of three); and

WHEREAS, While it is critical that many of the new units in development facilitated through an increase in permitted residential floor area serve low-income households (e.g. at 40% and 60% of AMI), a sizable number of units in a new building could under our proposed "Option Four" be set aside to serve households with income at 100% of AMI or more (\$77,700 per year for a family of three); and

WHEREAS, While the special permit under proposed 73-624 may appear similar to the variance under 72-41, it would be far easier for a developer to obtain because there is no uniqueness finding; and

WHEREAS, Because the economic hardship finding under 73-624 is nearly identical to finding (b) under the 72-41 variance, we are gravely concerned that the Board of Standards and Appeals would be bound through precedent to grant relief due to the BSA's use of the "capitalization of income method" to project value from a subject site and BSA's acceptance of methodology establishing the value of a developable square foot on a subject site based on potentially highly speculative nearby vacant land purchases; and

WHEREAS, Instead, there should be a mechanism through which a developer, who believes a project is not economically feasible, goes to the NYC Department of Housing Preservation & Development and can seek a time-limited subsidy to make a project viable while maintaining affordability requirements; and

WHEREAS, We believe that the existing 72-41 variance provides an adequate safety valve to seek permanent relief from compliance with zoning; and

WHEREAS, While the option to place affordable units off-site and in the same community district may appear to result in the same public benefit as having units on-site, the permanent cross-subsidy for on-site

units vs. the likelihood that 100% affordable off-site projects will seek future public subsidy make off-site units more expensive and risky for taxpayers without affording any increased benefit in the amount of affordable housing or quality of housing; and

WHEREAS, It is critical that tenants of affordable units not be excluded from building amenity space (e.g. children's playroom or common roof area) through prohibitively high fees; therefore be it

RESOLVED, that Manhattan CB5 **recommends denial** of the Mandatory Inclusionary Housing zoning text amendment unless the following conditions are met:

- 1) The MIH text is amended to include an "Option Four" where 50% of residential floor area would be set aside for households with income averaging 75% of AMI but that require that some of portion of those units serve lower income households (i.e. 40% AMI and 60% AMI) and some portion serve middle income households (i.e. 100% AMI or more); and
- 2) The MIH text is amended so that the special permit to waive or modify the affordability requirement is replaced by a process in which the NYC Department of Housing Preservation & Development reviews developer pro formas and can provide time-limited subsidy to make a development feasible; and
- 3) The MIH text is amended to prohibit an "off-site" option because there is no ongoing obligation for a "market-rate" project to provide long-term support for an off-site affordable project making it likely that an off-site project will seek public subsidy in the future which is costly to taxpayers; and
- 4) The MIH text is amended to require that HPD only approve an Affordable Housing Plan where there is a guarantee that tenants of affordable units will have affordable access to all building amenities.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Eric Stern
Chair, Land Use, Housing and Zoning Committee

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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