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Testimony Before the City Planning Commission
Zoning for Quality and Affordability and Mandatory Inclusionary Housing
December 16, 2015

Good morning, Chair Weisbrod and Commissioners. I am Gale A. Brewer, Manhattan Borough President, here to speak to the two citywide text amendments, ZQA and MIH. As you know, I issued a conditional "No" on ZQA and a conditional "Yes" on MIH. I will first share my concerns about ZQA and then address the work that needs to be done on MIH for my office to give full support.

Zoning for Quality and Affordability was discussed at three Manhattan Borough Board meetings, and I held a Borough-wide public hearing on November 16th. We also ran informational sessions for Community Board Chairs, Land Use and Housing Committee Chairs, affordable housing groups, and landmarks organizations. We worked hard to ensure that we heard the ideas and concerns of as many residents, experts, and organizations as possible.

At every step of the public review process, City Planning responded to concerns and made tweaks to the ZQA text proposal, and I believe a number of additional changes could also be made to address many of the issues raised during our lengthy outreach process. Still, however, concern would remain over the interplay between ZQA provisions and restrictions in recently enacted contextual districts. This concern may play out differently in each community board and is not so easily overcome.

Several other changes should be made:

- The text could be revised pretty easily to maintain the separation between wide and narrow streets so that the resulting heights of new construction are proportional to the width of the streets.

- The provision allowing residential use to encroach upon the historic doughnut of our rowhouse blocks should be removed.
- The additional provision to the Sliver Law—which weakens it by removing its applicability to the construction of certain residential and community facilities—should be eliminated.
- Provisions should be added to strengthen and clarify the language around the permanency of affordable senior housing, ensuring that permanent building size increases are accompanied by permanent use or affordability requirements.
- The CPC report can make clear that these changes will not unduly burden the LPC. In addition to alleviate another non-land use concern, the report should make clear that these changes do not elevate one construction method over another but rather to seek to put all on equal footing.

All of this I have communicated in discussions with the Department. I have also repeatedly communicated my concerns with the existing opt-in R10 and Voluntary Inclusionary Housing programs, which cover a good deal of Manhattan, and am gratified that a written commitment has finally been made to immediately begin studying and correcting current flaws within these programs.

These changes alone, however, are not enough to address the fundamental concern behind this text's framework: That there is a tension between the Department's decision to give developers greater incentive in the form of additional height to opt into a voluntary affordable housing program, and neighborhood planning efforts over the past two decades, which have often sought to limit height. The text theoretically could be further refined to exclude wide streets that underwent recent rezonings from additional height increases; or it could carefully maintain existing underlying height rules in special districts that did not outline their own specific ones; it could even propose new districts with the new heights to be applied in the future as part of a carefully considered neighborhood plan. Without this degree of careful intervention, I am not convinced that the general changes will be enough to satisfy the concerns of individual community boards.

After much consideration, I have found that a significant number of proposed changes, especially those related to height, have the potential to negatively impact the built environment—

and this is greatly troubling. I also remain concerned that, these changes will not bring us close enough to achieving the text amendment's goals—affordability and quality—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 those Special Districts that do not already include any special FAR or building envelope rules to bring them in line with changes that ZQA would make to the Quality Housing option. There is one important fact that this change disregards, however: Just because a new height wasn't established does not mean height was not part of the original community discussion or consideration. For all these reasons, I cannot support ZQA at this time.

Then we have the **Mandatory Inclusionary Housing** Program, which, as a concept, I support. And this text, which the Department has already committed to me to improve on, could be the place to incorporate these future heights. Why? Because it will be applied on a neighborhood-by-neighborhood basis and at that time be given the full consideration and weight of the public process.

If the Mandatory Inclusionary Housing Program becomes law, there will be two types of inclusionary housing programs in New York City: Voluntary and Mandatory. The existing voluntary program offers developers a benefit—additional zoning density—if they provide affordable housing within a market-rate project (or within a certain distance of their project). They can get this in areas specifically zoned for the Voluntary Inclusionary Housing Program and in all R10 zones. These areas together make up about 20% of Manhattan.

Since becoming Borough President, I have been calling for two things:

1. Requiring affordable housing to be built whenever there is new residential development and especially when special permits allow the building of housing where it wouldn't otherwise be allowed.
2. Fixing the City's opt-in Voluntary Affordable Housing Programs where developers get bonuses for building affordable housing. This opt-in program covers significantly more

territory in Manhattan than the contemplated neighborhood rezonings (such as East Harlem and Inwood) will cover.

Based on these two premises, I can support the MIH plan for the following reasons:

1. In addition to neighborhood rezonings, it would apply to all special-permit applications by private developers to add more than 10 residential units of housing to any area where this housing couldn't otherwise be built.
2. I have a commitment from the Chair of City Planning and the Commissioner of HPD to begin crafting changes to the Voluntary Affordable Housing programs that cover about 20% of Manhattan. These changes would result in developers being required to build more affordable housing when they take advantage of these programs and ensure that affordable housing is not stigmatizing by getting rid of what has been referred to as "poor doors."
3. I have received a commitment from the Chair of City Planning and the Commissioner of HPD to work with neighborhoods on strategies to apply the proposed MIH Program in a way to get more housing at the higher and lower ends of the AMI spectrum in neighborhoods that have a need for lower-income units and those that have a need for middle-income units, respectively. And I am confident that by working with the Commission and the Council we can translate this into more AMI options at both the lower and higher ends.

In addition, I have secured commitments that will go a long way to ensuring that the Affordable Housing Fund—which is funded by smaller projects—will be used in the community district where the money was generated, that the hardship waiver provisions for the program will be significantly tightened, and that we can work toward a higher percentage of affordable housing in all of our programs if an offsite option is used.

For these reasons, my recommendation is a conditional approval. However, there are significant conditions—much more than mere "tweaks"—that the program must adequately meet:

1. We need to ensure that we are not squandering any opportunities for additional affordable housing in Manhattan. If we are not going to require affordable housing with all new residential construction over a certain size, we need to be certain that the percentages of affordable housing in the mandatory inclusionary areas in Manhattan are as high as they can be under every option and that we capture as many special-permit applications as possible.
2. We need anti-displacement and harassment provisions or legal requirements to protect those in the neighborhood being rezoned.
3. As I stated, the Commission and Council need to broaden the AMI options at both the lower and higher ends; otherwise the program could fail to meet neighborhood needs at a significant cost to the stability of various communities.
4. The affordable housing must be as integrated as possible in terms of location and distribution within a building or development project, and any deviation from this goal should be discouraged by requirements of additional affordable housing.

The City Planning Commission should seriously consider the recommendations from the individual Community Boards, Borough Boards, and Borough Presidents. In the case of ZQA, you should 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. If you decide these changes can't be accomplished, it may be time to untangle and unburden MIH from ZQA, and time to narrow ZQA's focus and ensure that this narrowed focus is fine-tuned enough for the type of citywide impact it will have.