OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

ERIC L. ADAMS
President

December 14, 2015

Mr. Carl Weisbrod
Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Dear Mr. Weisbrod:

At its stated meeting on December 1, 2015, the Brooklyn Borough Board ("Borough Board") adopted the enclosed resolution rejecting the Mandatory Inclusionary Housing Zoning Text Amendment (MIH), by a vote of 20 yes, 1 no, and 3 abstentions, and accepting the Quality and Affordable Housing Zoning Text Amendment (ZQA), by a vote of 20 yes, 2 no, and 2 abstentions. The resolutions include proposed modifications to each text amendment.

I applaud the Department of City Planning (DCP), along with the Department of Housing Preservation and Development for their extensive and thorough undertaking to develop these proposals. The production of the Community Board profiles as well as initially drafting zoning text for ZQA with instructional comments was ground breaking.

I thank the Brooklyn Borough Board for their thoughtful deliberation on Mayor de Blasio's zoning amendments to improve the availability and affordability of housing in New York City. The Borough Board's rejection of the DCP's proposals, coupled with recommendations for improvements to the plans, is a thoughtful response to proposals that have merit but need to better protect existing communities and increase opportunities to build more affordable housing.

The Borough Board believes that the proposed MIH text amendment should include modifications incorporated by the City Planning Commission pertaining to affordability requirements: location, modifying requirements through the Board of Standards and Appeals, payment in lieu of applicability and family-sized units. One modification regarding a requirement

for having rent potentially for a percentage of the units established as affordable to households earning 40 percent of Area Medium Income requires further consideration from Community Boards and City Council Members to potentially customize percentages by Community Districts. In addition, it recommends a follow-up zoning text change action by DCP to promote affordable housing opportunities for previously upzoned areas.

As for ZQA, the Borough Board believes that the proposed text amendment should include modifications, to the extent within scope, by the City Planning Commission pertaining to: duration of affordability for senior housing; retaining discretionary review of long-term care facilities in certain instances; more appropriate height and bulk for senior housing and long-term care facilities; more appropriate building height and lot coverage; appropriate sizing of the transit zone; and senior housing parking requirements. As for the boundary of Transit Zone, a few Community Boards are undertaking further deliberation towards developing possible modifications to carve out additional blocks, with explicit recommendations remaining pending, though expected to be resolved prior to City Council consideration. Additional modifications would require follow-up actions by DCP, which the Borough Board seeks conceptual support from both the City Planning Commission and City Council, as well as a commitment from the Administration to provide resources to DCP to undertake the necessary actions.

I look forward to working with my colleagues in government and the community to ensure that any plan protects the character of communities, the permanency of affordability, and allows our seniors to age in place.

If you have any questions, your office may contact Mr. Richard Bearak, my director of Land Use, at (718) 802-4057. Thank you for this opportunity to comment.

Sincerely,

Eric L. Adams
Brooklyn Borough President

ELA/rb
encs.

cc: Members of the Brooklyn Borough Board
Winston Von Engel, Brooklyn Office Director, Department of City Planning
Ms. Beth Lebowitz, Director, Zoning Division, Department of City Planning

Brooklyn Borough Board Resolution to Disapprove According to Modifications to the Mandatory Inclusionary Housing Zoning Text Amendment

Affordability Requirements – Qualify Rent Burdened Households and Mandate Percentage at 40 Percent AMI by Community Districts

The Borough Board is concerned that 55 percent of City renter households are rent-burdened. *In order to ensure that rent burdened households receive the maximum opportunity to secure regulated permanent Mandatory Inclusionary Housing Text facilitate housing, the Borough Board seeks to have AMI qualifications adjusted to include those who would reduce their rent burden*

This requires ZR 23-154 (d)(3) (i)(ii) and (iii) of the Inclusionary Housing provisions and ZR 23-91 General definitions – income bands, income index,, low income household, low income limit, middle income floor area, middle income household, moderate income floor area, moderate income household, moderate income limit, qualifying household, to be modified to clarify that that the AMI income index and income bands *have an* ***equivalent for allowing those rent burdened household that would be able to pay the same or have a reduction in their rent to lease such mandatory unit also be deemed a qualifying household for eligibility***

It also requires ZR 23-912 Definitions applying to rental affordable housing – maximum monthly rent to reflect the equivalency of income band as a measure to accommodate rent burdened households.

It also requires ZR 23-961 (a)(1) and (c)(2) Additional requirements for rental affordable housing – Tenant selections and Income, to reflect the rent burdened low, moderate and middle income households as qualifying households and that the administering income shall verify the household the rent history in lieu of income for rent burdened households

The Borough Board is concerned that there is no obligation to reach households at 40% AMI (or rent-burdened equivalent). *The Borough Board seeks a mandated set-aside for percentage (determined individually by Community Districts- at 40% AMI for both the 60% and 80% average AMI options.*

This requires ZR 23-154 (d)(3) (i)(ii) to note such obligations

Location – Preserve Existing Apartments to Preclude Displacement

The Borough Board is concerned that unlike the Voluntary Inclusionary Housing program, Mandatory Inclusionary Zoning does not provide any opportunity preclude displacement. For those being displaced, lottery units do not guarantee lottery selection or even having the proper income to be eligible for such units. *The Borough Board seeks to expand eligibility to a*

preservation option so that more tools are available to keep residents permanently in their apartments according to rent-regulated protection.

This requires ZR 23-91 General definitions – Preservation affordable housing to be applicable as a Mandatory Inclusionary Housing generating site.

It also requires ZR 23-94 (a) Methods of Providing Affordable Housing, to allow preservation affordable housing to be applicable to satisfy the requirements in Mandatory Inclusionary Housing areas

It also requires ZR 23-961 (d)(3)(1) Additional Requirements for rental affordable housing – affordable housing plans and MIH applications to include preservation affordable housing

BSA Special Permit (ZR73-624) – Establishing Parameters for the Extent that BSA Might Modify Mandatory Requirements

The Borough Board is concerned that the preamble of what BSA might modify merely defines income levels without any accommodation for rent burdened household equivalents. Furthermore, there are no set parameters to what extent BSA may modify income levels for qualifying households. The Borough Board is also concerned that finding (a) to be made by the Board of Standards and Appeals does not provide for a demonstration that the City has not been provided adequate opportunity to enhance its subsidies and it does not adequately define reasonable return in the context of what would be the rate of return prior to the property being rezoned according to MIH. T*he Borough Board seeks for buildings in excess of 25 units for a demonstration that the City is not prepared to provide enhanced subsidies. For all developments, that the qualifying households to include rent burdened AMI equivalents and to preclude the conversion of AMI restricted housing to market rate housing according to the following standards.*

- *For workforce housing 120 percent AMI rental basis option, BSA should not exceed 165 percent AMI average income rental basis, with maximum eligibility extended to no more than 200 percent AMI and its rent burdened equivalent),*
- *For the 80 percent AMI rental basis option, BSA should not exceed 120 percent AMI average income rental basis, with maximum eligibility extended to no more than 165 percent AMI and its rent burdened equivalent;*
- *For the 60 percent AMI rental basis option, BSA should not exceed 90 percent AMI average income rental basis, with maximum eligibility extended to no more than 130 percent AMI and its rent burdened equivalent;*

- *BSA shall limit market rate floor area, and its commercial equivalent, to the equivalent value of the non-bonused percentage of the as-of-right permitted Floor Area Ratio (70-75% of FAR).*

The Borough Board seeks that as a condition of precluding any provision of mandatory affordable housing the BSA would be mandated to reduce the allowable height in recognition of the reduction of provided floor area.

- *As a condition of limiting floor area to the 70 to 75 percent of the allowable FAR based on providing market rate only floor area, BSA shall restrict market rate only height per Borough Board Quality and Affordable Height Recommendation per Zoning Resolution section 23-662b, which reduces permitted height*

The Borough Board seeks the following consideration by BSA in regards to determining reasonable rate of return.

- *In addition, BSA shall define a reasonable return as what was a the reasonable return of the property prior to the effective date of the adoption of Mandatory Inclusionary Housing Text adjusted by the Consumer Price Index or the earlier date of any rezoning plans filed with the Department of City Planning.*

Payment In Lieu of Option – Smaller Developments Need to Participate
The Borough Board is concerned that zoning lot developments of ten units or less (12,500 sf or less) of exempted from the proposed affordable housing obligation. *The Borough Board seeks to extend applicability of the payment in lieu of option to the minimum number of apartments that defines a multiple dwelling (three units).*

This requires ZR 23-154 (d)(4)(i) to be amended to ***three units***

Bedroom Mix – Promoting Family-Sized Units
The Borough Board is concerned that there is not sufficient leverage/flexibility to provide for a greater number of bedrooms for the affordable units as part of mixed-income buildings. Further, it does not reflect unique needs in specific communities. *The Borough Board seeks to require a minimum threshold for non-independent residences for seniors and non-supportive housing to accommodate family-sized apartments.*

This requires ZR 23-96 Requirements for Generating Sites or MIH Sites (c)(1) Bedroom mix of affordable housing units shall not be proportional to the bedroom mix of the dwelling units in the generating site as long as not less than 50 percent of the affordable housing units contain two (three in Community District 12) or more bedrooms and 75 percent of the affordable housing units shall contain one (two in Community District 12) or more bedrooms.

Additional Matters That Would Further the Proposals' Goals of Promoting Affordability but Are Beyond the Scope of the Current Proposal and Should be Considered as Part of Future Actions or Zoning Reviews

Mapping Additional Voluntary Inclusionary Designated Areas – More Opportunities to Create Affordable Housing

Be it further resolved that in order to maximize opportunities to provide affordable housing, that for the following areas that were already upzoned without consideration for obtaining affordable housing opportunities and where further upzoning would be inappropriate, the Borough Board seeks to establish additional Voluntary Inclusionary Housing Designated Areas, in Community Boards and Local Elected Officials, as follows:

- CD 2: Bridge Plaza, non-R10 equivalent rezoned districts in Downtown Brooklyn, the western section of DUMBO and Fourth Avenue.
- CD 6: Fourth Avenue;
- CD8 Grand Army Plaza, Eastern Parkway, Vanderbilt Avenue and Washington Avenue;
- CD 15: Kings Highway and Ocean Avenue;

Brooklyn Borough Board Resolution to Disapprove According to Modifications to the Quality and Affordable Housing Zoning Text Amendment

In regards to Affordable Independent Residence for Seniors Being Retained as a Resource

The Borough Board is concerned that, but for zoning bonus enable floor area, there would be no obligation mechanism to prevent the conversion of affordable independent residences for seniors to market rate housing occupancy beyond the terms of its regulatory agreement (minimum of 30 years according to zoning definition for affordable housing). This is despite generous additional floor area and height, and relaxed parking requirements when compared to market rate housing.

The Borough Board seeks for the zoning text to deter affordable independent residences for seniors from being converted to market-rate housing by amending both Use Group 2 to include a new Use Group 2.B "affordable independent residences for seniors" and that the definition of this use states that to be considered an affordable independent residence for seniors such use is required to have incorporated into its Certificate of Occupancy for the City to be provided the opportunity to provide operating subsidies to extend the regulatory period prior to changing from Use Group 2.B.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 12-10 Affordable independent residences for seniors
- ZR 22-12 Use Group 2

In Regards to Affordable Independent Residence for Seniors and Long Term Care Facilities

- Appropriate Bulk When Developed on Detached, Semi-Detached Blocks and Attached Housing Blocks with no Front Yard Parking

The Borough Board supports the proposal to limit the height, bulk and floor area of independent residences for seniors and for long term care facilities in zoning districts designated for detached, semi-detached homes and low-density attached housing districts (R3A, R3X, R4A and R5A detached home, R3-1 and R4-1 semi-detached districts and R3-2 and R4B attached home districts). The Borough Board is concerned that the proposed as-of-right bulk provisions for affordable independent residences for seniors is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible bulk on many blocks in Brooklyn that are characterized as predominantly detached and/or semi-detached where they remain in R3, R4 or R5 multi-family housing zoning designated districts. These conflicts become more apparent along narrow streets. The Borough Board believes that there should be additional consideration in the zoning text for R3, R4 and R5 districts where such residential block fronts predominantly developed consistent with detached and/or semi-detached development, and attached homes with no front yard parking, as a means to preclude

uncharacteristic proposed bulk of affordable independent residences for seniors and long-term care facilities on with housing characteristics.

The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached, semi-detached residences or and row house districts without front yard parking, where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residences. The Borough Board believes that such provision would assure that perfectly-sound homes on such blocks are not demolished to develop such out-of-context facilities. In addition such affordable independent residences for seniors to be applicable to long-term care facilities floor area and bulk envelop should not be applicable to zonings lots exclusively fronting along narrow streets.

- Appropriate Height and Bulk for Both Affordable Independent Residences for Seniors and Long-Term Care Facilities When Developed in R3-2, R4 and R5 Multi-Family Districts

The Borough Board is concerned that the proposed one size fits all building height of up to 6 stories or 65 feet beyond 25 feet from the street line is intending to be applied equally without regard to the permitted floor area ratio being 0.95 FAR in R3-2 Districts, 1.29 FAR in R4 Districts and 1.95 FAR in R5 Districts, and without regards to the typical height of buildings in those districts.

The Borough Board seeks 3 stories or 35 feet in R3-2 Districts, 4 stories or 45 feet in R4 Districts and 5 stories or 55 feet in R5 Districts for zoning lots on blocks that do not meet that characteristics of defining detached or semi-detached homes, and attached houses with no parking in the front yard for the R4 district.

- Precluding As-of-Right Status for Long=Term Care Facilities on Detached Zoning Districts and Predominantly Detached Blocks

The Borough Board is concern that the proposed requirement for long-term care facilities to need to obtain discretionary approval (Community Board input) is limited to only R1 and R2 detached single-family home districts. For the remaining detached home districts (R3A, R3X, R4A and R5A) and blocks predominantly developed consistent with detached homes, the proposal would otherwise allow long-term care facilities homes to be permitted as-of-right. The Borough Board is concerned that the proposed as-of-right allowance for long-term care facilities is too wide-spread for these zoning districts and could potentially result in out-of-context development of incompatible intensity of use, especially when fronting along narrow streets because many forms of long-term care facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas.

The Borough Board believes that similar standards for Community Board input should be applied to R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent with

detached homes as a means to preclude as-of-right placement of long-term care facilities amongst detached developed blocks.

The Borough Board understands that the proposed lot sizes and distances from residents for locating a long-term care facility in R1 and R2 single-family home districts would be too stringent for R3A, R3X, R4A and R5A detached home districts as well as blocks predominantly developed consistent with detached homes, though there should be Commission findings regarding the use, its scale and placement of the building that assures a long-term care facility would not alter the essential character of the neighborhood; and, there be adequate buffering from adjacent residences when locating a long-term care facility use in detached home districts as well as blocks predominantly developed consistent with detached homes.

The Borough Board seeks to restrict incompatible use and bulk from detached home areas by making development pursuant to an authorization or special permit approved by the City Planning Commission, as a means to provide standards of findings and Community Board input.

- Appropriate Bulk for Affordable Independent Residence for Seniors (required a City Planning Follow-Up Action) and Long Term Care Facilities Floor Area for R7A Districts fronting Narrow Streets (now affects CDs 3, 4, 8, 12 and 14)

The Borough Board is notes that the maximum floor area for R8B, a zoning district for narrow street frontages, does not provide additional floor area for affordable independent residences for seniors and long-term care facilities (remains 4.0 FAR). The equivalent floor area for R7A mapped on wide or narrow streets has been 5.01 FAR for affordable independent residences for seniors, and, for long-term care facilities, the floor area is proposed to be increased from 4.0 FAR to 5.0.1. The Borough Board believes that the affected mid-blocks should not be treated any different from zoning district designations that might be more in character with block development.

The Borough Board seeks for narrow street frontages to be treated the same by either retaining 4.0 on both the R7A fronting narrow streets and R8B should be increased to match the R7A Inclusionary Zoning FAR standard of 4.6 FAR.

- Assisting Existing Affordable Independent Residences for Seniors Buildings Expand

The Board of Standards and Appeals would have latitude to modify zoning requirement to allow development of Quality Housing Buildings on irregular sites. The Borough Board is concerned that even with more standard lot configuration, existing Affordable Housing for the Elderly developments seeking to utilize remaining development rights find it challenging to complying with zoning rules given initial site planning decisions that might have included accommodation of parking requirements, other site planning building placement considerations and underbuilding of height as a cost savings measure.

In order to assist Affordable Independent Residences for Seniors to develop from the resulting underutilization of permitted floor area, the Borough Board believes that practical difficulties according

to finding (b) should permit the Board of Standards and Appeals more latitude when the ownership of Affordable Independent Residences for Seniors remains the same.

- Limiting Applicability of Community Facility Bulk for Long-Term Care Facilities or philanthropic or non-profit institutions with sleeping accommodations for Blocks Characterized by Detached and Semi-Detached Development in R3, R4 and R5 Districts

The proposed text does not permit Community Facility Bulk being applied to long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations for R3A, R3X, R4A and R5A detached home and R3-1 and R4-1 semi-detached districts. A City Planning Commission special permit allowance community facility bulk would be applicable for R3, R4 and R5 Districts without regards to whether there is significantly consistent block fronts that are predominantly developed with detached homes and semi-detached homes and are along narrow streets. Approving special community facility floor area bulk permits could potentially result in out-of-context development of incompatible intensity of use. The Borough Board seeks to preclude uncharacteristic proposed bulk of long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations on block fronts predominantly developed with detached homes and semi-detached homes and along narrow streets as such facilities are essentially businesses with a significant employment presence seeking placement in low-density residential areas.

The Borough Board seeks the establishment of provisions consistent with ZR 23-011 regarding the Quality Housing Program where according to ZR 23-011(c)(3), zoning lots occupied by a single, two or three-family detached or semi-detached residence where 70 percent or more of the aggregate length of the block fronts in residential use on both sides of the street facing each other are occupied by such residence be incorporated into sub-sections (2) and (3). The Borough Board believes that such provision would alleviate out-of-context facilities.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 23-01 Applicability and General Purposes
- ZR 22-13 Use Group 3 Community Facilities
- ZR 22-22 Uses Permitted by Special Permit by the City Planning Commission
- ZR 22-42 City Planning Commission Special Permit for Long-Term Care Facilities
- ZR 23-155 Affordable independent residences for seniors Floor Area Ratio
- ZR 23-631 (i) General Provisions Height and Setback Requirements in R3-2-R5 Districts Except for R4A, R4B, R4-1, R5A, R5B, R5D and Special Ocean Parkway Districts
- ZR 24-013 (a)(2) Special provision for certain community facility uses for buildings containing long-term care facilities in R3 through R5 districts except in R3A, R3X, R3-1, R4A, R4B, R4-1, R5A, and R5D Districts
- ZR 73-623 Bulk modifications for Quality Housing Buildings Sites
- ZR 74-903 (a) (2) and (3) Special Permit for certain community facility uses in R3 to R5 Districts and certain Commercial Districts by the City Planning Commission to permit the community

facility floor area ration and bulk provisions containing long-term care facilities or philanthropic or non-profit institutions with sleeping accommodations

In Regards to Providing for Appropriate Building Height

- Transition Height of Taller Avenue Buildings (R6A-R10) to Lower-Rise Mid-Blocks (R1-R6B)

The Borough Board is concerned that the proposal intends to modify the height permitted within 25 feet when R6-R10 districts abut R1 through R6B Districts from 35 feet in R1 through R5 Districts and R6B requirements (50 feet) for R6B Districts to a height of 75 feet. The Borough Board believes that this modification goes totally against the intent of the many neighborhood-wide contextual preservation-based rezoning where the community supported increased density in appropriate locations.

The Borough Board seeks a rejection of this proposed text modification.

- Right Sizing Maximum Height of Buildings With Residential Occupancy for Quality Housing Buildings Providing Affordable Housing Pursuant to the Inclusionary Housing Program

The Borough Board supports providing additional height to provide assurance that developments would contain affordable housing. Though it is concerned that the maximum height and number of stories being proposed is too excessive of an increase to accommodate the intent for the Inclusionary Housing designated area permitted floor area ratio (FAR) to be utilized. The proposed heights would undermine community led efforts to impose contextual height limits in areas rezoned to promote housing development as part of neighborhood-wide contextual rezoning that included contextual preservation-minded rezoning.

The Borough Board seeks to reduce the Maximum Height of Building as follows:

**Maximum Height of Building with qualifying ground floor means second floor at least 13 feet above the sidewalk*

Zoning District	*(proposed)non-qualify ground floor*	*Maximum Height of Building with qualifying ground floor*	*Maximum Number of Stories*
R7A	*(100)90*	*95*	*9*
R7D	*(120)110*	*115*	*11*
R7D (CD 3)	*(120)100*	*105*	*10*
R7 outside Manhattan Core	*(100)90*	*95*	*9*

- Determining Maximum Height of Contextual Buildings (Not in City Planning's proposal)

Height of contextual buildings are been measured from the level of the street line. It has become apparent that for zoning lots with sloped frontages determining maximum height by measuring from the level of street line is an ill-defined reference term as by itself it does not appear to preclude a developer from measuring height from the highest point of the street line.

The Borough Board seeks to establish the measurement from legal grade of the base plane or some equivalent standard that establishes a mean or average height for sloped frontages.

- Determining Height of the Second Story Above Grade (Qualifying Ground Floor Height Component)

Height of contextual buildings are been measured from the level of the adjoining sidewalk. In order to achieve the additional five feet of building height the height of at least 13 feet the level of the finished floor of the second story above grade. It has become apparent for zoning lots with sloped frontages determining where to measure the level of street line from is inadequately-defined. By itself, the street line reference does not appear to preclude a developer from measuring height from the highest point of the street line.

The Borough Board seeks to establish the measurement from legal grade of the base plane or some equivalent standard that establishes a mean or average height for sloped frontages.

- Zoning Floor Area Reduction for Lobby Ramps to Accommodate Persons with Mobility Disabilities as a Means to Encourage Elevating a First Floor Level

For Quality Housing buildings, a developer would be permitted to exclude up to 100 square feet for each foot above curb level up from the definition of zoning floor area. The Borough Board believes that 100 square feet is nearly 40 percent more than necessary to equate the floor space required to comply with an ADA compliant ramp and with landings, resulting up approximately up to 150 square feet of free development rights – enough to result in a master bedroom. The Borough Board seeks to limit compensation to the area needed to provide the ramp, with additional financial offset received by raising each floor up to five feet above a property where the ground floor remained a sidewalk level.

The Borough Board seeks to reduce the exemption to 70 feet per foot.

Therefore, modify the following sections of the Zoning Resolution:

- ZR23-693 Special Height Limitations Special provisions applying adjacent to R1 through R6B Districts for R6-R10 districts
- ZR 23-662 (b) Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings, building heights and number of permitted stories and corresponding Table 1 Minimum Base Height, Maximum Base Height, Maximum Building Height and Maximum Number of Stories for Contextual Districts and for Non-Contextual Districts and *corresponding Table 1 as it pertains to Maximum Height of Building with non-qualify ground floor/Maximum Height of Building with qualifying ground floor/Maximum Number of Stories*
- ZR 23-664 (a) Modified height and setback regulations for certain buildings R6-R10 Districts for Quality Housing buildings providing affordable housing pursuant to the Inclusionary Housing Program and *corresponding Table 1 Modified Maximum Base Height and Maximum Building Height for Certain Quality Housing Buildings*

- ZR 23-641 Front setbacks in R6-R10 Districts without a letter suffix, corresponding table Maximum Height of Front wall and Required Front Setbacks, ZR 23-642 Alternate Front Setbacks and corresponding table Alternate Required Front Setbacks
- ZR 23-631 (f) General Provisions Height and Setback Requirements in R5D Districts and ZR 23-662 Maximum height of buildings and setback regulations R6-R10 Districts for Quality Housing buildings
- ZR 28-11 Elevated Ground Floor Units R6-R10 Districts

In Regards to Providing for Appropriate Yard Obstructions

- Relaxing Lot Coverage and Rear Yard Requirements for Shallow lots and Shallow Though Block Lots for R6-R10 Districts and Commercial Equivalents

The proposal would change the definition from 70 feet to 95 *feet (Note: Lower Density Districts would remain at 70 feet)* in depth to define a shallow lot and 190 feet to define a shallow through lot. The Borough Board believes such standard would be too permissive towards achieving City Planning's intent towards quality design and achieving permitted floor area without the need to obtain a Variance from bulk provisions. The Borough Board is concerned that adopting the proposal would result in overly permissive rear yard enlargements altering the character of the collective rear yards of a block. There are sections of Brooklyn blocks that are not characterize by the standard block width of 200 feet. For these blocks often there are a string of lots consistently at 80 or 90 feet in depth with yard character well-defined. The existing collective feel of rear yards might be compromised by more liberal lot coverage if the existing shallow lot standard were increased from 70 feet to 95 feet of depth.

The Borough Board seeks for shallow lot provisions to be increased from 70 feet to 80 feet and shallow through lots be defined by 180 feet as means to provide a degree of relief without the need for a Variance.

Permitted Obstructions in Required Yards or Rear Yard Equivalents in R6A and R7A Districts

- Restricting on Certain Narrow Street Frontages the Proposed Allowance of A One-Story Enlargement On Rear Yards That Contain Common Amenities Such as Laundry Rooms, Recreation Rooms, Etc. (now affects CDs 3, 4, 6, 8, 12, 14, 15)

Coverage of rear yards for a single story is permitted for certain zoning districts based on street right-of-way width and where parking is permitted to enclose a one level garage. The proposal would allow amenity spaces in such yards for contextual buildings for sites in certain zoning districts typically designated along wide street right-of-way properties.

The proposal would permit rear one-story building enlargements up to 15 feet in height might in R6A and R7A districts without regard to street right-of-way width. Equivalent height and density zoning districts meant to be designated along narrow street width (*R6B, R7B and R8B Districts)* would not be permitted to have rear yard placement of such amenities. If certain narrow street width blocks were

mapped R7B or R8B in lieu of R6A or R7A the rear of these properties would not permit the proposed one-story amenity space. Though, because of R6A and R7A zoning status, new enlargements could potential become an appropriate intrusion for the character of the collective rear yards for these blocks. The Borough Board believes that the collective rear yard experience for these blocks with narrow-street widths should remain protected as would be the case if initially zoned R7B or R8B.

The Borough Board seeks for zoning lots located in an R6A or R7A District that fronts along a narrow street to be regulated consistent with R6B, R7B and R8B districts, where such rear yard intrusion would not be applicable according to the proposed text.

- Appropriate Placement of Overlapping Buildings in NYCHA Campuses When Utilizing Excess Development Rights

The proposal seeks to use the more minimal standards of the New York State Multiple Dwelling Law for opposing wall condition for heights in excess of 50 feet to require not more than 40 feet between walls where legal windows are involved for building walls of undefined length of overlap for buildings up to 125 feet in height.

The Borough Board is concerned that the New York State Multiple Dwelling Law standard of 40 feet between building walls of undefined length of overlap does not adequately provide for light and air. Given the expectation of utilizing excess development rights of NYCHA campuses and existing affordable independent residences for seniors, there should be an expectation of quality light and air standards as opposed to provisions that allow less than desirable building placements.

The Borough Board seeks a maximum length where distance between building walls of connected buildings exceed 50 feet in height when at least one wall contains legal windows, with a maximum requirement of 60 feet between such building walls and a maximum length where distance between buildings up to 125 feet in height when at least one wall contains legal windows, should have a maximum length of overlap within the standard of 40 feet and then require up to a maximum requirement of 60 feet (standard for two abutting rear yards) between such building walls.

- Appropriate Corner Lot Coverage to Promote Wrap Around Building Walls

The proposal would modify the maximum residential lot building coverage for a corner lot to 100 percent, in lieu of the existing 80 percent provision, without regard to lot width. The Borough Board believes that the such design flexibility promoted by 100 percent lot coverage could promote substandard room layouts/proximity to windows, including so called offices and dens that would not meet light and air standards for living and sleeping rooms, with some merely having a lot line window that could be either blocked by the adjoining side street property or else introduces by overlooking the collective rear yard. Allowing 100 percent corner lots do promote the elimination of street wall gaps and allows maximum floor area to be achieved with less height. In order to promote these goals

without the risk of substandard floor plan layouts, the Borough Board believes there needs to be a maximum width to apply the corner lot 100 percent coverage standard.

The Board seeks to retain the 80 percent corner lot provision, except for sections of corner lots with lot width not exceeding 30 feet which may have 100 percent coverage.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 23-156 Special lot coverage provisions for shallow lots in R6-R10 Districts, ZR 23-52 (b)(2) Special Provisions for Shallow Interior Lots, ZR 23-533 Required rear yard equivalent for Quality Housing buildings and ZR 23-534 Special Provisions for Shallow Through Lots R6-R10 Districts
- ZR 24-164 Special Provisions for Zoning Lots Containing Both Community Facility and Residential Uses Location of Open Space Residential Portion R1-R9
- ZR 23-711(b)(1) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for separated portions of a building above roof of connecting abutting building portion
- ZR 23-711(b)(2) Standard Minimum Distance Between Two or More Buildings on a Single Zoning Lot R3-R10 Districts for Two or more buildings on a single zoning lot
- ZR23-153 Quality Housing Buildings Corner Lot Coverage

In Regards to Providing for Appropriate Parking

Appendix 1: Transit Zone

The Borough Board is concerned that the Transit Zoned as mapped is too extensive. The following should be given consideration in terms of refining Transit Zone boundaries:

- All of Community Districts (CD) 1, 2 and 3 are considered to be within the transit zone in areas where the half mile from the subway station was limited to G Line service, a route that often is dependent on infrequent service and typically requires transfers.
- Certain areas of CD1 have added obstacles of crossing the Brooklyn-Queens Expressway trench and elevated sections to reach subway stations.
- Certain areas of CD 2 require crossing under the elevated BQE across Park Avenue and sustained walking up hill.
- For CD 3, pending determination of partial removing from the Transit Zone.
- For CD5, the section south of Linden Boulevard and east of Malta Street should be removed from the Transit Zone.
- For CD6, the section west of the Brooklyn-Queens Expressway trench and south of the elevated sections of the Gowanus Expressway across Hamilton Avenue.
- For CD 8, should be removed from the Transit Zone
- For Community District 9, the section west of Utica Avenue to south of Empire Boulevard extending east of Brooklyn Avenue, should be removed from the Transit Zone.

- For CD 11 should be removed from the Transit Zone.
- For CD 13, the section south of Coney Island Creek should be removed from the Transit Zone.
- For CD 14, pending determination of partial removing from the Transit Zone.
- For CD 15, the section to the south of Avenue P and north of Neptune Avenue between Coney Island Avenue and Ocean Parkway Avenue, and east of East 21st Street, should be removed from the Transit Zone.
- For CD 17, the section west of East 93rd Street to south of east New York Avenue to Utica Avenue and east of Brooklyn Avenue should be removed from the Transit Zone.
- For CD 18, the section south of Flatlands Avenue should be removed from the Transit Zone.

- Parking Requirement for Affordable Independent Residences for Seniors

The proposal attempts to better reflect the reality of parking lot usage for affordable independent residences for seniors. In doing so, it would facilitate the elimination of parking requirements to existing affordable independent residences for seniors within the transit zone. Though, permitting elimination does not appear to reflect the extent of observed utilization of such existing accessory group parking facilities. Displacing the on-site parked cars – whether they belong to residences, staff, or visiting medical technicians -- might result in a quality-of-life impact for the residents of surrounding blocks by displacing existing off-street parking with the resulting added competition for on-street parking on surrounding streets.

Outside the transit zone the proposed rate decrease from 35 percent in R3 and R4 Districts and 31.5 percent in R5 Districts to 10 percent appears to be too much of a decline given that these locations might induce automobile trips associated with building staffing or visiting medical technicians for such residences in combination with the number of senior households that might still own cars when relocating to such affordable independent residences for seniors and might have a degree of dependency on such automobiles for trips ranging from medical appointments, purchasing food and consumer goods and lifestyle in these less than assessable neighborhoods outside the transit zone.

The Borough Board seeks to modify by limiting the as-of-right reduction of the number of parking spaces in such existing group parking to fifty percent unless the resulting parking waiver would facilitate the elimination of such parking requirement, and for group parking facilities outside the transit zone, that in lieu of ten percent, to limit the reduction of parking requirement to 15 percent in R5 Districts and 20 percent in R3 and R4 Districts.

- Additional Consideration for the Board of Standards and Appeals to Find in Order to Reduce or Waiver Parking Requirements for: market rate developments in the transit zone providing income-restricted housing; Existing income-restricted housing and affordable independent residences for seniors (and City Planning Commission for Large Scale Plans)

The Borough Board is concerned that findings do not: adequately define a distance to what might be considered the surrounding area; mention finding parking as what might have an undue adverse effect;

give consideration to the availability of parking in the surrounding area and proximity to public transportation; and, contain similar factors as identified in ZR 73-434 Reduction of existing parking spaces for income restricted housing units for addition safeguard that might be imposed by the Board of Standards and Appeals.

The Borough Board seeks to define the surrounding area as up to 1,000 feet and that the Board of Standards and Appeals and the City Planning Commission must consider the availability of parking in the surrounding area and the proximity of public transportation as addition factors in determining the amount of parking spaces to reduce or waive.

Therefore, modify the following sections of the Zoning Resolution:

- ZR 25-252 Required Accessory Off-Street Parking Spaces for Residences – Modification of Requirements Where Group Parking Facilities Are Required R1-R10 Districts for Affordable Independent Residences for Seniors
- ZR 25-261 Waiver of Requirements for Small Number of Spaces for R7A Districts and ZR 25-33 Waiver of Requirements for Spaces below Minimum Number for Permitted Non-Residential Uses
- ZR 73-433 Reduction of (market-rate unit) parking spaces in the Transit Zone to facilitate affordable housing
- ZR 73-434 Reduction of existing parking spaces for income restricted housing units and ZR 73-435 Reduction of existing parking spaces for affordable independent residences for seniors
- ZR 74-532 Special Permit Reduction or waiver of parking requirements for accessory group parking facilities by the City Planning Commission in conjunction with large scale development in the transit zone

Additional Matters That Would Further the Proposals' Goals of Promoting Affordability but Are Beyond the Scope of the Current Proposal and Should be Considered as Part of Future Actions or Zoning Reviews

- Reducing Height of Buildings With Residential Occupancy When Not Including Affordable Housing (Not in City Planning's proposal)

When developed without affordable housing, Voluntary Inclusionary Housing designated areas with height limits have typically 11 to 16 percent less permitted floor area ratios than the same zoning district designation for non-Inclusionary Housing designated areas with the same height limit. The Borough Board does not see further need to accommodate less provided floor area in the same height as non-designated areas. The Borough Board is concerned that continuing to maintain the maximum height and number of stories for R6-R10 Districts where such districts are according to the provisions of Inclusionary Housing designated areas without the benefit of the providing affordable housing sends the message to developers that affordable housing is not enough of a priority. The City should be leveraging the financial value of upper floors as an additional incentive to participate in the Inclusionary Housing

Program. Holding back one to four stories (depending on district) of now permitted height unless the affordable housing bonus is used – as views have value -- turns added height into a financial incentive to participate in the incentive program.

The Borough Board seeks to reduce the Maximum Height of Building as follows:

**Maximum Height of Building with qualifying ground floor means second floor at least 13 feet above the sidewalk*

Zoning District	*(existing) non-qualify ground floor*	*Maximum Height of Building with qualifying ground floor*	*Maximum Number of Stories*
R6A	*(70)65*	*70*	*6*
R7B	*(75)65*	*Not Applicable*	*7*
R7A	*(80)75*	*80*	*7*
R7D	*(100)90*	*95*	*9*
R7D in CD3	*(100)80*	*85*	*8*
R7X	*(125)110*	*115*	*11*
R8A	*(120)105*	*110*	*10*
R8X	*(150)130*	*135*	*13*
R9A	*(145)120*	*125*	*12*
R9X	*(160)150*	*155*	*15*
R10A	*(185)170*	*175*	*17*

**and comparable provisions for equivalent non-contextual districts.*

- Allowing Community Facility Uses to Have A Higher Rear Yard Coverage Height (Not in City Planning's proposal)

In certain situations, Community Facilities are permitted to cover the entire rear yard up to a height of 23 feet with the roof counting as meeting residential open space requirements.

By utilizing the proposed ground floor height incentive that allows building heights to be increased by five feet, it might not be possible to place two floors of community facility use in the rear yard while not exceeding 23 feet. This places community facilities with a choice between balancing the opportunity of achieving additional ground floor height that is otherwise offset by reducing the amount of overall community facility floor area because the second floor would not be able to extend into the rear yard because of the roof needing to be above 23 feet—which is not permitted. Without adjusting the qualifying rear yard height, which is now up to 23 feet above curb level for meeting the required residential open space requirement upon the roof of the community facility portion of such building, might preclude use of the ground floor incentive or the provision of a two stories of community facility use extending into the rear yard.

In order to promote community facility ground floor height without compromising community facility floor area placement, a nominal increase in permitted rear yard obstruction height would address this circumstance.

The Borough Board seeks to modify the qualifying community facility rooftop residential open space height to 25 feet.

- Decrease the Number of Market Rate Units and for Community Facility Use Where Parking Needs to Be Provided in Certain Community Districts (Not in City Planning's proposal)

As neighborhood are being upzoned, often in proximity to rapid transit, not enough consideration has been given to auto-lifestyle consideration for households able to afford cars living further from Downtown Brooklyn. Where prior zoning might require parking for developments with more than ten units, these new districts merely require development of more than 30 units to provide parking. The same standard for community facility use jumped from at least requiring that 25 parking spaces to required parking to not exceeding 40 spaces. This parking waivers appear to be excessive for neighborhoods in the outermost sections of Brooklyn where car ownership rates tend to reflect lifestyles where quality-of-life depends on the ability to find parking.

The Borough Board seeks to modify in Community Districts 3, 4, 9, 10, 11, 12, 13, 14, 15, 17 and 18 (more districts might be added) the residential waiver in certain R7A Districts from 15 spaces to the R6, R7-1 and R7B standard of five spaces and the community facility use waiver from 40 spaces to the R6, R7-1 and R7B standard of 25 spaces.

- Encourage Income Restricted Housing Through Parking Reductions for Development in the Special Downtown Brooklyn District (Not in City Planning's proposal)

The Special Downtown Brooklyn District's market-rate housing parking requirement was recently reduced to a requirement of 20 percent of the housing units. The Borough Board believes that the cost-savings from providing less structured garage parking should be leveraged to provide for income-restricted housing. Therefore, the opportunity that reduced required parking to 20 percent, when not providing income-restricted housing, should be revisited.

The Borough Board seeks to condition the parking reduction on the utilization of the Inclusionary Housing program provisions.

Therefore, modify the following section of the Zoning Resolution:

- Regarding ZR 101-51 (a) Minimum Parking Requirements for Off-Street Parking Regulations

Furthermore, as many areas zoned R3-2, R4 and R5 are not receiving the same protection from the Zoning Resolution as districts that preclude attached housing or attached housing with parking in the front yard, from precluding bulk and height pertaining to affordable independent residences for seniors and to long-term care facilities, the Borough Board seeks preliminary analysis of all R3-2, R4 and R5 Districts to determine where Districts such as R3A, R3X, R3-1, R4A, R4-1, R4B and R5A are appropriate and then for the Department of City Planning to undertake such rezonings.