



BRONX BOROUGH PRESIDENT VANESSA L. GIBSON

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

CITY OF YES FOR HOUSING OPPORTUNITY

APPLICATION NO: N 240290 ZRY

IN THE MATTER OF an application submitted by the New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying multiple Sections to enable more housing and a wider variety of housing types in every neighborhood, from the lowest density to the highest density, to address the housing shortage and high cost of housing in New York City.

The full proposed text can be accessed from the Zoning Application Portal at <https://zap.planning.nyc.gov/projects/2023Y0427>.

BACKGROUND

The New York City Department of City Planning (the applicant) and the Adams administration acknowledge that the City of New York is currently facing a severe housing shortage. Approval of this application will update and modify zoning ordinances, which will allow for a wider range of housing development throughout the city. In addition, outdated zoning mandates will be amended to facilitate the creation of more housing in a greater number of locations where such developments are currently not permitted pursuant to zoning. The housing currently in development is mostly limited to certain neighborhoods, overburdening them, while other neighborhoods see little to no new development.

The housing challenges The Bronx and New York City face include:

- The citywide apartment vacancy rate is 1.41%, the lowest it has been since 1968.
- In The Bronx, the vacancy rate is even lower at 0.82%.
- Citywide, approximately 50% of renters are “rent burdened,” paying more than 30% of their income on housing. Over 60% of Bronx renters are rent-burdened.
- As of December 2023, the number of homeless New Yorkers living in a shelter was 92,879. Of these, 33,399 (36%) were children below the age of 18.

Proposal

The New York City Department of City Planning is proposing a citywide text amendment to address New York City's severe housing affordability crisis. The proposal advocates reforming the existing zoning regulations that currently restrict the development of more housing citywide and limit it to certain neighborhoods.

The overall objectives of this application include:

- 1) Providing more housing options and housing types
- 2) Reducing economic pressure on gentrifying areas
- 3) Constructing more affordable housing
- 4) Providing flexibility for single and two-family homeowners
- 5) Boosting New York City's economy by creating new jobs and easing housing costs
- 6) Creating more climate-friendly housing near transit

BOROUGH PRESIDENT'S PUBLIC HEARING

A public hearing was convened by Bronx Borough President Vanessa L. Gibson on Monday, June 17, 2024 at 851 Grand Concourse in Room 711, as well as virtually through Webex. Representatives of the Applicant team were present and spoke in favor of the application. Members of the public offered testimony via Webex and in person. Of those offering testimony two spoke in favor and six were opposed. Upon the completion of all testimony, the public hearing was closed. Written testimony was accepted until Friday, June 21, 2024. Of the written testimony received, there was a mix of support and opposition to the various parts of the proposal.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

New York City is experiencing a housing crisis, and how to resolve this crisis is one of the main topics of this proposal. While certain areas of The Bronx and the city as a whole have seen record increases in density and growth since the 1961 zoning regulations came into effect, other neighborhoods have seen minimal to no new housing development. Many of the areas that are currently identified as lower-density zoning districts were zoned that way based on the existing context in 1961, and the zoning did not always have the foresight to anticipate the necessary growth for the future needs of the city. The New York City Department of City Planning's (DCP) proposal to add "a little more housing in every neighborhood" is attempting to address that disparity. These proposed zoning changes would add housing in areas of the city that haven't seen any growth in decades, while also continuing to add units in higher density areas. Adding more development potential across neighborhoods will result in a more balanced distribution of new and diverse housing types.

I will continue to support a balanced approach that results in every community doing their fair share to alleviate this housing crisis. The biggest overall issue I see in meeting this obligation is understanding how the city can meet and keep up with the additional infrastructure demand. There are many areas of The Bronx that need infrastructure improvements today, so if the city were able to improve the overall infrastructure to meet that demand, it would reduce some of the existing concerns that these neighborhoods cannot support additional density. This challenge is exacerbated because these infrastructure improvements will only occur if there is an increased demand. So the question I pose to the City is: if the City wants support for additional density in areas that have existing infrastructure challenges, what assurances can be made to ensure these improvements will happen, and why aren't these challenges being addressed today so current residents can benefit?

Further, I want to ensure that neighborhoods across our borough maintain their existing characters, and that the additional housing development, particularly in low-density neighborhoods, remains consistent with what currently exists. I believe that this proposal must not substantively infringe on the rules surrounding historic districts and special districts that are defined by their unique neighborhood characteristics, such as City Island and the Special Natural Area District. The distinctive identities of these neighborhoods must continue to be preserved.

Additionally, I see the ongoing challenge that the existing housing stock is not maintained up to the level that it should be. Much of the housing stock is in dire need of both routine maintenance and larger capital investments. This is a failure of housing providers, but it is also a failure of the City. The New York City Department of Buildings (DOB) must employ more building inspectors to ensure existing homes are safe for residents, in addition to deploying an increased level of enforcement to ensure that new housing construction is carried out safely.

While these questions are essentially outside the purview of zoning, adding density in any neighborhood requires a holistic approach by the City to ensure that this new density can be absorbed by the communities without leading to negative effects such as overburdened infrastructure and services and that the current residents are not left behind by new development. This is one aspect of what a balanced approach to development should look like.

I understand there are tradeoffs and sensitivities in every community, and I will continue to fight for The Bronx to ensure we are getting the support we deserve. I have been consistent in my message that we need more housing developments that offer larger units (units with at least two bedrooms) where families can grow in place, as well as more homeownership opportunities that create pathways to the middle-class. I will not compromise on what is necessary for The Bronx to be successful into the future. While there are parts of the proposal that I support, there are other parts that I do not believe should move forward at this time.

I will not give my thoughts on all the components of the Housing Opportunity proposal, but I will address the main topics.

There are several components to the proposal: those that impact lower-density residential areas (areas zoned R1-R5), those that impact medium- to high-density residential areas (areas zoned R6-R10), and those that impact all residential areas.

Lower Density Proposals:

Town Center Zoning: I support portions of this proposal. The intent of this proposal is to enable current one-story commercial corridors to build residential housing above existing commercial space. To incentivize this, there is a 0.5 FAR increase in R1 through R3 zoning districts and no maximum height increases, a 1.0 FAR increase with a one-story maximum height increase in R4 districts, and a 0.5 to 1.25 FAR increase with a one- to two-story maximum height increase in R5 districts.

Along commercial corridors, this is a very modest increase to both the FAR and the height of a building and I generally support this provision.

However, I do not support the automatic extension of R5 density provisions to commercial overlays in the new Greater Transit Zone. I believe that the change to allow R5 zoning should be limited to the overlays in the existing transit zone. I believe that the commercial corridors outside of the existing transit zone should go through individual rezonings to determine if the scale proposed here is appropriate, and each should be decided on its own merits.

I also oppose any City Island Special District regulations being superseded by changes in this proposal. The intent of this special district was to preserve the historic scale of the island which has a 35-foot maximum height for new development that can only be overridden with an authorization or special permit. Failing to incorporate the existing context of unique areas like City Island by applying a one-size-fits-all approach is not the best way to implement this proposal.

Transit-Oriented Development (TOD): I endorse this provision. This proposal will allow an increase of 0.5 FAR in R1 districts but will also add a height limit of 35 feet where there is no height limit today. It will also add between 0.4 to 0.5 FAR in R2 and R3 districts with no change to the maximum height, which remains capped at 35 feet. It will add 0.6 FAR in R4 districts with a one- to two-story maximum height increase, capped at 45 feet. It would add between 0.65 to 0.9 with a one- to two-story height increase, capped at 55 feet.

While there is a slight increase in the FAR and height for most of the districts, this increase is relatively modest, adding maximum height limits that are one- to two-stories larger than what is currently allowed and only for the R4 and R5 districts while placing a maximum height limit on R1 districts where there is no height limit today.

This increase will only apply to areas within a half-mile of a rail or subway station which ensures that public transit is accessible for these new units. The proposal also requires the lot be at least

5,000 square feet and be located only on wide streets or on the short end of a block, to ensure the building is at an appropriate scale.

This slight increase will create some additional units but will not change the character of the neighborhoods because the maximum height changes are modest and within a range that is appropriate.

Accessory Dwelling Units (ADU): I endorse this provision. ADUs can include conversions to basements, attics, and garages, as well as standalone structures. In many urban and suburban communities across the country, these regulations are already in place, making it possible for homeowners to add an additional modestly sized dwelling unit to their properties. This is typically done to accommodate an older family member who will then be able to age around family or a younger adult looking to have some independence. The amount of senior housing is not keeping pace with the growth in the senior population, so we must find alternate solutions to support older adults. While ADUs are not a perfect answer, they will allow many families to keep their relatives close while allowing them the autonomy to have their own space or unit.

Allowing ADUs will also create a path for ensuring units are built legally and that they comply with building codes. The conversion of existing spaces – particularly basements – into dwelling units without approval does not meet DOB codes and creates potentially unsafe living conditions, such as locating units where there could be stormwater flooding or creating spaces with no legal egress. Anyone seeking to add an ADU would be required to meet all building codes for fire and stormwater flood safety, among other safety precautions. Failing to institute a legal way to establish ADUs will result in the continued incentivization of a market that is unregulated.

I am pleased that the 800 square foot maximum counts toward the total FAR and that a number of other requirements will ensure ADUs meet general zoning requirements and remain modest in size.

While it is beyond the scope of this proposal, I also feel that it is important to call for an expansion in resources and staff for DOB inspectors to ensure that all the housing in our city, including any new ADUs, are created with the safety and welfare of their occupants in mind. We need more staff at DOB to ensure timely and comprehensive inspections are carried out. We have seen too many tragedies resulting from poor building upkeep, including flooding, fires, and collapses. Additionally, the City and its non-profit partners should collaborate to provide homeowners with more education about ADUs, the process to build them out, and the rights and responsibilities of homeowners who have one on their property.

District Fixes: I endorse this provision. The proposal would modify the basic zoning regulations to allow more flexibility on a lot. This includes the minimum lot size, minimum lot width, FAR, yards, maximum base height, and maximum height in R1 through R5 zoning districts.

Allowing additional flexibility will provide homeowners with the ability to expand or build slightly larger buildings than they could today. One major benefit of this change will be to help non-compliant buildings become compliant. A non-compliant building becomes that way when there are changes to the zoning resolution that then make that building non-compliant with the new zoning regulations. This is an issue that many homeowners face when trying to improve their properties, and this proposal creates a way forward for them. I have heard many stories of homeowners who are not able to modify their homes because they no longer meet zoning rules that have changed over time. Non-compliant buildings are unable to get home loans and are often forced to go to the Board of Standards and Appeals for any zoning relief, which usually results in the improvements not occurring, and, over time, these buildings can fall into disrepair.

This proposal also provides homeowners with more flexible property rights, so they can build and expand their homes based on their needs. This change is modest, and I believe that homeowners should have greater flexibility as long as they stay within the zoning regulations, even if those zoning parameters change slightly.

Medium and Higher Density Proposals:

Universal Affordability Preference (UAP): I endorse this provision. This proposal is similar to the existing Affordable Independent Residences for Seniors (AIRS) which has helped incentivize the creation of affordable senior housing by giving a 20% FAR increase exclusively for permanently affordable senior housing. This proposal is expanding on the AIRS program and would allow all affordable housing in medium- and high-density neighborhoods to get this 20% FAR increase. This proposal simply expands the scope of who can benefit from this incentive and would result in more permanently affordable homes.

Additionally, the UAP will allow for a 60% AMI affordability level, which is a much deeper affordability level than the 80% AMI level under the existing Voluntary Program. It will also allow for income averaging, accommodating a variety of income levels within a single project. This deeper affordability requirement along with the income averaging are both positive additions and will provide flexibility for developing affordable housing options for a wider range of Bronx residents and working-class families.

Citywide Proposals:

I recognize that these proposals address citywide challenges without specific regard for the unique characteristics of Bronx neighborhoods and communities. However, in making my recommendation, I want to ensure that The Bronx can reap the potential benefit of these proposed changes.

Lift Costly Parking Mandates: I cannot endorse this proposal in its current form. The Bronx is home to numerous communities that do not have access to sufficient public transportation options for eliminating parking mandates to be a reasonable idea. The transit deserts in areas like the East Bronx are home to residents who mostly drive as their primary means of getting around. I share residents' concerns that the elimination of parking minimums would result in an already competitive parking situation becoming even worse.

While I recognize the additional costs that parking mandates impose on new market-rate development, I believe that eliminating mandates, particularly outside of areas close to transit, would be harmful to many neighborhoods. If this proposal were to move forward, I would insist that it be limited to areas within a half-mile of a railroad or subway station. This would enable new development in areas where car ownership is not a necessity, while still meeting the needs of residents of communities that rely on cars for transportation.

Convert Non-Residential Buildings to Housing: I endorse part of this proposal. Consistent with my recommendation for the Zoning for Economic Opportunity (ZEO) proposal, I am supportive of commercial uses being converted to residential uses because it is an opportunity to provide new housing in existing buildings. The concerns I had in the ZEO proposal remain valid, as I said in my prior recommendation:

“...my final concern is on-going, which is ensuring the public understands the requirements for where residential and non-residential uses may locate. Allowing commercial above and on the same level as residential does not mean residential buildings will be permitted to just add these uses without going to the Department of Buildings to get the proper approvals. Requiring that buildings meet these requirements to show compliance with noise mitigation and having separate elevators is a high bar for a reason. Building code rules would also have to be complied with, including showing that the building could handle any increased demand on its electrical systems, that it would meet FDNY capacity requirements, and that it obtained a new certificate of occupancy. The only way this proposal will work is if the city enforces these requirements. So, while I am in support of this proposal, I do so with the caveat that enforcement is paramount.”

I would also suggest a change to the proposal, namely that, instead of moving the eligibility date from 1961/1977 to 1991, which would make 1991 the new “permanent” date, that there be a rolling date that will allow conversions based on a 30-year timeframe to avoid having to continuously update this requirement in the future.

Small and Shared Housing (and SROs): I emphatically do not endorse this part of the proposal.

While DCP is correct that there are younger adults who want to live alone and older adults that would like to downsize and that small or shared housing may be beneficial for these individuals, The Bronx has seen the worst types of outcomes from this housing typology in the past, and we have a strong need for units that are suitable for families – units that are larger rather than smaller. This narrative may not comport with the needs of the entire city, so I speak only for The Bronx and our residents who demand better housing options. I will not support any housing that doesn't meet these benchmarks for quality.

I will support quality over quantity and, to do this, we must change the narrative about how we talk about units. We must balance fulfilling the strong need for more units with ensuring that the units we create are of good quality. The narrative around housing production entirely focuses on the number of units created, but we must be able to redefine this narrative to discuss the number of people who are able to be housed. We currently treat all units as though they are equal, such as the Mayor's goal to build 500,000 units or the Governor's goal to build 800,000 units, but that is not reflective of the number of people anticipated to live in these units. I recommend that instead of counting buildings based on their units, we count them based on the number of bedrooms provided. This will more accurately reflect the number of people that are living in the building and will give more value to larger units.

For example, this would increase the value of two-bedroom units because they will be counted as providing housing for two-to-four people, whereas studios and one-bedrooms will be counted as housing for one-to-two people. This is not manipulating the outcome but is more reflective of the total number of people who could live in that building and shows how larger units should be given more value compared to studios and one-bedrooms. A specific example of how this would result in better outcomes is the recently approved East Tremont Cluster NCP project. This proposal included three abutting studio units, but, based on the term sheets, these units could have instead been a one-bedroom apartment and a two-bedroom apartment which could have housed the same number of people or more. However, the three studio units are given more value because it helps agencies meet their unit goals for quantity that they are under pressure to support.

I understand this is out of scope for this proposal, and changing a narrative is not easy, but it gets to some of the core issues for how housing is being financed and constructed under the guise of meeting an arbitrary goal of quantity rather than focusing on how family housing can be built for the middle class. Failing to build an adequate number of multi-bedroom units can result in displacement if families are forced to move out of their neighborhoods to find larger units once their family grows. We must build larger units to accommodate these families in every neighborhood.

Eliminate Dwelling Unit Factor (DUF): I emphatically do not endorse this part of the proposal.

For the same reasons I noted in the “small or shared housing” proposal, I do not support reducing or eliminating the DUF when we must focus on quality over quantity. The Bronx is currently seeing more housing being built than other parts of the city, and much of this housing is conversions or new development which seeks to maximize the number of units that can be built on a given site. By reducing the DUF, it will only increase the number of smaller units and studios that are created.

I understand what this provision is seeking to achieve by facilitating the construction of smaller, more affordable residential units in areas where mass transit options are readily available, and I recognize there is a need for this type of housing, but this need is not greater than the need for family units in The Bronx.

Campus Infill: I endorse this provision as proposed for both high- and low-density locations.

As I noted in my ZEO recommendation, when I think of this proposal and who may benefit, I focus on the residents living in NYCHA housing. Nearly 1 in 17 New Yorkers live in NYCHA supported housing, accounting for over 528,000 residents across 335 conventional public housing and PACT developments. Providing options for infill development would be an opportunity to provide additional housing where it cannot be located today, while also meeting quality housing standards and incorporating requirements for distance between buildings and other protections to ensure light, air, and green space can be accessed by any new residential buildings as well as by existing buildings on the campus.

Furthermore, any new construction on an existing NYCHA development should be done in consultation with the current residents and Tenant Association leadership. This new development should be mixed-income housing geared towards working families and seniors, with any allowable priority for current residents of the development.

Miscellaneous

In addition to these proposals, there are a number of modifications to existing zoning regulations that are included in the ZHO proposal that I will briefly discuss.

Update to Mandatory Inclusionary Housing (MIH) Citywide: I support this provision because it would allow for the deepest levels of affordability to be proposed as a standalone option when being mapped in Appendix F. Under the current zoning resolution, the Deep Affordability option (20% affordable housing at 80% AMI) must also include either Option 1 (25% affordable housing at 60% AMI) and/or Option 2 (30% affordable housing at 80% AMI) when being mapped. This will provide more flexibility for new affordable housing development.

New Zoning Districts Citywide: I support the creation of the new zoning districts. This proposal would create new zoning districts that do not exist today which include R11 (12.5 FAR) and R12 (15 FAR). The proposal also seeks to modify the R6 district, and this new district type is already proposed to be mapped as part of the Metro-North Study special district.

Generally speaking, new zoning districts simply provide more options. Once one of these zoning districts is being proposed for an area, it will then go through a ULURP where it can be considered on its own merits for the community it is being proposed for. I would not support any future proposal to bring R11 or R12 zoning to The Bronx – especially given that we do not have any R10 zoning today – but am cognizant of the fact that this would benefit other parts of the city.

Sliver Law: I endorse this provision, mindful of the fact that it is not likely to have much impact on The Bronx. The law has prevented some sites from participating in the city’s Inclusionary Housing Program. The City of Yes proposals would eliminate the law in contextual districts and for developments using the Quality Housing option in non-contextual districts to enable these sites to accommodate the amount of housing and affordable housing allowed by permitted FAR. As this proposal’s overall result will be more housing options, I support this proposal.

Quality Housing Amenity Changes: I endorse this provision because it provides an incentive to build amenities in new developments while not counting towards the FAR (with a 5% maximum allowance) pursuant to the existing Quality Housing regulations. This ultimately allows for a few additional units by incentivizing better amenities for the residents that will live in those buildings. These amenities could include community rooms, laundry facilities, coworking spaces, fitness spaces, and other areas that all residents can use. I support zoning changes that directly achieve better outcomes for residents such as these.

Landmark Transferable Development Rights (TDRs): I endorse this provision. Buildings that have been landmarked have been so designated because of their unique tie to history. Barring any unforeseen circumstance, these buildings cannot be demolished, even as the surrounding areas may undergo substantial development.

This proposal will allow more flexible rules for transferring FAR, including to areas on other parts of the block or across the street, whereas now the transfer could only happen to adjacent properties. This would not only enable the owner of the landmark to realize a significant source of additional income, but this income could then be used to protect and maintain the landmark itself. In The Bronx, there are several existing landmarked buildings that would benefit from this more flexible TDR provision, such as the Lowes Paradise Theater on the Grand Concourse, the Old Bronx County Courthouse on Third Avenue, the Dollar Savings Bank building on the Grand Concourse, and Morris High School on Boston Road.

Railroad Right-of-Way: I endorse this provision. The current provisions associated with Railroad Right-of-Ways are outdated, unnecessarily cumbersome, and no longer meet their original intent. The Bronx currently has numerous Railroad Right-of-Ways, so making this process simpler would be of great benefit to our borough. There would still be a ministerial action to show compliance on small sites and an authorization on large sites over four acres. I endorse making these two items not subject to ULURP.

Provide Relief for Sites Near Elevated Infrastructure: I endorse this provision. Across The Bronx, there are many miles of elevated subway lines and elevated interstate highways. Given the overwhelming need for additional housing, this provision will better ensure that sites near such infrastructure be developed in a way that reduces the intrusive impact caused by subways and vehicles, including proper noise mitigation, but does not sacrifice the full development potential of a site.

SUMMARY

The City of Yes Zoning for Housing Opportunity provides several solutions to tackle the city's profound housing crisis. New York City remains an attractive place for people to live and raise their families. However, our city cannot continue to grow without creating more housing to provide places for people to live and to bring down the escalating cost of rent. This proposal is a strong step towards making our city a more affordable place to live.

As Bronx Borough President, I know that current housing policies and regulations are coming up short for New Yorkers, especially residents of The Bronx. Many communities in The Bronx have median household incomes of \$40,000 or less, and tenants are simply unable to afford rising rents. New housing development is at historically low levels in our city, and, in some neighborhoods, production is nearly non-existent. At the same time, the demands of Local Laws 11 and 97, skyrocketing insurance costs, and ongoing maintenance issues to keep multi-unit buildings safe, will only make it more challenging to maintain the existing housing stock in our borough.

Reducing outdated zoning ordinances, providing incentives to construct affordable housing where it would otherwise not be permitted to be built, and encouraging new housing to be developed near convenient access to mass transit are some of the ways The City of Yes for Housing Opportunity responds to our city's housing challenges. I also appreciate that these proposals affect every community across the city, echoing what I always say: that it is necessary that all communities do their fair share.

Acknowledging the pragmatic limitations that DCP faces when addressing the complex issues associated with housing, it is encouraging that these proposals are a collaborative effort between DCP and other city agencies. In order to ensure that The Bronx and the rest of the city remain a place where everyone is able to reside in affordable, safe, and well-maintained housing, such

collaborative efforts are necessary. For the Bruckner Sites Rezoning, I asked the Adams Administration to invest in a multi-agency task force of experts to provide comprehensive solutions to infrastructure improvements. Continued inter-agency cooperation is essential to ensuring that all factors that prevent new housing development are addressed in a way that tackles the housing crisis while ensuring that families are secure in their homes and protected from displacement.

In conclusion, I want to commend the New York City Department of City Planning for their commitment to finding ways to streamline the current zoning regulations while maintaining zoning's core intent to protect public health, safety, and general welfare. Urgently addressing outdated zoning ordinances is crucial to support existing housing as well as the new housing production that is vital to our city and neighborhoods.

I want to thank Mayor Adams and Director of City Planning Dan Garodnick for their leadership in supporting and advancing this important proposal, and I recommend approving this application, with my conditions, observations, and modifications included.