



**Greenwich  
Village  
Society for  
Historic  
Preservation**

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November 16, 2015

Hon. Gale Brewer  
President, Borough of Manhattan  
One Centre Street, 19<sup>th</sup> floor  
New York, NY 10007

**Re: 'Zoning for Quality and Affordability' proposal**

Dear Borough President Brewer:

The Greenwich Village Society for Historic Preservation urges you to oppose provisions of the 'Zoning for Quality and Affordability' (ZQA) proposal, including those which would increase height limits for new residential construction throughout our neighborhoods, rolling back long and hard-fought-for protections. The arguments for the plan are based upon flawed, faulty, or misleading premises and information. ZQA's proposed changes to allowable building heights offers little or nothing in return in terms of quality of design and affordability. ZQA's "one-size-fits-all" approach, applying standards to areas throughout the city regardless of local conditions or needs, disempowers communities, eliminates zoning options, and sidesteps traditional procedures requiring local analysis of impacts and local consultation to take effect.

Rather than expanding the zoning tool box to create more varied options for addressing local planning goals and desires, ZQA limits them, by eliminating current rules and retroactively as well as prospectively replacing them with new ones. Because ZQA does not look at conditions on a neighborhood-by-neighborhood basis as an individual ULURP would, there is no detailed analysis of the effect of proposed changes on local areas. It takes away from local communities, their Councilmember, their Community Board, and their Borough President the leverage over the rezoning process which an individual, local rezoning offers.

The proposal could be amended so its provisions become new zoning rules or categories which are added to the existing text, rather than replacing the existing text. Thus these provisions which would only take effect if mapped in the future through individual ULURP actions requiring local analysis of impacts and allowing increased local leverage and input over the outcome. Barring such a change, we urge you to recommend denial of the following elements of ZQA:

**Proposed 5-10 ft. Increases in Allowable Height for Market-Rate Developments in Contextual Zones** GVSHP strongly urges rejection of this provision, for which there is no need, and which will not increase the quality of new developments.

DCP claims the proposed height increases are necessary to allow adequately-scaled ground floors and floor-to-ceiling heights above. However, in our neighborhoods we have seen many new developments in contextual zones with 13' 6" ground floors (the height DCP deems "ideal"), perfectly adequate floor-to-ceiling heights, with utilization of full allowable FAR. The notion that height increases are necessary to allow better design is simply false. Given that many developments in contextual districts already have 13' 6" ground floors, the 5-10 ft. increase in

allowable height will simply result in taller buildings, not improved quality. See attached images and information.

DCP also claims that height increases are necessary to allow greater variation in depth and setbacks in the front of buildings to allow for better design. While we would have no objection to allowing some greater degree of setbacks in the fronts of buildings, we do not agree that increasing the allowable height of such developments is necessary to achieve this. Nor would allowing such height increases necessarily result in greater depth or setbacks on building facades, as ZQA proposes granting such height increases without requiring the increased setbacks or depth. Thus ZQA buildings might get the allowed height increases while still coming flush to the streetwall.

**Proposed 5-20 ft. Increases in Allowable Height for Market-Rate ‘Quality Housing’ Developments in Non-Contextual Zones** GVSHP strongly urges rejection of this provision, for which there is no need, and which will not increase the quality of new developments.

DCP claims the proposed height increases are necessary to allow adequately-scaled ground floors and floor-to-ceiling heights above, and for new Quality Housing developments to be able to utilize full FAR. Much as with market-rate developments in contextual zones, there is little or no evidence that there is a need for greater ground floor or floor-to-ceiling heights, or that such changes will result in improved designs. There is also no evidence that height limits need to be increased to allow developers to utilize full FAR in Quality Housing developments, or that the current height limits is discouraging participation in this program.

The proposed 20 ft. height limit increases for Quality Housing developments on narrow streets in R8 and above districts is particularly troubling.

**Proposed Increases of up to 25 ft or more of Allowable Height for 80/20 developments in Contextual District Inclusionary Zones** GVSHP strongly urges rejection of this provision. There is little or no evidence that such increases will result in more developers opting into the affordable housing program, as DCP claims, and much evidence to indicate it will not. DCP’s claim that there is not enough room to comfortably fit affordable housing into the existing contextual envelope is simply contradicted by the facts; we have seen multiple developments in inclusionary zones in our neighborhood with 20% affordable housing utilizing the existing height limits and full FAR. While others have not included the affordable housing, this clearly indicates that the height limits are not the reason why some do not, and changing those height limits therefore would not change those outcomes.

As an example, at 138 East 12<sup>th</sup> Street (3<sup>rd</sup> Avenue), a developer opted not to include 20% affordable units in a development in an inclusionary zone in our neighborhood, even though at 91 feet there was more than sufficient room to include the affordable units and retain the generously-scaled ground floor and floor-to-ceiling heights in the development. This demonstrates that height limits are neither an impediment to the inclusion of affordable housing nor are they even an impediment to building generously-scaled 100% market rate developments.

Instead, as long as the program remains voluntary, clearly some developers will chose not to participate. The current disincentives appear to be bureaucracy and the complexity of including both types of units in smaller-scaled developments, which ZQA will not change or address. If ZQA passes, there is good reason to believe that it will result in no increase in the production of affordable housing over what we would have gotten without ZQA, but the 80/20 developments might simply be 31% taller. There is no reason to roll back neighborhood zoning protections and height limits for this reason.

**Proposed Increase in Allowable Height and Bulk for Developments Which Include A Fraction of Non-Permanent “Senior Affordable Housing”** GVSHP questions the appropriateness and generosity of this provision in light of the limited public benefit. ZQA calls for large increases in the allowable bulk and height of such developments in contextual zoning districts for reserving no more than 20% of units for “senior affordable housing” for a period of no more than 30 years.

Because they will be allowed to be larger and taller than other new buildings, such developments will have a significant impact upon the scale and character of neighborhoods. But the payoff of only a fraction of the units being actual senior affordable housing, and only for a limited period of time, seems modest in comparison to the large bonus being granted for what will be largely (and eventually possibly entirely) luxury, market-rate, residential developments. We urge reconsideration of this provision.

**Proposed Elimination of Sliver Law Protections and Restrictions on Rear Yard Encroachments for Inclusionary and “Senior Affordable Housing” Developments** GVSHP strongly urges rejection of these provisions. Protections against overly-tall and narrow sliver developments, and restrictions on rear-yard incursions, are essential to healthy, well-designed neighborhoods. There is little or no evidence that these changes would significantly assist with the production of either general population or senior affordable housing. But it would do damage to the scale, fabric, and livability of residential neighborhoods.

It should also be noted that ZQA is premised on several false or inaccurate suppositions and assertions. These include:

- **Zoning should allow all developments to access full potential allowable FAR in all cases.** This is simply untrue. Placing a limit on the maximum allowable FAR is only one way in which zoning is intended to regulate development. Zoning is also intended to ensure that adequate light and air reaches the ground, that uses are not in conflict, and that certain characteristics of sections of the city are reinforced and perpetuated. There is no reason why allowable FAR should always trump these other important goals, and the zoning variance process remains available for any developer who can demonstrate that they cannot make a reasonable return on their property under the existing zoning restrictions.

- **Existing contextual zoning height limits do not allow developments to reach their full FAR, especially if they are seeking to include 20% affordable housing -- at least not without inadequately-scaled ground floors and floor-to-ceiling heights.** The above bullet point notwithstanding, this is also untrue. As discussed earlier, we have seen numerous examples in our neighborhood which run counter to and give lie to this claim. Beyond that, this assertion is based upon two studies, one by the Citizen’s Housing Planning Council (CHPC) and one by the Department of City Planning (DCP), both of which are based upon misleading or irrelevant data:
  - The DCP analysis of the ability to achieve full FAR in contextual and inclusionary zoning districts under “packing the bulk” and ideal conditions (see attached) is based entirely upon analysis of narrow street, interior lot sites which are the most restricted types of lots in terms of setback requirements and lot coverage restrictions. By contrast, wide street lots and corner lots have much less restrictive provisions and thus allow more massive developments with greater floor area. What is particularly misleading about using this methodology is that in Manhattan, and certainly in our neighborhoods, Inclusionary Zones almost never occur on narrow street interior lots, but almost exclusively cover wide street and corner lots, making this analysis is inapplicable. However, the DCP report in no way makes this clear.
  - The CHPC report purports to show how difficult it is to access full FAR in several different developments. However, what the report does not make clear is that the developments covered by the report are almost exclusively 100% affordable housing developments, not the 80/20 or 100% market-rate developments covered by ZQA. 100% affordable housing developments have very different needs, configurations, and layouts than 80/20 or 100% market-rate developments, and thus to use such developments to imply that changes are needed for the types of developments covered by ZQA is false. Additionally, there may well be accommodations which are appropriate to make for 100% affordable developments but which are not worthwhile tradeoffs for 80/20 or 100% market rate developments. Finally, 100% affordable developments can often be categorized under the zoning code as community facilities, rather than residential developments, and thus can be governed by an entirely different set of zoning rules than those which ZQA covers, so here as well the comparison is false and misleading.

Finally, it should be noted that the height limit changes called for in ZQA would have a striking effect on many communities. On avenues in the East Village, which now have R7-A zoning with 80 ft. height limits, ZQA would increase height limits by 31% to 105 feet. On many of those blocks the existing built form averages 40 to 50 feet, and thus

the new height limits would result in buildings twice the height of most of their neighbors or more – a dramatic difference.

ZQA would undo years of hard work by communities throughout the city, which in many cases fought hard for the height limits it would roll back. Often those height limits were not nearly as restrictive as communities sought, but they accepted them, and often had to accept upzonings or increases in allowable development at nearby locations to “balance” these restrictions. Now those careful compromises are being gutted with little or no payoff to the public in terms of improvements in either quality or affordability. We urge that these provisions be rejected, or at least amended to become additions to the zoning text, keeping the existing rules in place, so they would only take effect if and when approved by individual, local rezoning actions.

Sincerely,



Andrew Berman  
Executive Director

Cc: Members of the City Council  
Members of the City Planning Commission  
Community Boards 1-59