CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

----- X

March 17, 2016

Start: 12:14 p.m. Recess: 12:47 p.m.

HELD AT: Committee Room - City Hall

B E F O R E:

DONOVAN J. RICHARDS

Chairperson

COUNCIL MEMBERS:

Daniel R. Garodnick

Jumaane D. Williams

Antonio Reynoso

Ritchie J. Torres

Vincent J. Gentile

Ruben Wills

David G. Greenfield

Andrew Cohen

Inez D. Barron

A P P E A R A N C E S (CONTINUED)

[gavel]

2.2

CHAIRPERSON RICHARDS: Good morning.

Welcome to the Subcommittee on Zoning and Franchises hearing this morning. I would like to recognize that we are joined by the Chair of the Land Use Committee, David Greenfield and my fellow Subcommittee members, Council Member Dan Garodnick, Council Member Vincent Gentile, Council Member Ritchie Torres and we'll be joined by others.

Today we are going to vote on modifications to two citywide text amendments that have been under consideration by the Council for the last two months. The proposals have gone through a full public review process and we are now at the stage where we must vote on the modifications that the Council will make to improve the proposals in response to the concerns of the public.

We thank all of the Community Boards,
Borough Presidents, Borough Boards, the Planning
Commission, and countless advocates for all of the
careful recommendations on these proposals. The
changes we are proposing today are an attempt to
improve the proposals to achieve their core goal of

increasing affordable and senior housing productionacross New York City.

4

1

5

6

8

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

24

25

We recognize and thank the Mayor's Office, the Department of City Planning and HPD for all of the countless hours of work spent crafting these proposals so that they will further the housing goals of this city. And for all of their hard work and long nights I'd like to especially thank Raju Mann, [clapping] Dylan Casey, Amy Levitan, James Lloyd, Julie Lubin and the rest of the Council's Land Use staff, as well as my staff members, my Chief of Staff Mercedes Buchanan, Jerrel Burney and Jordan Gibbons. I also have to give a special big shout-out to The Speaker of this Council, who's been a relentless leader in this area, Ramon Martinez, Joe Taranto; I'll even say good things about Emma Wolfe and Jon Paul Lupo and Danielle Decerbo from DCP; I wanna thank you for your partnership through this entire process.

Before I lay out all of the modifications to these proposals, let me make this clear; that we cannot please everyone, but we are confident that the modifications we vote on today will improve both proposals and that the final text amendments will

2 help the city address its senior and affordable

3 housing needs for years to come.

Let me put this on the record as well that this is the most aggressive mandatory affordable housing plan in the country and we expect this to be a model that many other cities will follow in the future.

I will now describe the changes that the Subcommittee will be voting on today. I will try to be brief, but because of the complexity of these proposals, I will definitely need a few minutes. So we did try to put the sexy back into zoning, but it's a very hard thing in this area to do.

The first proposal submitted by the administration, Zoning for Quality and Affordability, is a package of zoning changes affecting height, building shape, parking and floor area regulations intended to facilitate the development of affordable housing, affordable senior housing and nursing homes.

We have responded to many of the concerns we have heard during the public review process by proposing modifications targeting only our most critical policy concern -- facilitating the

2.2

2.3

2 construction of housing for our low-income and senior

3 populations.

2.2

2.3

The administration's proposal broadly addressed the needs of our growing city, but in some cases would have needlessly undone the carefully crafted zoning provisions enacted after many years of community planning. In order to avoid undermining years of hard work to maintain the character of communities while still facilitating affordable and affordable senior housing, we have determined that the following changes to the proposal are warranted.

First, we are proposing to modify some of the proposed height changes. Our view is that it is appropriate for height increases to be provided only for housing that is affordable. Height increases for the provision of housing that does not address the goals of affordability and meeting the needs of low-income seniors will be minimized by the following modifications.

There will be no maximum height changes for buildings not containing affordable or senior affordable housing within the Manhattan core.

Height changes for market rate buildings outside the Manhattan core will be limited to five

SUBCOMMITTEE ON ZONING AND FRANCHISES 7

feet and only for buildings that provide quality

commercial or community facility space on the ground

floor.

For long-term care facilities, such as nursing homes, the height increases proposed for some zoning districts were extreme; we are now proposing to modify some of those heights to reflect the character of the neighborhood while still facilitating the construction of these facilities.

The proposal also called for loosening of the sliver rule, which would have allowed taller, thinner buildings than are allowed today, in conflict with existing context.

A special permit for irregular sites allowing DSA to waive zoning rules for buildings not providing any affordable housing and height changes for higher floor to ceiling height and ground floor in non-affordable apartments. [sic]

These changes were not justified, given their potential affects on local context and were only tenuously linked to policy goals, so we would modify the proposal so that these situations will be subject to the previous rules.

2.2

2.3

Second, we are proposing modifications to 2 3 proposed building envelopes and open space The Council's view is that the building 4 regulations. 5 envelopes and open spaces should be modified to facilitate housing construction, but the proposal 6 7 went too far in some areas. Such areas include how it defined shallow lots, its transition rule from 8 high-density to low-density adjacent districts, its 10 front setback changes, and rear yard obstructions. 11 Accordingly, we are proposing the following 12 modifications:

- 1. Reduce the minimum dimensions of shallow lots, which get preferential treatment.
- 2. Adjust the transition rule heights for large buildings bordering on low-density districts.
- 3. Increase the amount that buildings must be set back from the street line from what was proposed.
- 4. Only allow rear yard obstructions in limited locations and only in connection with affordable senior housing.
- 5. Maintain the existing 60-foot required distance in back lots between buildings.

13

14

15

16

17

18

19

20

21

2.2

2.3

24

These changes protect neighborhood character and preserve light and air while still facilitating housing development.

Third, we are proposing to modify some of the proposed parking changes. The Council's view is that the area proposed for reduced parking requirements was too broad. For some areas around the edges of the zone the proposal did not acknowledge that public transit options are inadequate. The Council has removed these very limited areas from the transit zone.

We are also modifying the proposal to require that when parking is removed from a senior housing facility and new housing is developed in its place; the new housing must be affordable housing, not market rate; if we're gonna allow parking to be removed, it must be for affordable housing.

Fourth, the administration's proposal would have reduced the minimum unit size from 400 to 275 sq. ft. for affordable senior housing from the Zoning Resolution. We believe that the reduction was too drastic and seniors living in affordable housing should be ensured at least a minimum unit size of 325 sq. ft. and has added this requirement to the

2 proposal. So now my grandmother Pat can actually 3 move in to her apartment when she moves in.

Lastly, we are also making a series of 5 changes to increase oversight. The administration's proposal would have allowed many of the changes 6 7 without public review. The Council's view is that many of these changes are significant and require a 8 different level of discretionary oversight;

special permit for building nursing homes in certain areas of the city with high concentrations, such as the Rockaways.

therefore, we are modifying the proposal to retain a

We will also modify the proposal to require the proposed BSA special permit for a waiver of the parking spaces associated with non-affordable apartments be subject to Planning Commission and Council review.

We will also modify the proposal to require that the Department of Buildings include a clear written designation on a certificate of occupancy for buildings taking advantage of the increased floor area permitted for affordable senior housing. This change will help ensure continued

1

4

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

SUBCOMMITTEE ON ZONING AND FRANCHISES 11
zoning compliance for these buildings going into the

2.2

2.3

future.

The second proposed citywide text
amendment which we would establish would establish a
new Mandatory Inclusionary Housing program. This
proposal would allow the City to require that all new
residential development in certain areas provide a
set-aside of residential units for affordable
housing. This program represents a huge step forward
from the previous voluntary inclusionary housing
program because it would not allow substantial
residential development without affordable housing
and because it requires a more substantial portion of
the building to be set aside for affordable housing.

We are all familiar at this point with the proposal that was presented to the Council by the Planning Commission, so I will now describe the proposed modifications to this proposal that the Subcommittee will be voting on today. These recommendations were crafted in response to concerns by Council Members and the public and designed to strengthen the program by eliminating loopholes and requiring that housing be provided for lower-income New Yorkers. These changes would help to achieve the

1

3

4

5

6

7

8

10

11

1213

14

15

16

17

18

19

20

21

22

23

24

25

program's core goal of creating housing for residents with varied incomes and enhancing the neighborhood economic diversity. The Subcommittee therefore will be voting to modify the original proposals as follows:

First, we are proposing to make a series of modifications to the options available for satisfying the affordable housing requirement. would introduce a new deep affordability option that would require developers to provide 20 percent of the units in a new development for tenants making an average of 40 percent of the area median income. This option would only be established in areas as an alternative option to option 1 or 2, and affordable housing under this option would be provided without public subsidy unless substantially more affordable housing was provided in the development. I just wanna underscore that again. Affordable housing under this option would be provided without public subsidy unless substantially more affordable housing was provided in the development.

We would introduce a minimum requirement that 10 percent of the building be reserved for residents making a maximum of 40 percent of the AMI

2.2

2.3

within the existing option 1. All of the units under this option would still average at a maximum of 60 percent AMI, but this additional set-aside would ensure that some units be provided for lower-income families.

We would adjust the proposed workforce option to reduce the overall average income to 115 percent of the AMI and require that 10 percent of the building be devoted to housing for families making 70 and 90 percent of the area median income. In addition, this option would become inapplicable 10 years after it is established. These modifications would improve this option so that it would reach income levels that are not currently well served by the existing subsidy programs available and require the City to revisit this option in case the original rationale for applying the option is no longer applicable.

Second, we are proposing to make a series of changes to improve the program's ability to deliver high-quality affordable units that are equitably distributed throughout the city. So we would modify the options available under the program so that if a developer opted to provide the

2 affordable units off-site, the requirements of each

3 option would be increased by 5 percent of the

4 building. This modification will provide an

5 incentive for economically diverse communities by

6 discouraging of-site housing.

Also, we will be changing the BSA special permit to waive affordable housing requirement so that a permit would expire in four years if construction had not commenced on the project and HPD would be required to comment or appear at every BSA application under this section.

We would also be strengthening the findings of the BSA waiver in order to ensure that special permits would only be granted if a landowner was experiencing a true financial hardship due to the Mandatory Inclusionary Housing requirements.

We also will modify the distribution requirement so that affordable units would be required on 65 percent of the floors in a building. We will also modify the provisions governing the use of funds generated by the in lieu fee so that they would be reserved for the same community board for 10 years in the same borough thereafter.

2.2

2.3

Lastly, we have added language to the

zoning text that would ensure that whenever an

application to establish a new Mandatory Inclusionary

Housing area was under review by the Council; that

Council would have the flexibility to modify the

application to apply any option available under the

In addition to all of these changes

described for both applications, we have given the

proposed zoning text a close examination and made a

series of more minor changes that would strengthen or

13 clarify the zoning.

program.

2.2

2.3

In addition to the zoning modifications outlined above, the Mayor has made a series of commitments in areas of city policy that are related to the proposals we are considering today. These commitments relate to the city policy towards neighborhood investment, housing subsidy targeting, labor standards, tenant harassment, hiring programs on City-subsidize projects, promotion of MWBE businesses, promotion of fresh food grocery stores, affordable housing enforcement, and several future rezoning proposals. And I do wanna say that the Council will be monitoring these things very closely.

4 Reynoso.

Overall, I think we are presented with two proposals which as modified would be huge improvements over existing city policies toward affordable housing and senior housing. We need this housing badly and I have confidence that the proposals we now are considering will help alleviate the housing crisis for many New Yorkers and in decades to come.

I recommend that the Subcommittee approve these modifications on the Zoning for Quality and Affordability and the Mandatory Inclusionary Housing Text Amendment. Are there any members now that have questions or comments on these items? Any members have questions or comments on these items? [background comments] Alrighty. Alrighty.

Okay. I will now couple Land Use Item
No. 0334, Mandatory Inclusionary Housing and Land Use
Item No. 0335, Zoning for Quality and Affordability
for a vote to approve with the modifications as
discussed. Counsel; will you please now call the
roll?

COMMITTEE COUNSEL: Council Member

COUNCIL MEMBER REYNOSO: I vote aye.

2 COMMITTEE COUNSEL: Chair Richards.

2.2

2.3

CHAIRPERSON RICHARDS: I wanna say
congratulations to everyone who's made this day
possible. Once again I wanna thank Chair of the Land
Use Committee, David Greenfield for his partnership
through this entire process, Raju Mann once again,
Dylan Casey, Amy Levitan, James Lloyd, Julie Lubin,
and the rest of the Council's Land Use staff as well
for a great job done. And with that I vote aye.

COMMITTEE COUNSEL: Council Member Gentile.

COUNCIL MEMBER GENTILE: May I explain my vote?

CHAIRPERSON RICHARDS: You may explain your vote.

COUNCIL MEMBER GENTILE: Thank you.

First Mr. Chairman, Mr. Chairmen, Chairman Richards;

Chairman Greenfield, thank you for your diligence and skill in driving this bus and listening to all your passengers on the way, right. Also, a gold star to Raju Mann, as we said, and his staff for digesting, interpreting and modifying the most important zoning legislation in more than a generation. What we have here today with MIH and ZQA is a result of hard-

2

3

4

5

6

8

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

24

25

fought for, hard-won compromise that has taken into account the feedback from many community and civic organizations, as well as multiple government offices. We have all had our concerns, but I believe that the text amendments we now see before us approach the need for affordable housing in a fair way and open the doors to greater variety in the aesthetics of our buildings. MIH equips community boards with a tool by which to ensure a range of affordable housing options their respective communities need without encroaching on existing zoning, which the community boards still remain in control of. And important to my constituents, the MIH maintains the workforce option so that teachers and firefighters and policemen and women with or without families who live in my district can qualify for affordable housing within the district. With new allowances for the use of space available to our seniors through ZQA, New Yorkers will be able to age in place and no longer fear the space they will need to rely on as they grow older won't exist or worse, they'd be priced out of it. As a result of the compromise we've reached, these buildings, while still being a great support for our seniors, will not

2.2

2.3

be allowed to be built so large that neighborhood character is at risk. I am please, therefore with the height modifications made in the R3-2, R4 and R5 zoning districts in this regard. The transit zones that had first extended well beyond what we considered acceptable have been shifted to a more reasonable model and will be of more service and not be as detrimental to our city. Parking spaces for our congested neighborhoods will be far more protected than as first proposed, but when the need arises for more housing, some neighborhoods will be able to supply it.

that can be made to improve the quality of our buildings so that there is a fine balance between allowed improvements and maintaining the context of the neighborhoods. And so I thank the Mayor's staff for working with me and my colleagues in getting to where we are today, because I believe that what we have is a new but careful way to work with our growing and aging city, which I will always serve with a well-tempered response to the big questions and what I believe these matters before us today represent. So accordingly, I vote aye on all.

1

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

24

25

COUNCIL MEMBER GARODNICK: Mr. Chairman,

I too would like to ask permission to explain my

vote.

CHAIRPERSON RICHARDS: Yes, sir.

COUNCIL MEMBER GARODNICK: Thank you. Well first of all, I wanna share the praise for you and Chair Greenfield and The Speaker and Raju and the entire staff for working through a very difficult challenge here. I am gonna support both of these proposals today because, at least as to MIH, fundamentally I think we all recognize that this was clearly the right route that the City should be heading; when a developer is getting a density bonus from the City to make their sites bigger and more profitable, we should be demanding that he or she provide affordable housing in return. The existing voluntary program has yielded insufficient returns and making this mandatory will generate more units in a city that desperately needs them. So I'm pleased that we were able to add additional and more affordability for lower-income New Yorkers; I think it should not be understated the significance of the

changes we are making on creating additional incentive for on-site affordability; the requirement that you do more if you're going off-site I think is an important one and also, tightening that waiver process at BSA; we don't want people to simply find their way out of this obligation for any reason or no reason. The mandatory nature of this process should be just that and to the extent that a waiver is granted, it should have the participation of the City's housing agency as well as clear notice to the public.

Aga was burdened, in my view, because it had everything and the kitchen sink thrown into it and impacted existing contextual zoning districts in a way that it did not need to, which is why I was pleased that the Council has removed height bumps from market rate housing, except for affordable senior housing in certain areas, you know, obviously that increase is warranted, given the desperate need for such housing in New York City; the number of 111,000 seniors who have been languishing on waiting lists for an average of seven years was a meaningful statistic and we need to deal with it.

2.2

2.3

Also, eliminating the sliver law changes and dramatically reducing rear yard obstructions, which are very important in my area, yielded a result for me that was much more tightly focused on achieving its goal of providing space for quality, affordable senior housing while limiting the side effects of the effort.

So as a result, I will be voting for -- actually, I'm gonna vote for them right now; I vote aye on both and thank you for the opportunity to explain my vote.

COMMITTEE COUNSEL: Council Member Williams.

COUNCIL MEMBER WILLIAMS: Surprisingly, I'd like to explain my vote also.

CHAIRPERSON RICHARDS: No. [laughter]
Go ahead, sir.

COUNCIL MEMBER WILLIAMS: Thank you.

First, I do wanna say that the Mayor and the administration should be applauded for tackling this issue; it is a tremendous issue; the affordable housing crisis hasn't been tackled for quite some time. We definitely shouldn't understate the difficulty in trying to create a housing plan that

would please everyone and my guess is that this one
will not please everyone, but it shouldn't prevent us

4 | from trying and for moving forward.

2.2

2.3

The City Council, under the leadership of Melissa Mark-Viverito, both Chairs Donovan Richards and David Greenfield should be applauded for the changes that we made in hearing our constituents and our community boards and our borough boards; I think the plan is exponentially better than the one that we received.

First, on ZQA, I believe that a lot of the issues that concerned my constituents were addressed, from the height density for contextual districts, from the nursing homes as-of-right, from the BSA sliver law; there were a lot of things that were addressed. Really, I think if folks now uphold ZQA, it is more about wanting everything everywhere except for where you live and we would not be able to address the affordable housing crisis with that type of thinking. There was some concern of the time that we had; I wish, obviously, it wasn't as rushed as it was, but I do know with Raju Mann in charge and his staff, that all the time needed was dedicated to this; I think now will be a function of resistance to

1

3

4

J

6

7

8

10 11

12

13

14

15

16

17

18

19

2021

2.2

23

24

25

chance as opposed to time that will be the only factor that folks would push back on and no amount of further thinking is gonna change a resistance to change, whether it's one month or is two years, so I'm very happy with the ZQA.

When it comes to MIH, I'm actually proud to be part of a bunch of council members and advocates that pushed for further affordability and pushed for changes in off-site and also pushed for making sure that there were commitments for preservation. Unfortunately, I do think the current plan still does not require a mandatory minimum amount of low-income units and I think that's significant because we have to make sure that -- we provided some great tools, this plan is great, I believe; it even touches, plausibly, 30 percent, but it is for those elected officials and those communities who welcome low-income units; it does not mandate those elected officials and communities that historically have not welcomed low-income units and so that was a non-starter for me; unfortunately, I will not be able to support that, but I do understand why people [inaudible] because of the progress and changes that we were able to make, but I believe as

SUBCOMMITTEE	\cap NI	7 ON TNC	7/ NT D	ED V MULL CE C	٠
20BCOMM I I I FIF	CHA	/,()	AIVII	L KANCH 1943	٠

2.2

2.3

we move forward we have to break up the segregated communities that are in this city and the only way to do that, I believe, is to mandate certain things as we're moving forward, so even though we made some great progress with that, I'll be voting no on 0334, which is MIH and voting age on all the rest. Thank you.

COMMITTEE COUNSEL: Council Member Torres.

COUNCIL MEMBER TORRES: Permission to explain my vote.

CHAIRPERSON RICHARDS: You may go, sir.

wanna extend my congratulations to The Speaker, to
Donovan, to David, to Raju, to the whole Land Use
team and if you were to retire tomorrow, you would
have the satisfaction of knowing that you negotiated
the best mandatory inclusionary scheme that this
country has ever seen, and that is a far greater
achievement than most of us will ever accomplish and
so you deserve enormous credit; we are changing the
paradigm in favor of deeper affordability and
permanent affordability; no longer in the City of New
York will a developer be able to rezone a

1

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

24

25

neighborhood without a guarantee of permanent
affordability and that in and of itself is a

4 staggering achievement and I'm honored to be part of 5 a city council that's about to pass that... [interpose]

6 COUNCIL MEMBER GREENFIELD: For the
7 record, Council Member, neither Chair Richards or I
8 are retiring tomorrow, [laughter]... [crosstalk]

COUNCIL MEMBER TORRES: Yeah, I said if...

COUNCIL MEMBER GREENFIELD: but we

certainly are gonna sleep in late.

mean every word of it. I was one of the few members who would've been content to pass ZQA as initially crafted, but I was very much in the minority, but I'm happy that we're preserving the core of it, which is a density bonus for senior affordable housing; the City's gonna be far better positioned to address what's been a chronic shortage of senior affordable housing, so I'm grateful that our modifications kept the end game in mind.

On MIH, again, the good outweighs the bad, but I wanna share the concerns that Council Member Williams has. If I could vote against the 30 at 80 option; I certainly would. You know, the

2

3

4

5

6

8

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

24

25

notion that you could rezone a whole neighborhood without creating a single unit below 80 percent of AMI; the fact that that's even a theoretical possibility is deeply alarming to me; I believe every neighborhood should have a broad mix of incomes; we should be putting a mandatory minimum in both option 1 and 2 to ensure mixed-income housing, because the goal here is not only to create more housing; the goal here is to create mixed-income communities that promote social mobility; that should be the purpose of government, and so to the extent that MIH has a flaw, I believe we're missing an opportunity to promote more mixed-income housing. But as I said, the merits of this plan far outweigh whatever flaws that I identify and for that reason I proudly vote aye.

COMMITTEE COUNSEL: Land Use Item 0334 is approved with 5 votes in the affirmative, 1 in the negative and 0 abstentions and Land Use Item 0335 is approved with 6 votes in the affirmative, 0 in the negative and 0 abstentions, and all items are referred to the Full Land Use Committee.

CHAIRPERSON RICHARDS: Thank you all. I just wanna thank my colleagues for all your

thoughtfulness through this entire process; genuinely I think I got to know some of you more than I knew you before, but I wanna truly thank you for, and your communities at that, and I wanna just put on the record; we have some fierce fighters for their communities and it's not necessarily just when the cameras are on, you know, there were many members in here on the Subcommittee and beyond the Subcommittee who really fought tooth and nail to ensure that their communities would be better after both these proposals were crafted. And I just wanna end once again by saying that this Mandatory Inclusionary Housing policy is the most aggressive, most ambitious in the country and I can assure you that other cities are gonna look at this now and go back to the drawing board again to say we should be moving in this direction. And I just wanna add, with ZQA we made some very good changes that I thought were very thoughtful; we really took into community board consideration; community consideration and I just wanna echo what Council Member Williams said, you know, yes, we wanna protect the character of our neighborhoods and we must do that, but cars should

1

2

3

4

5

6

7

8

10

11

12

13

14

15

16

17

18

19

20

21

2.2

2.3

SUBCOMMITTEE ON ZONING AND FRANCHISES 29 not have a place to live before people do and I think that's the message we're sending by passing ZQA.

I wanna thank the AARP representatives who are here; I hope to get my card in another I think like 20 years, 25 years or so, but God willing I'll get an honorary card. Oh no, I guess we shouldn't do that; we have press in the room; don't wanna be accused of, you know, any unscrupulous behaviors, but I wanna thank you all for coming out and spending 20 hours nearly with us at a hearing a few weeks ago, so thank you all. With that being said, I am closing this hearing.

[gavel]

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 19, 2016