



BRONX COMMUNITY BOARD 8



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SPECIAL COMMITTEE, CITY OF YES FOR HOUSING OPPORTUNITY-2024

REPORT AND RECOMMENDATIONS

On or about April 29, 2024, City Planning released the third tranche of its “City of Yes” proposals, this one assertedly focused on the creation of asserted increased Housing Opportunities through the use of Zoning.¹ Though the project had been underway since at least 2023, Community Planning Boards (the descriptive initial title and intended function of Community Boards– the entities designated by the City Charter and sound Planning proponents as the fulcrum for independent Community and public input) were given only 60 days (until June 28, 2024) for the Board’s volunteer- members to read, digest and provide careful and reasoned Community input on the hundreds of pages of developer advocacy offered by City Planning as an integral part of the process.²

The Chair of Bronx Community Board 8, Ms. Julie Reyes, appointed a Special Committee of current board members to review, facilitate a community discussion, report on and offer its recommendations respecting the “City of Yes for Housing Opportunity-2024” proposal (the “Proposal”) advanced by the City Planning Commission and its administrative arm, the Department of City Planning (“City Planning”).

¹ The City Council wisely eliminated or materially revised important aspects of the City of Yes—Economic proposal. Yet the City Planning submission received by this and other Community Boards does not reflect those changes but rests on the former provisos. The failure of City Planning to prepare and distribute to the Community Board’s a simple corrective addendum (to insure informed action by Community Board’s) is troublesome. Notably, the City Council action nonetheless mandates substantive revisions of the Proposal, which, together with the critical flaws herein noted, require rejection of the Proposal as currently framed.

² At the May 23, 2024 initial Department of City Planning presentation to Community Board 8’s Special Committee the DCP representative was asked whether the 60-day period was subject to extension and commentary would be accepted, considered and fully factored in following expiration of that time constraint. A tentative affirmative response was offered which was met by a request from the Committee for written confirmation well in advance of the Special Committee’s June 10 meeting. None has been forthcoming.

Following three public meetings-hearings, at which the attending public, representatives of City Planning and invited Planners spoke, as did members of the Committee and of the Community Board spoke, the Special Committee members exchanged views; and following due consideration, herewith the Special Committee's Report and Recommendations, including, at its conclusion, the Resolution *unanimously* adopted by the Special Committee (with one excused absence).

Executive Summary

New Yorkers are desperate for *truly Affordable* Housing. Those who have fallen on hard times, with disabilities or exiled from their home, like many others who are in crisis, cannot wait for New York City to take action to provide true Affordability.

Yet, though the Proposal is advanced as an Affordable Housing Program or Component, it demonstrably is neither. At best, it is a select developers' blueprint, one that the avaricious, unconcerned with the future of New York City and preoccupied with so-called "market rate" and luxury housing for those in upper income strata, while ignoring or minimizing access to those in moderate or lower income strata that are the most needy of decent housing in much of the City, especially its outer Boroughs, including The Bronx.

As for the Community Board 8 district or area, as we demonstrate in detail below, while the Proposal employs marketing language designed to entice the hasty reader and the uninitiated, it is badly (we believe fatally) flawed in a host of respects, a few of which we detail below and in the Appendices. Simply to illustrate, when scrutinized the Proposal would authorize devastation of sensitive environmental areas (e.g., the Special Natural Area District and resultantly adjacent areas and in the process exacerbate dangers of Hudson River flooding); authorize the destruction of designated-Historical and Landmarked Districts (i.e., Fieldston and the Riverdale Historic District); condemn tenants and occupants of existing multiple dwellings to suffer the ravages of building re-construction-enlargement without their assent or benefit and submit the needy tenants of NYCHA developments to the elimination of green space and other open areas (e.g., sitting areas and even refuse collection areas) to facilitate "infill" construction of towers which not only impede light and air but may impose rental costs that are unattainable by the needy NYCHA tenants or other low and moderate income residents, and this as a but a first step to planned privatization.

The ravages posed by the Proposal also extend the "infill" ravages to other open areas of the community which likewise would assume increased and foreboding density ; omits to provide known and appropriate financial incentives targeted for and limited to the construction and development of housing for low and moderate-income tenants; eviscerates

one and two-family home ownership and authorizes a range of increased density facilities (e.g., another building jammed in the backyard of cheek by jowl small property houses that insure neighborhood destruction); reaches back to the 60's and updates its City of *Yesterday* to encourage the return of the scourge of SRO's and their historical health, fire and safety risks without any concomitant public benefit (other than for the lobbyists who have long pushed for those marginal facilities); removes meaningful Community input into planning and development and extends opportunities for corruption in such areas; undermines environmental protections by promising abolition of Natural Area and Special Districts (e.g., SNAD); further diminishes parking by a one size fits all approach that fails to distinguish between residential areas that mark the outer-Borough's with Manhattan's Central Business District congestion (which the Proposal's developer incentives would worsen; and, to top off the select developer's overly "bountiful gift," creates new and massive Zoning loopholes under which high-rise construction is encouraged to an unprecedented degree such as to induce even greater taxpaying exodus from the City.

The foregoing mélange of horrors is not hyperbole, as we show below. Disappointingly, serious and fundamental flaws in the Proposal abound and are exacerbated by its presentation and marketing. The Proposal requires material *independent and objective* review and wholesale restructuring (preferably guided by academic experts and not indebted appointed politicians if the Proposal is to make sense and be fair and equitable.

The Proposal's numerous flaws—only illustrations of which are here set forth-- present the City Council with a "Poison Chalice." One unassailable solution is for the Council to again demonstrate the integrity and independence to reject the Proposal in its entirety, while retaining *independent and expert* academic institutions to consider the relevant issues and to report to the Council and the public on a targeted and expedited basis with a draft and explanation as to what proper Zoning and other changes will really meet the true Affordable Housing needs in each borough and segment or neighborhood thereof. That is what the City Council and successive Administrations did in generating the current (1961-1965) Zoning Resolution, one that has, with updating amendments, served us well for some 60 years and been widely copied and applauded across the Nation.³

³ The instant Proposal is, as we show herein, flawed in such numerous and material respects as to raise question as to its genesis and its independent and expert forethought. The instant Proposal is wholly unlike the current Zoning Resolution and attendant Housing Maintenance and Building Codes, which were drafted by recognized, independent and expert academics (i.e., Cooper Union and Columbia University) and then presented (free of tainting influences) to the City Council and relevant City Commissioners for review, consultation and amended adoption and implementation. That careful process provided the Council with thoughtful ordinances that, with anticipated updates, have stood the test of some 60 years and been widely acclaimed and copied across the nation. It also produced ordinances that the public had cause to trust. Housing Development and construction are

The Fatally flawed Proposal Illustrated

Below are illustrations and details respecting some of the noted fundamental flaws in the Proposal that the City Council is asked to adopt (and assume responsibility for) together with their adverse implications for the day to day lives of Bronx and other New York City Residents.

- **No Measurable Commitment to Affordable, Permanent Housing in Number or by Household income:** The Proposal’s stated purpose rests on two terms or precepts that are, in context, unquestionably misleadingly vague and deceptive, “Affordable housing” and “Area Median Income” (“AMI”). What is Affordable to Manhattan’s elite is not “Affordable” to residents of the South Bronx, Kingsbridge, Jamaica or Brownsville. Indeed, what is “Affordable” to some in Riverdale is not “Affordable” to others in adjacent zip codes, e.g., Kingsbridge Heights. Yet the pervasive comment respecting the desired housing sought to be achieved and upon which the Proposal rests is a (baseless) claim of Affordability. However, in fact, *no assurance exists* as to whether, let alone how much, if any, *truly affordable* housing must be or will in fact be *permanently* provided under the proposal or even that the *developers who receive any of the benefits of more generous zoning will commit to use it to provide permanent, truly “Affordable housing,”* an undefined term as now flexibly applied, but one which this Board insists must finally be defined.

To be clear, as we later amplify, the Proposal studiously omits to provide or commit that all or even the predominant percentage of the development or construction that is in any material way benefitted by any of the expanded or new zoning provisos *must go solely* to those concededly in need—namely, *low and truly moderate income earners*.⁴ Instead, the Proposal studiously continues the current regimen under which the term “Affordable Housing” deliberately remains misleadingly vague and flexible and the operative AMI is significantly *inflated* by the inclusion in the underlying data of relevant income figures from affluent Westchester and Nassau County communities like Scarsdale and Roslyn, to name a few.

One direct consequence of such data inflation is to artificially *increase* the supposed Area Median Income data utilized to determine eligibility or, stated otherwise, inflated income determinants or benchmarks are thus used to gauge the qualification or eligibility of applicants for specific Affordable Housing. That, in turn, can and currently

extremely complex fields where the successful are sophisticated and demanding (since most developers put their own fortunes and efforts on the line and thus are demanding). It is also an area in which abuse and corruption are known to be rife. Disregard of the foregoing basics can, as here, generate troublesome and ill-considered product .

⁴ Cf., Appendix I --to be re-defined in a revised and *exclusively* New York City-based Area Median Income (“AMI”) data base (see, *infra*).

does unfairly and inappropriately disqualify applicants who, supposedly, are the ones sought to be benefitted. Unassailable support for that conclusion is detailed in the April 2024 Report of the seminal authority on New York City Housing, the Community Service Society, which aptly makes and proves the point. *See, Appendix 2*. Similarly the inapt data unfairly aids higher income applicants to gain access to and pre-empt so-called “Affordable” housing developments by inflating the eligibility benchmarks. Thus families earning as much \$178,000 per annum and more –hardly the actual average median income of most low and moderate income New Yorkers --are formally deemed qualified for housing denominated as “Affordable housing “ by the City. Concisely put, the data supporting affordability upon which the Proposal rests is demonstrably misleading and flawed.

Time and again this Board and its Land Use Committee have informally called attention to the same fundamental flaws. Indeed, this Board’s Land Use Committee *unanimously* called upon the several City Council Members representing any portion of this Community Board District , as well as all Members of the City Council, to remedy these deceptions by legislation that will operate and be applied solely as to the City of New York *alongside and not in derogation of any Federal or other relevant regulations or statutes*.⁵ Yet such constructive criticism continues to fall on deaf ears, fatally undermining the credibility and objective claimed to be advanced by the Proposals. The Proposals blindly ignore this predicate fundamental flaw, thereby negating the stated purpose of the Proposals.

- **The Proposal is an Ill-Considered “One Size Fits All” approach.** As is so often the case with simplistic solutions to complex problems, the Proposal, advances one-size-fits-all-answers that in fact fit few, if any. To illustrate, as later appears under the heading Transportation-Oriented Development, the Proposal advances a formula in and by which developers can secure added Floor Area Ratio (FAR) to build bigger, more dense and bulkier buildings tied primarily to proximity to Transportation facilities,(e.g., subway and train tracks or stations). But there are vast areas of the outer Boroughs that are nowhere near such “springboards” and conversely areas where they sandwich in neighborhoods and communities not suitable for such heavy-handed, wholesale destructive impact. In Riverdale, for example there exist two New York City declared Historic and Landmarked Districts—Fieldston and the Riverdale Historic District. Because both are largely within ½ mile of railroad or subway tracks, both may be ticketed for extinction, though after careful and lengthy hearings and processes both were granted protected status that ill-considered excesses would seek to usurp. *See, e.g., Appendix 3*. So much for neighborhood, community and Historical or Landmark preservation. Indeed, since the Proposal suggests that its aim is to eliminate Special Districts (specifically addressing

⁵ Indeed, The Department of Housing Preservation and Development, under Commissioner Adolfo Carrion, has recognized this indisputable flaw and has prepared, largely for internal use, some Borough wide data, We applaud that effort. However we believe more focused data should be used (e.g., by zip codes), be made public and applied insofar as the City’s interpretations may be applied to insure a greater measure of local accuracy.

the environmentally sensitive Special Natural Area District (SNAD), that seems likely to have been the perverse, albeit covert, intention from the first.⁶

- **Lack of Financial Incentives for Developers to Invest in True Affordable Housing:** Zoning is a critical component of the determination of private investors and developers as to whether, when, where, how and what to build. *However, it is only one factor.* Other critical, if not dispositive ones, include financing (especially the meaningful availability of private or public financing at practical cost), regulatory concerns (especially unnecessarily burdensome regulations and their enforcement and hindrances), restrictive requirements attendant to the labor pool, construction costs and attendant burdens. Additionally, the lack of coordinated planning by and among various governmental entities with respect to the utilization of existing or potential site resources weighs heavily on particular site determinations.⁷ Dispositively, the Proposal not only fails to meaningfully address any of those touchstone issues, it fails to acknowledge that unless those problems *first* are addressed the entire exercise is one in futility. If Developers are not provided the means to plan and build – financial and otherwise – they simply cannot afford to do so. Unless the myriad superfluous obstacles erected by the City are addressed developers simply cannot proceed and unless construction impediments, material and other costs and applicable taxes are re-evaluated true Affordability will remain at best sparse.

When, on a comparable scale, thoughtful action to advance construction and maintenance of housing was last explored (in 1961-1966⁸) independent, non-political and expert academic institutions (e.g., Cooper Union and Columbia University) were retained to guide the effort. Mayors Robert Wagner, John V. Lindsay and Edward I Koch, together with successive Buildings Commissioners, including Harold Birns and Judah Gribetz, and the City Council, turned to such non-political expertise to ensure a sound and honest process that has stood the test of over a half century. By striking contrast the instant Proposal has been in the hands of unelected political appointees, readily accessible to lobbyists for special interests and unconcerned with such essential issues as project

⁶ We have little doubt, for reasons that will later become apparent, the ultimate authors of the Proposals may belatedly cobble up some excuse or explanation, but thoughtful, careful and sensitive Planning would have avoided that concern

⁷ Available sites, especially those controlled by public entities or financial institutions were plentiful until recent years as a result of the massive destruction, foreclosures, condemnations and property abandonments of early to mid 1960's.

However, they have in recent years been largely utilized. There remain, nonetheless, other opportunities, particularly those resulting from the discontinuance or underutilization of public and other sites. Sadly, no cohesive effort has in the last several been made to collect, update and publish that information.

⁸ The current Zoning Resolution, Building Code and Housing Maintenance Code—the coordinated pillars of any successful effort – were thus explored, drafted, legislated and subjected to post enactment scrutiny .

financing or approving and actively supporting updated construction materials and techniques or innovative tax relief and other regulatory reform measures.

- **Occupants and Tenants bear added burdens without benefit.** The Proposals are on their face seriously injurious to Tenants, making no meaningful effort to ameliorate that grievous harm. Thus they explicitly contemplate that owners of certain *extant* residential structures, whether rental, cooperative, condominium, or owner-occupied buildings, may under certain circumstances add to their *existing* structure to the extent of additional FAR. No permit or formal approval requiring Community or *even occupying tenant assent* is mandated. Indeed, the rights of those occupants or tenants are ignored. The predicament of the residential occupant of a to-be reconfigured existing structure is certain to be substantial. They will now be tortured for months, if not years, by construction in and around their home, financially benefiting the owning entity while passing on only the noisy, dusty attendant burdens to the occupants (without any offsetting benefit). Decent, well maintained, safe and comfortable housing is a fundamental right of all New Yorkers and this flaw would impair that right. Yet the Proposal, to its shame, studiously avoids giving that gross tenant burden the attention it merits.⁹

By contrast, the foregoing fundamental problem and other related concerns were wisely addressed by the City of Jerusalem, which had an even more serious housing shortage than is purported to exist in New York City (albeit for different reasons—massive absentee ownership/occupancies). It enacted mutually beneficial corrective programs including the Tama 38 Program. It successfully sought to improve the housing stock by comparable “innovations” (e.g., allowing a developer to add 2 or sometimes more floors and/or expanded floor space to an existing low rise building in return for significantly improved structural benefits for existing occupants (e.g., elevators) and acted only with occupant approvals). Tama 38 and other companion programs took into account the needs and rights of occupants of existing structures, as well as community by requiring predicate governmental permitting, preceded by review and approval both at the occupant and community level, before any such expansion could proceed.¹⁰

The Proposals here advanced pay no heed at all to the rights of existing residents (let alone to community) to, for example, the right of quiet enjoyment. The Proposal

⁹ Presumably, City Planning expects the problem to be dealt with elsewhere, e.g., the courts. However, that imposes the burden of litigation and proof unfairly on the burdened tenant not the benefitted owner-developer. Conditioning receipt of the any benefit on a satisfactory owner-developer showing that the legitimate occupant concerns and those of Community have first been met and agreed to appears essential.

¹⁰ See, e.g. Archnet.Org/sites; *Offer Petersburg, Urna Renewal Capital: This is a Massive Program approved in Jerusalem (Jerusalem Post, Feb. 21, 2024)*

simply fails to *expressly* condition its developer largesse on Occupant rights. That conscious “oversight” is patently unacceptable and reprehensible and provides yet another fatal flaw, one that uncaringly operates as a license to avaricious and unsound development.¹¹

- **The Proposal Eviscerates Homeownership in the Bronx and Elsewhere in the City and Advances the Transferring of Assets to Landlords and Financial Institutions already absorbing individual and community assets across the country.** Just as the Proposal ignores the rights of existing occupants of residential structures to be forced to endure the burdensome construction of enlarged buildings or to have their limited private green space devoured by additional development, so too will neighbors and community be inappropriately disadvantaged. Permitting “backyard cottages, garage conversions and basement apartments,” ostensibly to provide owners “extra cash,” may initially sound harmless but consider the potential plight of residents of North Riverdale or areas of the Webb – Claflin Avenue sections of Kingsbridge Heights. A few years ago, the moderate income homeowners and apartment residents in the Claflin-Webb Avenue section of Kingsbridge Heights found that similar development activities were being undertaken that jeopardized the nature of those communities. Significantly, the area then was one increasingly occupied by people of color who finally had achieved the stable incomes to afford their own homes and attendant privacy and tranquility. Slowly but surely, as their neighborhoods were ravished for profit, prospective and current homeowners despaired because, though the Community Board advanced their cause, City Planning and City government declined to assist them, a pattern repeated in the current Proposals.

The authors of the current Proposal may view single and two-family homes and their owners with disdain, but those occupants form a significant segment and an essential part of the fabric of this City.

The Bronx already has the lowest homeownership rate across NYC. Together with homeowners in the other Boroughs, they provide a stable and considerable segment of the tax base, as well as the business base. The Proposal will erode this key component to asset-development and further strip leverage from residents against the whims of landlords, especially the ever-increasing

¹¹ We are hard put to understand how a assertedly caring government could fail to expressly condition any such owner-largesse on occupant rights.

group of institutional property owners, far removed from tenant concerns or sensitivity for community or neighborhood. Balance is essential, but it is here ignored. This Proposal will eviscerate single- and even two-family homes. In fact, the proposal willingly offers that this plan is for renters, relinquishing assets to the few who retain their homes or transfer ownership to landlords and banks. Across the country, homeowners are transferring assets to financial institutions forgoing long-term community asset development and investment. The Proposal advances that concern in New York.

- **“Infill” and Privatization of Public Housing.** The plight of residents and community illustrated above is amplified by yet another illustration. The New York City Housing Authority, with the enthusiastic support of the DiBlasio Administration and some in this Administration (including City Planning), has embarked on a program termed “infill” and, under various guises, “privatization” of essential accommodations of the NYCHA needy. Extending the rationale of the above-noted incursions on livability, NYCHA has sought out available unoccupied green or other space (e.g., parking, benches, even garbage storage areas) in NYCHA developments and proposes to build additional housing there, including, potentially, market rate housing. NYCHA and its governmental colleagues seemingly believe that light and air, green space and vacant space are proper targets for expansion and that those who live in NYCHA housing have forfeited their rights to light and air. NYCHA developments were never intended to be “sardine cans” or institutional facilities for the needy.

Attached as Appendix 2 are a series of depictions of Washington Houses, a NYCHA development located on the several blocks north of Third Avenue and 97th Street.¹² They show what the “infil” there proposed will do to eviscerate livability by substituting cement for grass, buildings in place of light and air and density in place of livability. That is what NYCHA residents must look forward to. That is also what New Yorkers can look forward to if the City Council permits it by adopting this Proposal.

Compounding that vice, NYCHA has concluded that for-profit developers or property “managers” are an appropriate substitute for governmental support or competent governmental management. Ignored is the fact that for-profit management is not necessarily sound management (especially where selection is not preceded by a specific, targeted Request for Proposals, as contrasted with application of some sort of blanket or sweeping RFP). Furthermore for-profit management comes at a price that

¹² The Special Committee expresses its appreciation to Planner George Janes for that depiction and his efforts to provide enlightenment and expertise.

almost certainly will eventually be thrust in one form or another upon the occupants of NYCHA housing.

Public housing was created to permit government to discharge its fundamental responsibility to insure that decent and affordable housing is available for the needy. Seemingly, there are those in government—clearly not among the needy—whose sensitivities do not extend to their less fortunate neighbors. Neither does the fact that successive prior NYCHA administrations may have been less than laudable excuse this departure, one that finds support in the premises of the instant proposals.

The Proposals repeatedly stress City Planning's support of pernicious "infill" as a sound universal Planning concept, thereby assuming that wall-to-wall cement is the hallmark of sound planning, and advancing density and decay. We respectfully but strongly disagree. New York City is already dense, shadow-ridden and, in many areas, foreboding, except where light and air are permitted to "intrude." The Proposal seeks to expand that foreboding by densely "infilling" without regard to location, neighborhood, need for green space or the like. Unless the Members of the City Council share that myopic view or share City Planning's denigrating view of the rights of NYCHA tenants, they should spurn that effort. and reject the Proposal.

We do not disagree that encouragement of development and construction is an important quest. Tax relief would certainly be beneficial. Expanding the scope of the NYC Housing & Development Corporation's wisely used authorizations and resources would provide one important and effective way to finance significantly more development—sound development; indeed, perhaps more tangible and suitable Affordable housing than the instant Proposal. Repurposing unused or underused properties held by the City and other public entities (e.g., discontinued institutional sites, little used or abandoned garaging facilities), facilities used on a less than efficient basis (e.g., discontinued institutional sites, little used or abandoned garaging facilities), would, if made available for truly Affordable housing on a financially attractive basis (e.g., long term land leasing specifically tied to sharply reduced Affordable apartment rentals), also provide added housing opportunities—without unduly increasing density with haphazard and inappropriate "infill."

Yet another route involves enlisting the efforts and resources of Labor in much the fashion that was employed by the enlightened and responsible United Federation of Teachers financed construction of truly Affordable housing in the Melrose section of the Bronx for both community residents and to attract desperately needed teachers who agreed to assignment to schools in that area for a fixed term in return for some of those brand new apartments. These and numerous other tools for increased Affordable

housing are available if there is a municipal will to be imaginative and innovative, not destructive and simplistic.

- The **Civil Rights Concerns Presented by the Proposal.** Just as the Proposal ignores the rights of existing occupants of residential structures to be forced to endure the burdensome construction of enlarged buildings or to have their limited private green space devoured by additional development, so too will neighbors and community be inappropriately disadvantaged. Allowing “backyard cottages, garage conversions and basement apartments” ostensibly to provide owners “extra cash” may initially sound harmless but consider the potential plight of residents of North Riverdale or areas of the Webb – Claflin Avenue sections of Kingsbridge Heights. A few years ago the moderate income homeowners and apartment residents in the Claflin-Webb Avenue section of the Northwest Bronx found that similar development activities were being undertaken that jeopardized the nature of those communities. Significantly, the Kingsbridge Heights area then was one increasingly occupied by people of color who finally had achieved the stable incomes to afford their own homes and attendant privacy and tranquility. Slowly but surely, as their neighborhoods were ravished for profit, prospective and current homeowners despaired because, though the Community Board advanced their cause, City Planning and City government declined to assist them, a pattern repeated in the current Proposals. Not only does such abandonment smack of Civil Rights Law violations but, on balance, it is indefensible.

While the Manhattan-centric high rise proponents of the current Proposals may view single and two-family homes with disdain, those occupants form a significant segment and an essential part of the fabric of this City. They provide a most considerable segment of the tax base, as well as the business base.

Covid signaled the beginning of an exodus of important elements from the City. As that exodus progressed it diminished small business with retail closures from Madison Avenue to Mosholu Avenue and with it employment opportunities. The instant Proposals, if adopted by the City Council, almost certainly will accelerate that exodus, especially among core taxpaying constituencies

- **SROs Do Not Build Stable Housing or Community Fabric** Just as the Proposal demeans the basic rights of needy tenants to decent NYCHA shelter, so too the authors of the Proposal prevaricate in seeking to promote yet another example of density and its destructive propensities: the return of the SRO's that New York long ago learned –the hard way – present serious health and safety hazards, which a chastised government made significant strides to eliminate. City Planning's advocacy of their return is based on the following fiction.

At page 16 of its “*Zoning Text Amendment Project Description*,” City Planning first correctly states that in the 1960's “... City policy [including City Planning Commission policy] not only blocked new SRO's but actively sought to shut down SRO's that already existed.” However, it then goes to a blatantly inaccurate attempt at historical revisionism designed to whitewash SRO's. and claims that the efforts to eliminate those virulent havens was because “SRO's were seen as attracting an undesirable population of un- or underemployed single men ...” “NONSENSE!!!”

Thus, the NYC Commissioner of Buildings, who in 1966 and 1967 carried forward, with some success, the effort to eliminate existing SRO's, responded to the Special Committee on the subject of SRO's and the above City Planning assertions. He noted that the City's carefully considered public safety project, conducted under his leadership, focused solely upon health and public safety issues. The employment or non-employment of inhabitants was never a consideration. That notion is devoid of merit. Instead, data showed that SRO's were magnets for narcotics sale and use, tourist lurings and assaults, prostitution and other vices, as well as firetraps and catalysts for disease and other hazards and they were located not just in tourist areas but in places like the Upper West side and near schools. The effort to remove those “tinderbox” uses was founded on substantial evidence of serious health, fire and safety hazards. It was largely the product of an initial “heads up” from legendary Manhattan District Attorney Frank S. Hogan, based on extensive law enforcement experience. It followed consultation with the Fire Commissioner and other City officials. It included advice from the Bronx District Attorney's office and leading Congressional and Local Legislators from, among other constituencies, Manhattan's West and East Sides and law enforcement generally, followed by on-site inspections and careful data review, some of which efforts were contemporaneously reported in the media. While the highly profitable scourge of SRO's then was sharply reduced, their lobbyists seemingly have since been assiduously at work, trumpeting SRO's, notwithstanding their continuing hazardous potential to both occupants and nearby residents.

Sad experience, not the false lure of lobbyist enticements, make clear that the return of SRO's is not in the *public* interest. If studio or single rooms with sanitary and “fast food” preparation facilities are desired, they abound (including in Riverdale) and are regularly supplemented in applications heard and approved by Board 8. But those

applications do not include the unsanitary, hazardous and unsafe concerns that marked SRO's. That City Planning has seemingly reached back in history to resuscitate SRO's increases the concerns we have respecting the genesis of the Proposal and its credibility.

- The Proposal **Removes Responsible Oversight and Leaves Key Public Good Open to Corruption:** Firstly, the Proposal is extreme in its removal of local review, input and approval. Secondly, the Proposal that will upend our housing and zoning processes as we know them has only been open for six weeks for public comment, hardly an adequate opportunity for volunteers unaided by well-paid staffs and ample well-briefed "experts.". Thirdly, the Proposal is a one-sided gift to those developers indifferent to the City's future and the overwhelming need of low and moderate income New Yorkers for *truly affordable housing*. It advances sweeping "*as of right*" zoning privileges and authorizations that will materially increase the height and crushing density of New York City and does so immune from Community or other meaningful review, while supporting measures designed to ravage the environment, as well as historic, sound and integrated neighborhoods.

For example, homeowners in North Riverdale or Spuyten Duyvil in Bronx CB 8 (or Kew Gardens-Forest Hills or Staten Island) enticed by "extra cash"¹³ would contribute to environmental degradation and area density that would upend those neighborhoods. The aggregate "extra cash" collected, and housing accommodations created could contribute to home flipping with individuals maximizing their profit and "cashing out", while the community loses its ability to weigh in on housing changes.

Indeed, that the proposal seeks in the process to assault the environment is readily demonstrated, To illustrate, *the Proposal affirmatively advocates the elimination of the environmentally sensitive Special Natural Area Districts ("SNAD") in the Bronx and Staten Island and, compounding the deliberate damage, those environmentally sensitive areas that are proximate to transportation facilities are then laid open to multi-family luxury enclaves or where developers can assemble 1.5 acre tranches a whole "Town Center" can be shoe-horned into a neighborhood. (e.g., much of the Bronx Natural Area District finds its footing in Metro North facilities)*¹⁴

¹³ City Planning, "City of Yes for Housing Opportunity" at Initial (unnumbered) page.

¹⁴ Unsurprisingly, given City Planning's long standing antipathy toward the environmentally sensitive Special Natural Area Districts ("SNAD"), it quite deliberately omitted to provide as an integral part of its Proposal a truly responsive Environmental Impact Statement dealing with issues such as its promised elimination of SNAD and its environmental protections or the devastation that that will create, especially when the sweeping Transportation or "Town Center" bonuses are added. That and other environmental deficits add to the legal deficits of the Proposal.

Another example, of abuses made possible by the Proposals are its embrace of basements as residences. Basements have long been the subject of incursions violative of the State Multiple Dwelling Law (but which various municipal regimes directed be tolerated). Ignored were the manifested hazards of deadly flooding that during Hurricane Sandy and other like tragedies drowned basement inhabitants: electric and other fires and carbon monoxide poisoning that have taken their toll, to name just a few. Sadly, it is far too simplistic to say, “Lets legalize basement, garage or like occupancies.” To meet minimal safety standards significant expenditures must be made to secure electrical, gas and other fixtures against fire or explosion; to provide sanitary facilities and fresh water and waste lines and the myriad other things we take for granted but are essential for health and safety. The cost of those installations, if properly made, is quite significant -- more than the few dollars that City Planning promises the owner-investor. And that is why barely a handful of such legalizations – though currently permitted in many areas – are ever consummated. Is the public interest really served by either enticing property owners down a dead end path or turning the blind eye to such known incursions on public safety or providing a fertile field for corruption. We think not. There is no historical basis for belief that the same impediments will not continue – indeed be expanded – under the Proposals. The minimal number of truly livable and safe housing units thus generated or the extra cash for owners thus permitted or the payoffs to inspectional personnel who offer a blind eye for hire simply do not warrant that betrayal of the public interest.

Moreover, an essential element of the Proposal’s *laissez faire* premises must of necessity presuppose code enforcement, whether of the new Zoning provisions, the Building Code or the Housing Maintenance Code. Thus enforcement of additional construction rights, (e.g., that the added cottage in the rear yard of one’s home really devolves upon a relative or is safely habitable; or that the claimed Affordable housing is truly that and is permanently rented to those thus eligible and other like illustrations requires regulatory enforcement. Self-regulatory enforcement would too often be sham and non-regulation, as in once busy San Francisco, would spell municipal catastrophe. Yet, this Administration has made clear that it has no intention of providing or lacks the means to provide the significant funds for additional inspectors, plan examiners or the like; instead they have been the targets of proposed cuts or non-competitive salaries. Corruption in the inspectional services has historically directly resulted from such short-sighted attitudes. The point is not advocacy of enhanced budgets but a need to drive home

that the Proposals have not been carefully considered in all of their ramifications and contexts.

One final comment on the point bear's repetition. If we substitute for single family homes – however closely to one another they may legally be situated – either an array of appendages (e.g., backyard cottages jammed into minimal space) or multiple story structures or other municipal planning incongruities, we can be certain that New York City will in short order be viewed as one dense transient shelter from which young families and those with means will flee. If there is one lesson the recent pandemic has taught and is teaching: it is that New Yorkers and other urban dwellers have tired of the claustrophobic, especially for 5 or more days a week, and will grasp at any straw for a bit more light, air and release. The massive density the Proposal espouses will test that even further, especially as the shift to suburbia continues, suburban transit expands, and remote office facilities or annex offices increase (a phenomenon already in serious motion). That more long range demographic decision is one that the City Council must also consider and in doing so it should note that approval at this time of these Proposals effectively and adversely resolves the issue.

- **The Proposal Fails to Adequately Assess the Environmental Burden when Existing Impact of Climate Change on Infrastructure Continues Unaddressed:** Yet another fundamental flaw in the Proposal is, as we show below, that it, in material part, it regresses zoning to the framing of the 1916 Zoning Resolution, despite the academically- and independently- crafted and frequently amended 1965 Zoning Resolution. The best case scenario of moderately increased density presupposed by the Proposal is certain to stress infrastructure such as sanitation, water, sewage, and other municipal services, factors not considered in the Proposal and dismissed as immaterial to evade an Environmental Impact study.

Moreover, the stresses in municipal services will be compounded at a time when the Administration has threatened to reduce the existing resources of the relevant essential services. The significant cost that residents will bear in terms of fire and other safety requirements, air pollution, clean streets, transportation, access to classrooms and education, landlord and home-owner loopholes, and other lack of enforcement concerns will destroy the quality of life for affected and surrounding residents.

- **The Proposal Fails to Incentivize Green Space as a Critical Quality of Life Metric While Increasing Density:** The Mayor's Office of Climate and Environmental Justice

focuses on increasing access to parks and open spaces, concentrating on areas of the city that are under-resourced and where residents are living farther than a walk to a park. In no way does this proposal recognize this priority and the health and well-being factors critical to the Proposal.

According to a 2017 study, *The Importance of Greenspace for Mental Health*, “global urbanization has reduced access to and engagement with greenspace, but there is good evidence of a positive relationship between levels of neighborhood greenspace and mental health and well-being. Individuals have less mental distress, less anxiety and depression, greater wellbeing and healthier cortisol profiles when living in urban areas with more greenspace compared with less greenspace. Large differences in disease prevalence are reported when comparing residents of very green and less green settings, even after controlling for socioeconomic status (Maas et al, 2009).”

Zoning should protect apartment buildings from excessive build up, mitigate wedging in buildings in small open spaces that will restrict sunlight, create dynamic spaces for commercial success, opportunities for a community benefits, quality of life, and improving safety, and bring greater equity. The Proposal does not meet those challenges, it exacerbates them.

- **The Proposal’s further Diminution of Parking is as lacking in Reality and Logic as it is in Sanity.** The previously noted Manhattan-centric approach of the Proposals is further illustrated by its attempt to justify the elimination of parking requirements, supposedly for cost saving and space saving purposes.¹⁵

Many parts of the outer boroughs have poor to no adequate mass transit facilities (even assuming, arguendo, the adequacy and safety of extant facilities). Vast areas of the East Bronx, of Queens, Staten Island and Brooklyn simply have no mass transit

¹⁵ One need only drive or walk along Madison avenue north of 42nd Street and understand that even 6-8 lane roadways are quickly reduced to a single lane where two lanes are devoted to buses that rarely use more than one, another lane is devoted to an occasional scattering of bicycles, triple parked trucks and cars consume three and cars. Taxi’s and moving trucks crawl along the remainder spewing fumes. And the mockery of a transportation initiative is heightened when one notes that in recent times where privileged trucks are given tickets for double and triple parking, they receive privileged treatment--an enormous discount from their face amount. Little wonder that the owners don’t give a damn.

The current approach to driving in New York City seems remarkably akin to that proposed in 1965 by the publisher of the conservative *National Review*, William F. Buckley, in his Mayoralty campaign. He had the candor to propose what today is the covert municipal objective: make all streets in the City one-way, out of town. Of course the cars following that path would soon be followed by moving vans.

facilities other than frequently undependable buses. Even in those areas served by buses, the routes frequently do not match the needs. And the parking predicament is compounded by the roadway encumbrances of sheds devouring parking simply to accommodate part time and partial utilization for food service that could just as readily be provided by less sprawling facilities on existing or slightly expanded sidewalks or in the restaurant.¹⁶ There still are those who are baselessly persuaded that there is no limit to the burdens and inconveniences that motorists will tolerate while providing parking tax and meter fees, license fees, camera charges and other Budget sustaining revenue. Adoption of the Proposal may well, however, be the final straw presaging yet another exodus of taxpaying citizens as well as the long-overdue reform of the planning and administrative processes that erode public and community participation and confidence.

- **Transportation-Oriented Zoning**. Transportation – oriented development is by no means a new development. It has long been successfully encouraged in appropriate areas by the Metropolitan Transportation Authority along the Long Island Railroad, Metro North and New Haven lines. Additionally, the current Zoning has for several years made like provision in Transit Zones, which Community Board 8 has encouraged.¹⁷ The current proposal, though bearing a confusingly similar name has little constructive relationship thereto. It is, instead, a device to facilitate the *as-of-right* construction of multiple dwellings-apartment houses up to ½ mile in any direction from a transportation facility that seem intended to engulf and eliminate single and two family homes.

To illustrate, as charts prepared by noted Planner, Paul Graziano, and submitted herewith, illustrate (and those familiar with the Fieldston community in Riverdale will note) the proposed *as-of-right* construction (without any governmental permissions other than a building permit) will allow much of the Fieldston community to become fair prey for multi-story developers.¹⁸ Much of the area between the Hudson River and a block or two west of the Henry Hudson Parkway would also fall prey to developers, as

¹⁶ Add to those illustrations of the confusion and foolishness that the City imperiously terms “transportation policy” by the City, the miserable condition of the City’s streets shockingly brings home where the fault at least partially lies for congestion, While paint is plentiful for lines designed to further narrow and impede passage, asphalt and personnel continue to be withheld for the maintenance and repair of roadways replete with craters, inept repairs following excavations and highways and streets that resemble third world back-alleys.

¹⁷The Land Use Committee of Community Board 8 at its last meeting unanimously expressed support for aa 226 Affordable Unit housing development at 5602-5604 Broadway (directly proximate to the subway’s surface extension) under the existing applicable law ZQA Zoning provisions. That recent illustration of the sound usage of existing Transportation-Zoning law provisions enacted in the recent past underscores the highly questionable necessity of the bloated, and grossly inappropriate new Transportation-Oriented Proposal.

¹⁸ It may well be appropriate for communities and owners desirous of protecting their homes, neighborhoods and investments to consider Restrictive Covenants blanketing areas sought to be ravaged. Their counsel should be consulted.

would Gaelic Park . Much of the area West and East of Broadway below 250th Street and southward to the Marble Hill NYCHA buildings would likewise be impacted, etc, etc *ad nauseum*. See, Appendix 3 ¹⁹ In each cited example, either Metro North Transportation facilities or those of the MTA exist within one-half mile and provide the open-sesame for destructive excess under the Proposal advanced by City Planning. And despite all of the misleading marketing, as we noted in some detail at the outset none of this is limited to Housing for the truly needy.

And if the foregoing excesses were not sufficient this proposal will also eliminate Dwelling Unit Factors from the Zoning Resolution” “...thereby *removing* from the Zoning Resolution controls on the maximum number of dwelling units” or on the size of those units. City Planning, *City of Yes for Housing Opportunity-Project Description*, p. 10. (Emphasis supplied). It takes little imagination to recognize what mischief this makes possible. Thus, as previously noted, in a residential community along Broadway in North Riverdale, a City Agency has already embarked on a project to jam 6 homeless men in a room throughout a single multi-story building as part of that same “sardine can” approach to livability or, worse yet, City Planning’s effort to resurrect SRO’s and their attendant hazards.

Indeed, the Proposal even proclaims that City Planning envisions similar devastation for tree-lined areas by providing “additional flexibility for street tree regulations, curb cuts and other streetscape regulations” that are the hallmark of this and other remaining livable communities in New York City (because those regulations supposedly have “interfered with” (i.e., deterred) avaricious (flavor-of -the-month) “infill developments”).See, *id* at p. 22 and, *supra*, at 12. In fact, the Proposal adds that it would “replace’ open space constraints in various area because, supposedly, “unnecessarily complicated, ” as if to question the skills of Buildings Examiners and City Planning staff, as well as licensed architects.

Transit Oriented Development, which the MTA has used to good and high-minded purpose can be and is being used by MTA in the public interest. This attempt to “free ride” on the name of that acclaimed planning tool involves, however, something far different and *not* in the public interest by reason of the enormity of its disparities—destruction of existing neighborhoods, the homes and communities of numerous New Yorkers . Indeed, no clear or proper end has been shown for this Proposal (i.e., truly Affordable and permanent housing for moderate and low income residents). That is

¹⁹ The Special Committee extends its deepest gratitude and that of Residents of this Community to Paul Graziano, a respected Planner for his significant contribution to our efforts, including the time-consuming *pro bono* compilation or the accompany data. See Appendix C documenting the compelling showing made to the Special Committee by Mr. Graziano.

poisoned chalice that City Planning offers the City Council, a point evident from the careful studies of Paul Graziano. See, Appendix 3. Again, this is not imagined hyperbole the predicate data is from the voluminous City Planning submission

- **The “Town Center” scheme for added Development rights.** As if the excesses noted above were not sufficient, the Proposal offers yet another way in and by which dense development can enshroud and devastate neighborhoods and the community.

Noting that for decades Zoning has permitted the combination of ground floor retail coupled with housing, the Proposal couches its “still more” scheme in the following terms: “The proposal would make low density mixed-use buildings more feasible with additional FAR and height.”²⁰ ((Emphasis supplied). Ground floor convenience stores, restaurants and the like, with low-rise residences above them, have for decades been and are an accepted and desirable element ... in most parts of Community Board 8, as has been the positioning of low rise residential accommodations above those commercial facilities. Added FAR is always welcome, but at some point is its extra density appropriate and necessary? Why more is required *throughout the City* when ample already exists in various portions (like through Board 8) is unclear, other than City Planning’s penchant for excess and refusal to do a selective and thoughtful job.²¹

What in reality is here proposed is an expansive and invasive scheme. Coupled, for example, with access to the Transportation bonus or, stated otherwise, “within the Greater Transit Zone [one-half mile in any direction from any subway or train facility] a commercial ground floor with...” multiple upper floors above “would be allowed.” City Planning, *Housing Opportunity/Low-Density Proposals/ Town Center Zoning*, p. 9. That unabashed City Planning example of excess is Citywide and without stated limitation. No provision is stated for community or other review. Neighborhood considerations are of no moment. All that matters is “more, more and more.”

- **Unique Neighborhood and Protection of Environmental Sensitivity Demise.** The Proposal makes clear that the sweeping actions advanced give little more than lip service to community, neighborhood or local concerns or interests and give promise that

²⁰ City Planning, *Housing Opportunity/Low-Density Proposals/ Town Center Zoning*, p. 9.

²¹ City Planning failure or refusal to do the thoughtful job required again present the the issue of re-structuring that agency to more accurately reflect the outer Boroughs and Communities within each Borough. For example separate Borough Planning Commissions selected from designees from each Community Board in each Borough acting. At least initially on each application in that Borough and the Borough President serving as Chair of the Borough Commission and in person or by proxy as one of nine citywide Commissioners designated, the other 4 to be designated 2 by the Mayor and one each by the Comptroller and Majority Leader of the City Council.

even less will ensue should the Proposal be adopted by the City Council. Moreover, the Proposals are predicated on a “one size fits all philosophy” that is not reflective of sound or deliberate planning in the public interest. The shotgun approach advanced is unsupported by any detailed, independent data and is wholly unacceptable. What works on Manhattan’s affluent Eastside is often foreign to the Westside or in Harlem which, quite properly have their own needs and approaches that merit application.

To illustrate, at significant cost, funded by a charitable foundation and community contributions, as well as with considerable volunteer effort, in 1997 this Board and supportive elected representatives began work on and in 2000 submitted and later secured the adoption of a 197-A Plan, detailing on a carefully defined basis, neighborhood-by-neighborhood zoning throughout Community Board 8 in the public interest and for the benefit of not just the community but for the Borough and City as a whole. It was hailed and adopted by DCP and CPC. Thus, City Planning, then ably led by Amanda Burden, “applauded,” in its October 22, 2003 197-a Plan adoption “...the comprehensive and lengthy planning process [and]...the thoroughly analyzed [197-a] plan” the Community Board produced in conjunction with the Community. Significantly the Commission took pains to note its efforts to “strengthen” the environmentally sensitive SNAD regulations that the Community Board had generated, notably, the same Special Natural Area District and Regulations City Planning’s current staff has in recent years and in this Proposal sought to eviscerate. The then Bronx Borough President, Fernando Ferrer, and the City Council enthusiastically joined in those approvals. Nonetheless, though the environmentally sensitive reasoning and community and public benefits that warranted the SNAD have not changed, other than to become more pressing with climate change and the acknowledged dangers of Hudson River flooding (which wreaked havoc for Metro North in Spuyten Duyvil, Riverdale and beyond during Hurricane Sandy and other storms), those concerns with climate change manifestations, Hudson River Flooding and other environmental impacts are substantively ignored in the current Proposals. Similarly, the limited protections currently in force (e.g., SNAD) that should be expanded, not eviscerated, are seemingly ticketed for elimination (presumably to accommodate development for profit). Indeed, City Planning promises it will strive to eliminate all Special Districts. Another triumph for special interests. This backdoor attempt to eviscerate the 197-A Plan and the environmentally conscious constraints of SNAD, previously endorsed and adopted by every relevant branch of City government, including City Planning and the City Council, has even greater merit today with manifested climate change impacts and this covert attempt to sabotage it of itself warrants rejection of the Proposals.

- **Finally, It Bears Repetition that Even Casual Review of the Proposal Discloses that there Is No Measurable Commitment Thereunder to Affordable, Permanent Housing in terms of Numbers or by Household income. The contrary “Hype” offered to the Public and Reiterated to the City Council is Marketing Rhetoric Devoid of Merit:** Despite the assertions made in the marketing presentations, in the

Proposal and in the presentations made by City Planning to The City Council, there is in fact, no assurance provided as to whether, let alone how much, if any, *truly affordable* housing must or will in fact be *permanently* provided under the Proposal or even that the expanded facilities will be thus limited.

Indeed, as noted at the outset of this Report, the Proposal omits to provide or commit that all or even the predominant percentage of the development or construction *that is in any material way benefitted by any of the expanded or new zoning provisos must go solely* to those concededly in need—namely, low and truly moderate income earners.²² Instead, as later appears, the Proposal studiously continues the current regimen under which the term “Affordable Housing” deliberately remains misleadingly vague and flexible and the operative AMI remains significantly *inflated* by the inclusion in the underlying data of relevant income figures from Westchester and Nassau County communities like Scarsdale and Roslyn, to name a few.²³

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Conclusions and Recommendations

The foregoing illustrations of the Proposal’s many basic flaws are just that, illustrations. The limited time allotted for volunteers to read, understand and respond to hundreds of pages of technical jargon, employed not to illuminate but to overwhelm, has precluded more than here is noted. While there may conceivably be limited aspects of the Proposal that merit further examination, in their present context the Proposals noted and the Proposal in its entirety constitute a fatally flawed series of inappropriate excesses that cannot stand. Indeed, the serious concerns here illustrated hopelessly taint the Proposal.

The Proposal is so plainly one-sided in its desire to advance certain private interests as to raise serious questions warranting inquiry as to their initiation and development. From the standpoint of Bronx Community Board 8 and the Community as a whole the Proposal is fatally flawed and would, if adopted by the City Council, at best, jeopardize the continued vitality of this and other communities through unbridled and overwhelmingly increased density, unsafe and hazardous conditions and circumstances that are fundamentally inconsistent with a sound and livable Community and City. To boot, the Proposals would expose New York City’s Tenant population to uncontrolled ravages, not the least of which is the erosion of the right of quiet

²² Cf., *Appendix 1*, a recent schedule stating the parameters of the AMI (the “Area Median Income”) and Affordable Housing, but which this Board has repeatedly asked to be restated to limit the data upon which it is based to New York City income and omit that of affluent suburbs.

enjoyment and livability that every resident is entitled to. As for Bronx County, which thanks to its Borough elected officials, has made beneficial strides in housing, commerce, employment and livability generally, the retrogression that would likely ensue if the City Council were to adopt the Proposal in whole or any material part would be substantive and significant.

RESOLUTION

For each and all of the foregoing reasons,

The Special Committee, by **unanimous vote** (with one excused absence), respectfully urges Community Board 8 to adopt in substance the following Resolution with respect to the Proposal :

WHEREAS the Special Committee on City of YES—Housing Opportunity has carefully examined the several parts comprising the submission of City of Yes for Housing Opportunity—2024 (the “Proposal”) , consulted with architects, planners and other experts, including City and State public officials, past and present, and conducted three noticed public meetings-hearings on the Proposal and carefully listened to those participating in person or remotely, including representatives of City Planning; and

WHEREAS the Committee has received, reviewed and commented upon drafts of and a final proposed Committee Report, a copy of which is attached hereto and made part hereof, together with annexed appendices; and

WHEREAS after due consideration it is hereby

RESOLVED that the Special Committee on City of YES—Housing

1. Rejects the City of Yes for Housing Opportunity Proposal and finds it lacking in supportive merit and fatally flawed;
2. Urges Bronx Community Board No. 8 to likewise accept and promulgate to the appropriate persons and entities the attached Report and its Appendices;
3. Calls upon the Members of the New York City Council representing any segment of the population within the Bronx Community Board 8 District to categorically reject the Proposal;
4. Urges the New York City Council to reject the Proposal in its entirety as contrary to the public interest.

June 17, 2024

Respectfully submitted

Special Committee on City of Yes—Housing Opportunity 2024.