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**POLICY BRIEF
RESIDENTIAL STREETSCAPE PRESERVATION
TEXT AMENDMENT**

Prepared by Stefanie Marazzi
For the CHPC Zoning Committee
January 2010

The Zoning Committee of Citizens Housing & Planning Council (“CHPC”) has reviewed the proposed text submitted by the Department of City Planning (“DCP”), pursuant to Section 200 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to preserve and enhance the streetscape character in certain districts, which includes amending regulations governing front yard planting requirements, the location of curb cuts, and accessory off-street parking requirements. DCP acknowledges that the proposed text amendment is, in large part, intended to preserve the aesthetic desirability of certain neighborhoods by ensuring the continuity of the streetscape and preservation of plantings in front yards. CHPC extends our thanks to Tom Wargo and Parul Agarwala of DCP for their assistance with questions and patience in explaining the details of the rezoning.

After much consideration, CHPC recommends that final consideration of the proposed text amendment be postponed until completion of the parking studies that DCP is currently conducting. CHPC views this text amendment in the context of a delicate balance of four competing needs: aesthetics, housing production, sustainability and the provision of parking. We see the scope of the text amendment as extending beyond mere aesthetics, potentially adversely affecting a wide array of municipal policy issues. Our most pressing concerns are as follows:

1. Parking Requirements

DCP is currently undertaking a wholesale review of its citywide parking requirements, ownership and utilization, with the purpose of empirically identifying neighborhoods that lack

sufficient parking and to understand the locational and other factors leading to parking needs. As this text amendment clarifies that new parking spaces must be provided for new dwelling units created by addition to, or conversion of, the existing housing stock in R3 and R4 districts, it may have a profound impact on available parking in certain neighborhoods. CHPC recommends that DCP postpone this and other rezonings that will significantly impact parking requirements until its citywide parking demand analysis is complete, thereby allowing DCP to take a measured, comprehensive approach to what to date has been a complaint-driven issue.

CHPC also hopes for public and informed discussion regarding the assumption inherent in the proposed text amendment that on-street parking spaces are of intrinsically greater value than off-street parking, which seems to be counter to traditional city precedent. For every parking space constructed off-street, one parking space on-street is often removed, although the proposed regulations attempt to reduce this. However, off-street parking may often include enough space for two cars, which mitigates the lost on-street parking.

2. Housing Production

CHPC is also concerned with the potential impact of the proposed regulations on the production of housing, particularly less costly low and medium density housing.

We predict that this rezoning would result in many sites being developed at a lower density as detached rather than attached or semi-detached housing in order to provide additional side lot ribbons. This would result in reduced lower potential housing production and less energy efficient buildings without shared party walls. Section 25-621 prohibits parking in front of the street wall of a building in most districts, relegating all parking to the side lot ribbon. For example, only detached buildings on zoning lots with over 35 feet of street frontage may have parking in the front, provided it accesses a garage through the street wall of the building. Section 23-891 prohibits parking spaces driveways within a 30-foot open area off the rear wall of a building in R1-R5 districts with two or more residential buildings or building segments. When taken together, Sections 25-621 and Section 23-891 prohibit parking in all locations but the side lot ribbon in lower-density districts, thereby severely restricting potential site configurations in these districts and further increasing the cost of development.

Additionally, the regulations may thwart New York City Housing Authority's ("NYCHA") redevelopment strategy for its underused open space, and may also impact similar large scale developments, such as Mitchell-Lama housing complexes. Section 25-21 of the proposed text prohibits property owners from removing parking spots from buildings built before 1961 if those spots would be required for a new development under current zoning regulations. Many planners, architects, and developers know from experience that the unused floor area of large projects, most particularly NYCHA projects, are the only remaining source of land for significant new housing construction. Using the 30.5 million square feet of unused development rights in their possession, NYCHA is planning infill development on the underused open space and parking surrounding their tower-in-the-park apartment buildings. As most of NYCHA's developments were planned and built prior to the parking requirements of the 1961 Zoning Resolution, the parking spots provided for these projects

were provided pursuant to urban renewal plans. The anticipated need for the parking's spaces failed to materialize, however, and today most of NYCHA's parking spaces are unused. NYCHA's current infill strategy will leverage its most precious resource, development rights, to provide more affordable housing and commercial amenities for surrounding neighborhoods. Until we understand how the prohibition of removal of pre-1961 parking spaces (if currently required) will impact this resource, CHPC cannot support the proposed text amendment.

3. Conversions

CHPC is especially concerned about the practical implications of requiring a new parking space complying with the more stringent new standards for a created unit in an existing residence in R3 and R4 districts. Although laudable in intent, CHPC foresees that this will serve as an additional disincentive to legalized conversions. Section 25-21 of the proposed text amendment clarifies that new parking spaces must be provided for new dwelling units created by addition to, or conversion of, the existing housing stock in R3 and R4 districts. However, legal dwelling unit conversions will be unintentionally discouraged by the additional required parking space in two ways: either the prohibitive cost, or the infeasibility of locating a second legal parking space on the lot. As a result, owners will either not create new units, continuing our struggle with an inefficient housing stock, or will perform undocumented illegal conversions, thereby increasing the hazards to health and safety that have already claimed the lives of so many New Yorkers through preventable fires.

New York City must address its illegally occupied dwelling units, be they basement apartments occupied by grandmothers in Queens or single-family homes in Staten Island shared by day laborers. One of the cheapest and simplest methods to create more affordable housing units in New York City is conversion of our existing housing stock, bringing these undocumented homes in line with fire, ingress and egress requirements. Also, smaller units typically require fewer cars, so the conversions may not significantly increase parking demand. CHPC cannot support a text amendment that impedes the conversion of illegally occupied dwellings to legal and safe homes.

4. Clarity

Finally, as a civic organization devoted to good planning, we are concerned that the proposed text is extremely difficult to understand, even to professionals. Good planning practice would be to make this text as transparent as possible, particularly since it is of such interest to the community. In many instances, compliance with and enforcement of the Zoning Resolution's parking and curb cut requirements is left to individual property owners. As a practical necessity, we recommend that these and other regulations be provided in tabular and diagrammatic format, so that the meaning of these regulations might be reasonably clear to the public.

Specific Recommendations

Although we object in principle to the text amendment as a whole, some of the more deleterious impacts could at least be partially mitigated through the following modifications:

A. Remove Additional Parking Requirements for New Dwelling Units

Section 25-21 of the proposed text amendment clarifies that new parking spaces must be provided for new dwelling units created by addition to, or conversion of, the existing housing stock in R3 and R4 districts. Removing this requirement would allow the legal conversions that are so desperately needed in our outer boroughs, while ensuring that parking requirements are revised in a comprehensive fashion in accordance with DCP's forthcoming findings on parking demand.

B. Remove Prohibition on Removal of Spaces from Pre-1961 Buildings

We recommend that DCP remove the prohibition on removing parking spaces from pre-1961 buildings in Section 25-21 of the proposed text amendment. At the very least, DCP should exempt all NYCHA-owned property from the prohibition so redevelopment may occur as planned.

The evolving nature of auto use in the city has resulted in parking spaces built prior to 1961 which may be required under current zoning but are unused. We recommend implementing a mechanism by authorization from the CPC for the removal of parking spaces built prior to 1961, which may be required under current zoning regulations, but which are unused. This tool would allow property owners to rectify mismatches between the spaces actually needed and the spaces required for all pre-1961 properties.

C. Require 16 Feet Between New and Legal Existing Curb Cuts

Section 25-631 requires minimum distances of uninterrupted curb space between all curb cuts constructed after June 30, 1989, which distances vary depending on the district, amount of street frontage, and width of zoning lot. A 16-foot minimum is required for lots in R2X, R3, R4 and R5 districts with 35 feet or more of frontage along a street. These minimums could present a hardship to developers who cannot meet, for instance, the minimum 16-foot distance due to illegal curb cuts on neighboring properties constructed too close to the lot line. Although not common, our board members are familiar with such a scenario, and the text can easily be amended to preclude such difficulties.

We propose specifying in the text that a minimum distance of 16 feet between new curb cuts and existing legally constructed curb cuts is required so that housing development will not be thwarted by adjacent illegally built curb cuts.

Conclusion

Although the purported goal of the proposed RSP text amendment, enlivening the streetscape, is ultimately a desirable one, the amendment as written will adversely affect housing production and parking in a number of ways, and CHPC requests to CPC that final consideration be delayed until it is analyzed in the context of an informed debate regarding parking and housing production. Aesthetics

should not dictate discussions regarding parking needs, auto utilization, housing production and other transportation and transit issues. We urge the City Planning Commission to consider the unintended consequences that this amendment may have in making housing development more difficult, and we recommend that the amendment be revised so as not to dissuade legal conversions or stifle housing development, and so NYCHA's land use policy might proceed successfully. It would be soundest in terms of land use policy to adjourn substantive changes to parking requirements until a comprehensive parking strategy can be developed in accordance with the results of DCP's ongoing parking studies.

Finally, we hope, despite our perhaps contrarian position on this issue, that DCP will include CHPC and other policy organizations in conceptualizing the scope of rezonings in the future. We believe our input would be useful to define goals and strategy before the text is drafted and in the ULURP pipeline. We look forward to building on our current working relationship with DCP so as to collaborate constructively on zoning in our city.