November 25, 2019

STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY BEFORE THE NEW YORK STATE ASSEMBLY STANDING COMMITTEES ON HOUSING AND CITIES ON AFFORDABLE HOUSING DEVELOPMENT

Good day Chair Braunstein, Chair Cymbrowitz, and Assembly Members. I am Peg Breen, speaking on behalf of the New York Landmarks Conservancy. For nearly five decades, the Conservancy has been dedicated to preserving, revitalizing, and reusing New York’s buildings and neighborhoods. In recent years, we’ve heard from constituents across the City, alarmed by substantial new construction that damages neighborhoods, displaces residents, stretches already-broken infrastructure, and produces “luxury” units that do nothing to alleviate the housing shortage.

We thank the Assembly for holding this hearing. Since 2016 there have been efforts to remove the 12.0 FAR cap on residential development under the State Multiple Dwelling Law without any public discussion. We are against removing the cap, and glad that there is an opportunity for the public to comment in a debate that is central to how New York will evolve.

The City has already passed Zoning for Quality and Affordability (ZQA), Mandatory Inclusionary Housing (MIH), and several large neighborhood rezonings. The impacts of these new programs are still unclear, in terms of new affordable housing, destruction of existing affordable units (both in and outside of rent-regulation,) and overall displacement. The only thing we know for sure is that there is a glut of unsold “luxury” apartments. The solution to the housing crisis should not be ceded to developers. Lifting the FAR cap would be one more step in that direction.

The City must produce a comprehensive plan which identifies areas that could absorb the impact of more FAR. Supporters of a 2018 amendment to remove the cap said that it was the “first step” to producing more affordable housing in New York City. Since then, there has been a discussion of removing single-family zoning in the name of affordable housing. There is still no data to support any of these claims. Eliminating the FAR cap should be the last step in a phased planning project. Not only is such a plan good public policy, but courts have consistently said that such a plan is necessary to support proposed zoning changes.

An elimination of the cap should target specific areas, not encompass the entire City, and not simply allow more luxury development. As Samuel Stein writes in his 2019 book Capital City, “When planners upzone neighborhoods to allow bigger buildings, rent-stabilized landlords will have every reason to sell their properties to speculative developers, who could then knock down the existing properties and build something bigger and more expensive.” We need to see evidence that the current upzonings are doing more than displacing low and moderate-income New Yorkers before we consider removing the FAR cap.
A discussion of FAR should also include a hearing on A.5206, which would require that mechanical voids over 20 feet high count toward total FAR, and would set a ceiling height limit of 12 feet. This is a sensible response to the era of as-of-right supertalls, which have broken the skyline without denting the housing crisis.

Current and future historic districts must be excluded from a no-cap. Residents in these areas have a reasonable expectation that their district’s density and character are relatively fixed. An economic study we commissioned on the benefits of preservation in the City showed that historic districts are already the densest areas in every borough.

Removing the FAR cap in a vacuum without thoughtful, comprehensive planning will never solve New York’s housing needs. Instead, it will only compound them. There is no reason to eliminate the FAR cap at this point and several reasons why it would not be good government, good planning, or good for New Yorkers.

Thank you for the opportunity to present the Conservancy’s views.