



CITY PLANNING COMMISSION

January 5, 2011 / Calendar No. 28

N 110090 (A) ZRY

IN THE MATTER OF an application by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, pertaining to the clarification of key terms including “development” and “building” and the clarification of other regulations throughout the Zoning Resolution.

An application for an amendment to the Zoning Resolution, N 110090 ZRY, was filed by the Department of the City Planning on September 21, 2010 to clarify and preserve the intent of the zoning regulations in relation to the terms “development” and “building,” as they are defined in the Zoning Resolution. In addition to rules relating to the terms “development” and “building,” the Department proposes other text modifications that are necessary to clarify the intent of the Zoning Resolution, resolve conflicting regulations, or bring a regulation into accordance with current Department of Buildings practice. On December 20, 2010, a revised application (N110090(A) ZRY) was filed.

BACKGROUND

At the time of adoption of the 1961 Zoning Resolution, the term “development” was intended to refer to a new building constructed under the then-new regulations. However, since then, the continuing applicability of the regulations to “developments” (new buildings) which are now existing buildings (no longer “new”) has been questioned, and zoning text amendments using the term “development” have applied it inconsistently. In some cases the term has been intended to mean only the new construction on the zoning lot, and in some cases the term has been used to mean new construction as well as existing buildings on the zoning lot. Thus, the meaning of the term “development” as currently used in the Zoning Resolution has become unclear.

The Department invited practitioners associated with the American Institute of Architects (New York, Queens, and Staten Island Chapters), Citizens Housing and Planning Council, the Real Estate Board of New York, the American Bar Association, and the American Planning Association to review and comment upon drafts of proposed clarifications in advance of referral in order to identify unintended consequences and confirm interpretations. The Department also collaborated with the Department of Buildings, the Board of Standards and Appeals, and the Department of Housing Preservation and Development on early drafts of the proposal. The Department invited Community Boards, Borough Boards, and Borough Presidents to review and comment on a draft of the proposal that was posted on the agency's web site on June 30, 2010, approximately three months prior to referral, and held an information session for Community Board members on the same date.

In defining a "building" as being bounded by open area or lot lines, the 1961 Zoning Resolution created a situation where if all buildings on a single zoning lot abut one another, they are considered one "building." This treatment of separate buildings as one building for zoning purposes has caused confusion and has often resulted in undesirable outcomes. Rules intended to apply to one building do not work as intended when they are applied to several abutting buildings on a single zoning lot. The problem has become more acute since 1961 due to the increasing complexity of zoning lot configurations.

Another problem related to the current definition of "building" is that a new building that abuts another building on the same zoning lot is considered an "enlargement" in zoning terms. This can lead to certain projects not meeting requirements that are applicable to developments but not enlargements. For example "enlargements" up to a specified size on the waterfront need not provide a waterfront public access area whereas all "developments" must provide a public access area. Similarly, street trees need not be provided for "enlargements" up to a specified size.

In addition to new definitions for the terms "development" and "building", additional text modifications are proposed that clarify the applicability of regulations, resolve potentially

conflicting regulations, and change regulations so that their original intent is restored, or revise outdated language.

Clearer regulations will benefit property owners, through clearer expectations of what can be built on their property; the general public, through clearer expectations of what can be built in their neighborhoods; the Department of Buildings, through more efficient processing of building permits because of clearer standards for compliance during plan examination; and architects and developers, through clearer regulations that provide certainty and remove ambiguities that can lead to zoning disputes.

The original application (N 110090 ZRY) for the text change included approximately 700 pages of text amendments. Additional consideration is required with respect to one change (relating to the ‘grandfathering’ clause governing floor area ratio of community facilities in R1 and R2 districts (Section 24-111)). At the time of referral, the Department classified this change as a revision to eliminate outdated language. However, since the time of referral, the Department became aware that the Department of Buildings does not consider the subject language to be outdated, and has issued a permit on the basis that the ‘grandfathering’ clause has continuing effect; further, the Department of Buildings permit is currently the subject of litigation which raises squarely the issue of the proper interpretation of Section 24-111. Accordingly, on December 20, 2010, the application was split into two parts (N 110090 ZRY and N 110090 (A) ZRY). This procedure will allow all of the other items to proceed (N 110090 (A) ZRY) while permitting the Commission to await the outcome of the litigation regarding the floor area ratio for community facilities. The revised application (N 110090 (A) ZRY) is the subject of this report.

EXISTING AND PROPOSED ZONING REGULATIONS

Changes to Definitions of Key Terms

The current definition of “development” includes “the use of a tract of land for a new use.” It was unclear that this referred only to new open uses. The proposed amendment will clarify that “the establishment of a new open use, other than an accessory use” is a “development.” The definition also references a new Section 11-23, which clarifies the distinction between substantial alterations and developments. It specifies that the demolition of an existing building that results in both the removal of more than 75 percent of the floor area of the existing building and more than 25 percent of its perimeter walls and the replacement of any portion shall be considered a new building for the purposes of providing specified public amenities such as street tree planting, planting strips, retail continuity, transit easements, subway improvements or subway stair relocation, street wall transparency, and provision of arts and entertainment uses in the 125th Street Special District.

The amended definition of “building” will use the concept of “fire walls” to differentiate one building from another in a way that corresponds with the Building Code and a common understanding of what differentiates two buildings that abut. The amended definition will also require that each building include its own life safety systems, such as independent means of egress and independent sprinkler systems, which are already required by the New York City Building Code. Consistency with the Code will avoid confusion for the public and practitioners, as well as ensure that zoning regulations operate as intended.

Changes Resulting from New Definition of “Building”

The following zoning regulations do not work as intended when there are two or more abutting buildings on a single zoning lot. The proposed change in the definition of “building” allows these rules to work as intended, so that the rules apply to structurally separate buildings instead of collectively to all abutting buildings on a zoning lot.

Location of Uses

Commercial uses are only permitted below the lowest residential use in the building (Section 32-42). This regulation was intended to prevent conflicts between residential and commercial uses in the same building. In accordance with the current definition of “building,” where two buildings are adjacent on a single zoning lot, a commercial use located on an upper floor in one building could prevent the creation of residences on stories next to and below that floor in the adjacent building. The new definition of “building” will clarify that separate abutting buildings on the same zoning lot have no effect upon each other regarding location of residential uses above commercial uses. This amendment is considered a clarification, as it is consistent with current practice at the Department of Buildings.

Sliver Rule

The Sliver Rule (Sections 23-692 and 33-492) was intended to prevent narrow buildings that are taller than adjacent buildings. The Sliver Rule contains an exemption for Quality Housing buildings wider than 45 feet at the maximum base height. In accordance with the current definition of “building,” a narrow Quality Housing building that abuts an existing building on the same zoning lot may include the width of the adjacent building at the maximum base height to qualify for the exemption from the Sliver Rule and thus may add narrow stories above the base, contrary to intent. As a result of the amended definition of “building,” the Sliver Rule will apply to each building separately. Therefore, narrow Quality Housing buildings will no longer be exempt from the Sliver Rule.

Dormer Rule

The Dormer Rule (Sections 23-621(c) and 35-24 (a)) was intended to allow modest projections above the maximum base height to encourage building articulation. Currently, dormers are calculated based on a permitted percentage of the width of a building. Because of the current definition of building, the width of a building includes the width of adjacent buildings on the same zoning lot, consequently allowing larger than intended portions of buildings to project above the maximum base height. The proposed definition of building will ensure that dormers are appropriately related to the width of each building.

Recess Rules

Recess Rules (Sections 23-633(a) and 35-24(b)) are intended to allow street wall articulation in building façades while maintaining street wall continuity. Recesses are calculated based on a permitted percentage of the width of a street wall. Because the width of a street wall includes abutting buildings on the same zoning lot, a new building may be entirely recessed, resulting in no street wall articulation and a lack of street wall continuity. This amendment establishes that recesses will be calculated based on individual buildings. Therefore, abutting buildings on a zoning lot will no longer qualify as contributing to building width, resulting in recesses that relate in size to the width of each separate building.

Building Types – Detached, Semi-detached, Attached

Currently, a “detached building” may consist of a group of row houses on a zoning lot that has two side yards. The proposed definition of “building” will identify each row house as a separate building, and therefore each building is identifiable as an “attached” building, where the end unit is currently considered semi-detached. The definition of “attached building” has been modified to include the end unit in a row of attached buildings. The definition of “semi-detached building” has been modified to explicitly state that it may abut only one other building, other than an “attached building,” so that semi-detached buildings may only come in pairs. These definitions more closely match the commonly understood use of the terms, and more closely match the intent of other regulations in the Zoning Resolution.

The change in the definition of “semi-detached building” will result in a change in the side yard requirement for a corner house that abuts an attached house in R3-2 and non-contextual R4 and R5 districts. Currently, single and two-family detached and semi-detached houses on corner lots in R1 through R5 non-contextual districts are required to provide a 20 foot side yard. The proposed text amendment redefines “semi-detached” to match the public perception of what a semi-detached house is: a pair of homes that abut one another with open space on either side. By doing so, a rowhouse on a corner lot would no longer meet the definition of “semi-detached” and would therefore only have to provide an eight foot side yard, as is currently required for attached and multi-family homes in R3-2 and non-contextual R4 and R5 districts.

New buildings will no longer be considered enlargements

The current definition of “building” allows a new building that abuts other buildings on a zoning lot to be considered an “enlargement.” With the proposed definition of “building,” every new building will be considered a “development.” Because requirements for providing waterfront public access areas and street trees are based on developments of any size and enlargements up to a certain size, some new buildings that currently would not be required to provide these amenities will be required to do so under the proposal.

Balconies and other projections

Balconies and other projections permitted as obstructions in front yards (Section 23-45(b)) in low-density contextual districts will be calculated in relation to each individual building, resulting in projections that are proportional to the size of each building.

Other Changes to Definitions

The definition of “enlargement” will be modified to specifically include accessory uses. This change is in accordance with a ruling by the Board of Standards and Appeals.

The definition of the term “residential building” will be modified in order to achieve consistency with the definitions of the existing terms “commercial building” and “community facility building.” The terms “commercial building” and “community facility building” denote a building occupied exclusively by such use. Currently, a “residential building” is a building that contains one or more residences and may or may not include other uses. The proposal will define the term “residential building” as a building that is used exclusively for residential uses. The term “building containing residences” will be used where a mix of uses is permitted, but where the term “mixed building” does not apply because of the underlying district.

The definition of “land with minor improvements” will be modified to account for inflation. The existing definition cites a \$2,000 maximum value, which has not been updated to account for inflation since 1961. The change to the definition calls for Consumer Price Index increases to be

made by DCP annually. The more restrictive provisions regarding non-conforming uses (Sections 52-32, 52-52, 52-72) will apply to more sites as a result of this amendment.

Modifications of Existing Regulations

Applicability of community facility bulk regulations

Section 24-01 (Applicability of this Chapter) will be modified so that buildings that are used partly for community facility use and partly for residential use will be governed by the residential bulk regulations for the residential portion of the building. Currently, for buildings that contain both community facility uses and residential uses, the bulk regulations for community facilities apply to all portions of the building, except where the regulations specifically refer to residential bulk regulations. With the proposed change, all residential portions of buildings will be controlled by residential bulk regulations unless specifically stated otherwise. With regard to height and setback regulations, this will mean that residential portions of buildings with community facilities in R3-2, R4 and R5 non-contextual districts will be governed by residential height and setback regulations. Currently, residential portions of buildings with community facilities in these districts are permitted to use a sky exposure plane for height and setback regulations, which can result in taller buildings.

Current interpretation of rules would allow a residential tower to penetrate a sky exposure plane in a building that contains a single community facility use in R7-2 and R8 districts (Sections 24-01 and 24-54). Since this result was not intended, the text will be amended to specify that residential portions of such buildings must be beneath a sky exposure plane or constructed as Quality Housing buildings. Community facility uses will continue to be allowed within towers that penetrate sky exposure planes.

The applicability of yard regulations for zoning lots that are occupied by both a community facility use and a residential use will be specified. Currently, community facility yard requirements apply to zoning lots containing both uses. This amendment creates a new Section 24-31 (Applicability of Yard Regulations), which states that the residential front yard

requirements and the side and rear yard requirements of the community facility chapter apply to the zoning lot.

Rules for such buildings containing both residential and community facility uses will change accordingly in terms of their permitted lot coverage, height and setback regulations, side yard setback requirements, and courts (Sections 24-11, 24-12, 24-521, 24-54, 24-551, 24-671, 62-323 and 62-324).

Rear yards in mixed buildings

The rules for rear yards in mixed buildings will be modified (Sections 35-53, 117-525 and 123-652). Currently, a 30-foot residential rear yard must be provided at the lowest level containing dwelling units. The proposed change requires a residential rear yard at the level of dwelling units that have a window facing the rear yard. This will ensure that a 30-foot rear yard is provided where it is needed to provide light and air to dwelling units.

Minimum base height rule for interim uses

A new rule will specify that in contextual districts a building may be constructed to less than the minimum base height so long as there is no subsequent development or enlargement of other buildings on the same zoning lot that exceed such minimum base heights (Sections 23-633(d) and 35-24 (e)(4)). This is necessary to ensure that for zoning lots with multiple buildings, the minimum street wall height is provided upon full development of the zoning lot.

Correction of conflicting parking requirements for Quality Housing buildings

Currently, Quality Housing buildings in R6 and R7-1 districts have a parking requirement of 50 percent. However for R6 and R7-1 districts with commercial overlays, Section 36-331 requires Quality Housing buildings to provide a greater ratio of parking spaces (60 percent in R7-1 and 70 percent in R6). This was an oversight in the original drafting of the rules for the Quality Housing program. This proposal will establish a parking requirement of 50 percent for Quality Housing buildings in commercial overlay districts mapped in R6 and R7-1 districts by referring to one set of parking regulations for all residential uses. This change preserves the original intent of the Commission.

FRESH foods bonus

Current text states that floor area can be increased up to 20,000 square feet for the provision of a FRESH food store, if the permitted floor area for non-residential uses is not more than that of residential use. This proposal will specify that only residential floor area in a mixed building may be increased for the provision of FRESH food store (Sections 63-211 and 63-212). This revision is consistent with the legislative intent of the FRESH foods text amendment.

Applicability of parking lot landscaping and maneuverability rules

The applicability of current parking lot landscaping rules (Sections 25-67 and 37-91) will be extended to include new open parking lots accessory to existing buildings where the parking lot contains 18 or more spaces or is greater than 6,000 square feet in area. Parking lot maneuverability and landscaping standards (Sections 25-623, 25-67, 36-58, 37-91, 44-47 and 44-48) will be modified to apply, as intended, to all new commercial and community facility parking lots, including new parking lots accessory to existing buildings.

Planting in the ground or in planters

In contextual districts and for Quality Housing buildings, where planting requirements apply between a street wall and a street line, the regulations will be modified to specify that plants must be provided in the ground or in planters permanently affixed to the ground (Sections 23-892 and 28-33).

Hospital signs where there are multiple buildings

The regulations regarding signs for multiple hospital buildings on a zoning lot will be clarified. The proposal will allow on zoning lots with multiple hospital buildings, each hospital building frontage to have 25 square feet of surface area for directional and identification signs (Sections 22-321 and 22-331).

R9 tower-on-a-base rules

R9 tower-on-a-base rules will be made more practical by eliminating height factors and open space ratios which conflict with street wall requirements through a new Section 23-148.

Elevators on rooftops

Elevator shafts and associated vestibules will be permitted obstructions on rooftops (Section 23-62) to permit access to rooftop recreation space in compliance with ADA requirements.

Curb cuts allowed if subdivided lot is at least 40 feet wide

Curb cuts restrictions in R4B and R5B (Section 25-631) will be modified to allow curb cuts on subdivided lots if the resulting lots are at least 40 feet wide, consistent with the intent of the recent “Residential Streetscapes” text amendment.

Unused or inaccessible floor space is considered “floor area”

The definition of “floor area” will be revised to include floor space that is unused or inaccessible. This rule currently applies to existing buildings, and will be revised to apply to all buildings.

Vesting and Damage and Destruction

The proposed modifications to the definition of “building”, if adopted, would result in changes to how buildings vest pursuant to the vesting provisions of Article I, and how buildings may be rebuilt pursuant to the damage and destruction provisions of Article V. However, the purpose of this text amendment is not to change the way vesting functions, or the ability to reconstruct a non-complying or non-conforming building. Therefore, without addressing policy issues, the status quo regarding current vesting regulations and the ability to reconstruct damaged or destroyed non-conforming or non-complying buildings will be maintained by inserting a phrase, “for the purposes of this section, abutting buildings on a single zoning lot shall be considered a single building.”

Clarifications

Tower rules will be reorganized so that it is clear when “tower-on-a-base” rules apply. Rules requiring retail continuity for developments and enlargements will be revised to specify that, when the rules apply to developments or enlargements, the rules apply to buildings or portions of buildings constructed after the date the rule became effective. Nursing home certification rules will be updated to account for the way the City processes nursing home applications. These rules

have been clarified and do not result in a substantive change to the way nursing home applications are processed or permitted.

Modifications are proposed in the following Special Purpose Districts:

Midtown District

The Midtown residential bonus for recreation space (Section 81-241) will be revised to remove a reference to obsolete room counts (consistent with Lower Manhattan methodology). The Midtown minimum street wall rule that permits low buildings as interim uses (Section 81-43) will be modified to match proposed citywide minimum base height rule for interim uses.

Forest Hills District

The Forest Hills security gates rule (Section 86-15) will be modified to apply to all buildings with new security gates.

Lower Manhattan District

Lower Manhattan lot coverage rules for buildings with more than one base height will be revised to resolve conflicts with street wall continuity requirements. (Section 91-33)

Hudson Yards District

Hudson Yards ground floor retail requirement (Section 93-14) will be modified to ensure a 50-foot depth where sidewalk widenings are required.

South Richmond District

South Richmond District regulations will be amended so that yard regulations apply to vertical enlargements (Section 107-02). Minimum lot area and lot width rules (Section 107-42) will apply differently to row houses on a single zoning lot in R3-2 districts as a result of the amended definition of “attached building.” However, this change will have no practical effect because of other bulk and parking regulations. An as-of-right exemption from front yard requirements will be eliminated (Section 107-466).

Little Italy District

Little Italy height and setback regulations (Section 109-124) will be modified to apply to enlargements. Curb cut restrictions (Section 109-352) will be modified to apply to all zoning lots, not just zoning lots with new buildings.

Grand Concourse District

The Grand Concourse District will be modified to resolve unclear parking regulations for commercial infill sites by requiring that existing parking must be replaced if a site is redeveloped (Section 122-60).

College Point District

The College Point District will be modified to require street trees for all conversions of 20 percent or more of floor area (Section 126-21).

Coney Island District

The Coney Island District will be modified to eliminate the rear yard requirement in the Coney East (amusement) subdistrict (Section 131-31). The District regulations will also be modified so that the certification for height limit modification for amusement uses will be applicable to the entire Coney East subdistrict (Section 131-42).

ENVIRONMENTAL REVIEW

This application (N 110090 ZRY) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 11DCP030Y. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 27, 2010. The application (N 110090 (A) ZRY) was

revised on December 20, 2010, and a Revised Negative Declaration was issued on January 5, 2011.

PUBLIC REVIEW

This application (N 110090 ZRY) was duly referred on September 27, 2010, to all community boards, borough presidents and borough boards in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Bronx

Community Board 1: On November 18, 2010 Community Board 1 voted unanimously in support of the application.

Community Board 7: On November 16, 2010 Community Board 7 voted unanimously in support of the application by a vote of 24 in favor with one abstention.

Community Board 9: On November 18, 2010 Community Board 9 voted unanimously in support of the application.

Community Board 10: On November 18, 2010 Community Board 10 voted unanimously in support of the application by a vote of 27 in favor.

Community Board 11: On October 21, 2010 Community Board 11 voted unanimously in support of the application with none opposed and three abstentions. The Board recommended that the definition of a “semi-detached” building not be revised.

Community Board 12: On November 18, 2010 Community Board 12 voted unanimously in support of the application by a vote of 24 in favor, none opposed, and no abstentions.

Brooklyn

Community Board 2: On November 10, 2010 Community Board 2 unanimously voted in support of the application. The Board recommended that the definition of “building” be revised to include separate heating systems, storm water systems and plumbing systems for each “building.”

Manhattan

Community Board 1: On November 23, 2010 Community Board 1 voted unanimously in support of the application by a vote of 38 in favor, none opposed, and no abstentions.

Community Board 3: On October 26, 2010 Community Board 3 voted unanimously in support of the application by a vote of 34 in favor, none opposed, and one abstention.

Community Board 4: On December 6, 2010 Community Board 4 sent a letter in support of the application. The Board recommended the following:

- a) that tax lot lines be taken into consideration when determining the bounding wall of a building;
- b) that the rules allowing for reconstruction of damaged or destroyed non-conforming and non-complying buildings be eliminated;
- c) that the definition of “residential building” be expanded to include a building in a Residence District that is used for residential and community facility use, while limiting the community facility use to a maximum percentage of floor area in order to be considered part of a “residential building”; and
- d) that the definition of “conversion” be amended to include the verb, “to convert.”

Community Board 4 also expressed concern about the proposed amendment regarding the level of residential rear yards for mixed buildings in Commercial Districts.

Community Board 5: On October 14, 2010 Community Board 5 voted unanimously in support of the zoning application by a vote of 37 in favor, none opposed, and one abstention.

Community Board 6: On November 10, 2010 Community Board 6 voted unanimously in support of the application.

Queens

Community Board 2: On November 4, 2010, Community Board 2 voted unanimously to approve the application by a vote of 34 in favor, none opposed and 3 abstentions.

Community Board 9: On November 9, 2010, Community Board 9 voted to approve the application with one member opposed.

Staten Island

Community Board 1: On November 9, 2010 Community Board 1 voted unanimously to approve the application by a vote of 27 in favor, none opposed and no abstentions.

Community Board 2: On November 17, 2010 Community Board 2 voted unanimously in support of the application by a vote of 25 in favor, none opposed and no abstentions.

Community Board 3: On October 26, 2010 Community Board 3 voted unanimously to approve the application by a vote of 28 in favor, none opposed and no abstentions.

Borough Board Review

On October 28, 2010, the Bronx Borough Board held a public hearing on the application and voted unanimously for approval.

The Brooklyn Borough Board issued a recommendation approving the application on December 7, 2010 by a vote of 23 in favor, none opposed and no abstentions with the following conditions.

- a) that side yards for an end row house on its own zoning lot in a row of attached buildings on corner lots in R3-2, R4 and R5 districts in Brooklyn be retained at 20 feet instead of reduced to 8 feet as is required for attached buildings in such districts, and that side yard rules for R5 districts in CB12 (Borough Park) in Section 23-146 be revised to require 20 feet instead of 8 feet for such end row houses;
- b) that the proposed clarification of bulk rules for zoning lots with only wide street frontage that are deeper than 100 feet be revised to specify that portions beyond 100 feet of the street line should use bulk rules for narrow streets instead of wide streets, as proposed.
- c) that in CB 17 (East Flatbush), parking for Quality Housing buildings in commercial overlay districts in R6 and R7-1 districts, and their commercial zoning district equivalents be retained at 70 percent and 60 percent of dwelling units instead of reduced to 50 percent as is required for Quality Housing buildings in R6 and R7-1 districts without commercial overlay zones; and
- d) that all accessory residential sheds in rear yards be limited in lot coverage.

On December 6, 2010, the Queens Borough Board held a public hearing on the application and voted unanimously for approval by a vote of 14 in favor, none opposed and two abstentions.

On December 1, 2010, the Staten Island Borough Board held a public hearing on the application and voted unanimously for approval.

No recommendations were received from the Manhattan Borough Board.

Borough President Review

The Brooklyn Borough President issued a letter supporting the application on December 9, 2010. The Borough President suggested that modifications be made based on the recommendations received from the Brooklyn Borough Board.

The Manhattan Borough President issued a letter supporting the application on December 14, 2010.

The Queens Borough President issued a letter supporting the application on December 15, 2010. No recommendations were received from the Bronx or Staten Island Borough Presidents.

City Planning Commission Public Hearing

On December 1, 2010 (Calendar No. 4), the City Planning Commission scheduled December 15, 2010, for a public hearing on this application (N 110090 ZRY). The hearing was duly held on December 15, 2010 (Calendar No. 17). There were five speakers in favor of the application and no speakers in opposition.

A representative of the Manhattan Borough President spoke in support of the proposal and encouraged the Department of City Planning to continue working with Community Boards after the adoption of the proposal to identify additional problems of interpretation of zoning regulations.

A representative of the Citizens Housing and Planning Council spoke in support of the proposal and asked that the Department of City Planning maintain a system of identifying and collecting additional sections of the Zoning Resolution that are identified in the future to be in need of clarification, and recommended that a system be developed to evaluate the achievements of the proposal in providing clarity and efficiency in City administrative processes.

A representative of the New York Chapter of the American Institute of Architects spoke in support of the proposal and requested that after City Council approval, the text be monitored to determine if any additional modifications are necessary to ensure that the goals of achieving clarity and certainty to practitioners, plan examiners, and community members are being met.

A representative of the Real Estate Board of New York spoke in support of the proposal and recommended that the Department monitor the implementation of the proposal with respect to unintended results and that the Department review the results of the text amendment two years after its adoption. The Real Estate Board of New York also recommended that the proposed text

not apply to buildings for which plans were filed with the Department of Buildings prior to the effective date of the text amendment, and that the effective date be set later than the date of City Council approval, in order to ease the regulatory burden on the Department of Buildings, and allow all projects filed with DOB to proceed under existing rules.

The proprietor of a business on East 33rd Street in Manhattan spoke in support of the proposal and recommended that Section 32-421 be modified to allow commercial uses on the lowest two stories of an existing building containing residences in C1 and C2 districts with R9 or R10 equivalents that is undergoing enlargement. Current regulations allow commercial uses on the lowest two stories only for buildings developed after September 17, 1970.

Waterfront Revitalization Program Consistency Review

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 10-074. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the application for the zoning text amendment (N 110090 (A) ZRY), as modified, is appropriate.

The Commission believes that the proposed text amendment would provide greater clarity for all users of the Zoning Resolution, including property owners, members of the public, the Department of Buildings, and developers and architects. The Commission believes that the proposed amendment would correctly identify as separate buildings those buildings that abut one another on a zoning lot, which will result in zoning regulations having the effect that was intended and a clearer understanding consistent with the common sense meaning of the term “building.” The Commission believes that the proposed amendment carefully distinguishes

among “developments,” which are new buildings or new open uses of land, “zoning lots,” and “buildings,” which include all buildings, whether new or existing. The Commission also believes that residential portions of buildings that also contain community facilities in Residence Districts were originally intended to be regulated by residential bulk requirements, and that the proposed text amendment restores this original intent.

The Commission has carefully considered the recommendations and comments received during the public review of the application. In response, the Commission is making two modifications to the proposed text amendment:

The text as referred contained a proposed clarification to Section 23-145 that zoning lots with only wide street frontage may calculate FAR based on the entire zoning lot and not just the portion of the lot within 100 feet of the wide street. The Brooklyn Borough Board recommended that only the portion of the lot within 100 feet of a wide street should generate the higher FAR. The Commission has modified the proposed text to limit the higher FAR to the portion of the zoning lot within 100 feet of a wide street after learning that current interpretation of this rule by the Department of Buildings has been predominantly consistent with this approach. Therefore, this modification is within the scope of the original application. The Commission has also modified Sections 23-633 and 35-24, which contain similar clarifications regarding height and setback controls, to limit more generous height and setback requirements to portions of zoning lots within 100 feet of a wide street.

In response to recommendations of Manhattan Community Board 4 that the definition of “conversion” be amended to include the verb, “to convert,” the Commission agrees and has modified the proposed amendment to Section 12-10 accordingly.

The Commission has carefully considered other recommendations made by Community Boards, Borough Boards, and Borough Presidents, and during the public hearing.

The Commission received testimony and letters in support of the proposed text amendment from the Citizens Housing and Planning Council (CHPC) and from the American Institute of

Architects (AIA) – New York Chapter. Both of these organizations recommended that the Department maintain a system of collecting information about unintended consequences of the proposed text amendments, and the need for the resolution of additional ambiguities that are discovered after the adoption of the proposed amendments. CHPC also recommended that the Department develop a method of evaluating the achievements of the proposal in terms of greater efficiency in the administration of zoning compliance review. The Commission agrees with these recommendations and encourages staff within the Department to establish such systems and methods.

The Commission received testimony from the Real Estate Board of New York (REBNY) in support of the proposed text amendment, which recommended that the proposed text not apply to buildings for which plans were filed with the Department of Buildings prior to the effective date of the text amendment, and that the effective date be set later than the date of City Council approval, in order to ease the regulatory burden on the Department of Buildings, and allow all projects filed with DOB to proceed under existing rules. The Commission shares the concern that this text amendment, because of its size and scope, will place a regulatory burden on the Department of Buildings. The Commission does not believe, however, that all projects filed with the Department of Buildings should proceed under existing rules, and believes that simply delaying the effective date of the text amendment will merely postpone the regulatory burden on the Department of Buildings, while allowing many inappropriate projects to proceed. Independently of and prior to receiving this proposal from REBNY, staff had consulted with the Department of Buildings regarding their ability to enforce the new zoning regulations on a city-wide scale on the day of adoption. As a result, staff has recommended that the text be modified to include an extension of time to complete construction for alterations and enlargements as described below under the heading: “Further Modifications to the Proposed Text Amendment.”

In response to the recommendation of the proprietor of a business on East 33rd Street in Manhattan to amend Section 32-421 to allow commercial uses on the lowest two stories of a building containing residences in C1 and C2 districts with R9 or R10 equivalents not only for buildings developed after September 17, 1970, but also for buildings enlarged after that date, the Commission notes that this would be a substantive change, which has not been analyzed in the

environmental review of the proposed amendments and is therefore beyond the scope of this application.

The Commission received comments from the Brooklyn Borough President and the Brooklyn Borough Board recommending that side yard requirements for an end row house on the corner of a block, on its own zoning lot and abutting an attached building in R3-2 and non-contextual R4 and R5 districts in Brooklyn be retained at 20 feet instead of reduced to 8 feet as is required for attached buildings in such districts, and that, similarly, side yard rules for R5 districts in CB12 (Borough Park) in Section 23-146 be revised to require 20 feet instead of 8 feet for such end row houses on corner lots. The Commission believes that the intent of 23-461 (b), which applied to one- and two-family semi-detached houses, was to maintain the fabric of neighborhoods characterized by semi-detached houses that abut other semi-detached houses. However, the amendment inadvertently also applied to a corner house that abuts an attached house, which today is technically considered “semi-detached”. The proposed text amendment redefines “semi-detached” to match the public perception of what a semi-detached house is. The eight foot side yard requirement for attached and multi-family buildings in R3-2 and non-contextual R4 and R5 districts is therefore appropriate for corner rowhouses in these districts.

The Commission received comments from the Brooklyn Borough President and the Brooklyn Borough Board recommending that in Community District 17 (East Flatbush), parking for Quality Housing buildings in commercial overlay districts in R6 and R7-1 districts, and their commercial zoning district equivalents be retained at 70 percent and 60 percent of dwelling units instead of reduced to 50 percent as is required for Quality Housing buildings in R6 and R7-1 districts without Commercial overlay zones. The Commission believes that the intent of the parking requirements for optional Quality Housing buildings was to treat such buildings in Commercial overlay districts the same as in Residence districts. The proposed application corrects a long-standing mismatch in parking requirements and it would not be appropriate to assign a parking ratio to Community District 17 in Brooklyn that was never originally intended.

In response to the comments received from the Brooklyn Borough President and the Brooklyn Borough Board recommending that the lot coverage of sheds that are accessory to residential

uses where such shed are allowed as permitted obstructions in rear yards be limited in lot coverage, the Commission noted that such modifications would be beyond the scope of this application.

In response to comments received from Bronx Community Board 11 requesting that the definition of “semi-detached” not be amended, the Commission believes that the proposed definition of “semi-detached” will provide benefits of clarity and predictability and will not result in any detrimental effects. The proposed definition will bring the zoning definition of “semi-detached” into agreement with a common understanding of the term, which applies to a residence that shares one wall with another residence, with both residences providing side yards. The current definition describes a “semi-detached” building as one that shares a party wall on one side and provides a side yard on the other. The effect of this definition is that it applies to the end unit of a row of attached houses where the end unit provides a side yard, and the Commission does not believe this was the intent. Therefore, the proposed definition, which requires that a “semi-detached” building can only be attached to another semi-detached building, resolves this problem and brings the definition into agreement with a common understanding of the term.

In response to recommendations of Brooklyn Community Board 2 to modify the definition of “building” to require each building to have separate heating systems, storm water systems and plumbing systems for each “building, the Commission notes that the proposed definition is consistent with the way the Building Code distinguishes one building from another, and additional requirements would both restrict potential design and operational efficiencies and result in a zoning definition of “building” that is different than a Building Code definition of “building.”

The Commission received comments from Manhattan Community Board 4 noting that the proposed definition of “fire wall” anticipates that there are some older buildings that were constructed prior to the establishment of standards for fire walls, and that in such situations, questions about the location of a wall dividing one building from another will be determined by the Commissioner of Buildings. The Board was concerned that this could be a cumbersome

process, and recommends that tax lot lines be used as a determinant of what divides one building from another. The Commission recognizes the value of efficient processing of building permits, but does not find that tax lot lines are a reliable method of distinguishing one building from another given that they may change without regard to the location of structures, and that in some cases one building can include multiple tax lots, as in the case of condominiums, and vertical tax lots which describe parcels above a lower limiting plane.

In response to recommendations of Manhattan Community Board 4 that the provisions allowing for the reconstruction of damaged or destroyed buildings that are non-complying or non-conforming be eliminated, the Commission notes that these rules have been a part of the current zoning framework of New York City since December 15, 1961, and more generally since 1916. Such modification, which has not been analyzed, is therefore beyond the scope of the application. Manhattan Community Board 4 also expressed concern regarding a new phrase that maintains the status quo for the way the damage and destruction rules are interpreted, despite the fact that the definition of “building” will change. This phrase states that, “for the purposes of this section, abutting buildings on a single zoning lot shall be considered a single building.” This phrase was necessary because in many cases, reconstruction to former non-complying bulk is only allowed if less than 75 percent of a “building” is destroyed. Currently, abutting buildings on a single zoning lot are considered one “building,” which could significantly affect the calculation of the total size of a “building.” The Commission notes that the purpose of this text amendment was not to change a property owner’s ability to reconstruct a non-complying or non-conforming building. Moreover, to change the way these rules function would require careful and detailed study, and would be beyond the scope of the proposal. Therefore, without addressing policy issues, the way current regulations regarding damage and destruction of non-conforming or non-complying buildings are enforced would be maintained by the proposed text amendment.

The Commission received comments from Manhattan Community Board 4 recommending that the proposed definition of “residential building” be modified to include a building in a Residence District that is used for residential and community facility use, while limiting the community facility use to a maximum percentage of floor area in order to be considered part of a “residential

building.” The Commission notes that the proposed modification would result in greater regulatory complexity without providing any real benefits to neighborhoods that are primarily residential. The proposed definition of “residential building,” as a building that is entirely residential, is consistent with existing definitions of “commercial building” and “community facility building,” which are buildings used only for such uses. In response to the Community Board’s concerns about the residential character of their neighborhoods, the Commission believes that the proposed definition of “residential building” will not alter the residential character of any neighborhood.

In response to concerns raised by Manhattan Community Board 4 regarding the proposed amendment to the level of the residential rear yard for mixed buildings in Commercial Districts, the Commission notes that in Commercial Districts currently, a property that is purely residential may be located next to a property that is purely commercial, resulting in a 23-foot high commercial structure next to a residential rear yard. Commercial buildings may build a structure to the rear lot line up to a height of 23 feet, above which the 20-foot commercial rear yard must be provided. The proposal does not alter the ability to construct a 23-foot high permitted obstruction in a rear yard in Commercial districts. The proposed amendment does allow dwelling units to be located on the lower floors on the front of a building without adversely affecting the commercial uses of the rear yard.

Further Modifications to the Proposed Text Amendment

In addition to comments received from the public, the Commission was notified of the need to modify several sections of the proposed text amendment by the Department of City Planning. These modifications include a one-year extension of time for enlargements or alterations that would not be in compliance with the proposal to complete work, various technical clarifications, corrections, and amendments necessary to account for other text amendments that have been adopted since the proposal was referred for public review.

Because of the size and scope of the proposed text amendment, the Commission notes the need for a fair and practical plan to ease the regulatory burden on the Department of Buildings while ensuring that new projects comply with the proposed text. The Commission has modified the text

to allow alterations and enlargements to have an additional year, from date of City Council adoption, to complete construction in accordance with regulations in effect prior to the adoption of this amendment.

Regarding Residence Districts, the Commission has made the following modifications. Sections 22-321 and 22-331 were modified to clarify that for zoning lots with more than one hospital building on the same street, 25 square feet of signage will be allowed for each building. Section 23-44 was modified to clarify that steps that access cellars are permitted obstructions in yards. Section 23-62 was modified to clarify that the limitation on surface area and width of permitted obstructions on rooftops does not apply to portions of elevator shafts providing access to rooftops and to associated vestibules limited to 60 square feet. Section 23-461 was modified to clarify special side yard rules currently found in a footnote, which would be moved to a new paragraph with three new diagrams to clarify their application.

Regarding floor area, the Commission has modified the proposed text to correct an error in Section 12-10 (Definitions) regarding floor area in attics, and to clarify in Sections 25-80, 25-85, 36-70 and 36-75 that the floor area exemption for bicycle parking applies to existing buildings to the extent that bicycle parking would have been required if the building were new. Regarding the bonus floor area for the provision of a FRESH food store pursuant to Sections 63-211 and 63-212, the Commission has modified the proposed text to clarify that the residential floor area bonus is applicable to all mixed buildings in commercial districts, and also to clarify that for Inclusionary Housing purposes, the amount of low income housing need not exceed 20 percent of the total floor area in the building, exclusive of ground floor retail and bonus residential floor area received for providing a FRESH food store.

Regarding parking, the Commission has modified the proposed text of Section 36-312 to clarify that residential parking is not required for conversions of buildings in certain high density commercial districts (C4-4, C4-5, C4-6, C4-7, C5 and C6 Districts), and to clarify that, in Section 13-31, public parking garages are allowed as-of-right in an area of Long Island City described in that section.

Regarding tower-on-a-base buildings, the Commission has modified the proposed text of Section 23-651, paragraph (a)(3) to clarify that the rule requiring at least 55 percent of the total floor area to be below a height of 150 feet applies to the zoning lot and not to individual buildings.

Regarding a six-month extension of time to allow penthouses subject to the “sliver rule” of Section 23-692 constructed in accordance with a valid building permit an additional six months after adoption of text to legalize through a zoning lot merger, the Commission has modified the proposed text to clarify how to determine the completion of such enlargements and other minor modifications.

In the Special Purpose Districts, the Commission has modified the proposed text to clarify that in the Lower Manhattan Special District, pedestrian circulation space is not required on Type 1 through Type 5 streets, and in the Little Italy Special District, in Area C, underlying FAR rules do not apply. Instead, FAR is controlled by height limits and lot coverage in Area C.

In order to integrate the proposed text amendment with recently adopted text amendments, including car sharing, Tribeca, and Hudson Yards amendments, the Commission has modified the proposed text. And the Commission has modified a number of sections in the proposed text amendment to correct cross-references, grammar, and improve paragraph structure.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this

report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

VIEW THE TEXT AS ADOPTED BY THE CITY PLANNING COMMISSION

The above resolution (N110090(A)ZRY), duly adopted by the City Planning Commission on January 5, 2011 (Calendar No. 28), is filed with the Office of the Speaker, City Council, and the Borough Presidents in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair

KENNETH J. KNUCKLES, ESQ., Vice Chairman

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,

ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,

RICHARD W. EADDY, ANNA HAYES LEVIN, SHIRLEY A. MCRAE,

KAREN A. PHILLIPS, Commissioners



THE CITY OF NEW YORK
 MANHATTAN COMMUNITY BOARD NO. 3
 59 East 4TH Street - New York, N.Y. 10003
 Phone: (212) 533-5300 - Fax: (212) 533-3659
 www.cb3manhattan.org - info@cb3manhattan.org

Dominic Pisciotta, Board Chair

Susan Stetzer, District Manager

October 28, 2010

RCVD 10/28/10

Hon. Amanda M. Burden, Chair
 City Planning Commission
 22 Reade Street
 New York, NY 10007

Duplicate

Re: N 110090 ZRY
 Key Terms Clarification Text Amendment

Dear Chair Burden:

At its October 2010 monthly meeting, Community Board #3 passed the following motion:

That Community Board #3 approves the ULURP # N110090ZRY zoning text amendments to clarify the intent of the zoning regulations in relations to the terms "Development" vs. "Building" in the New York City's building code.

If you have any questions, please do not hesitate to call.

Sincerely,

Dominic Pisciotta

Dominic Pisciotta, Chair
 Community Board #3

David McWater

David McWater, Chair
 Land Use, Zoning, Public & Private Housing Committee

cc: Arthur Huh, DCP
 Nicole Campo, DCP
 Lorna Edwards, DCP
 Manhattan Borough President Scott Stringer
 Council Member Rosie Mendez
 Council Member Margaret Chin



CITY OF NEW YORK
Community Board No. 2

350 JAY STREET - 8TH FL.
BROOKLYN, N.Y. 11201

(718) 596-5410 FAX (718) 852-1461
cb2k@nyc.rr.com

MARTY MARKOWITZ
Borough President

JOHN DEW
Chairperson
ROBERT PERRIS
District Manager

November 22, 2010

OFFICE OF THE
CHAIRPERSON

NOV 24 2010
22 313

Amanda M. Burden, FAICP
Chair, City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chair Burden:

Brooklyn Community Board 2 has reviewed and made a determination on an application (N 110090 ZRY) by the Department of City Planning to amend the definitions of "development" and "building" in the New York City Zoning Resolution.

On October 20, 2010, the Land Use Committee of Community Board 2 voted five in favor, none opposed, one abstention (5-0-1) to recommend the City Planning Commission approve the "Key Terms Text Amendment," with the condition that it further revise the definition of "building" to require inclusion of not just fire walls and other "life support systems," but also heating, plumbing and storm water systems.

The community board voted 30 in favor, none opposed, three abstentions (30-0-3) at it November 10, 2010 general meeting to ratify this recommendation.

Thank you for the opportunity to comment.

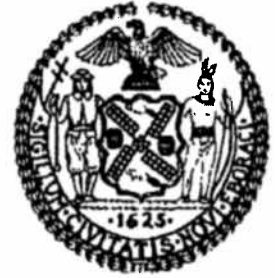
Sincerely,


John Dew

cc: Hon. Marty Markowitz
Brooklyn Borough President
Hon. Stephen Levin
Hon. Letitia James
New York City Council
Purnima Kapur, Brooklyn Borough Director
Department of City Planning



COMMUNITY BOARD #11, BRONX
1741 COLDEN AVENUE
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COMMUNITY BOARD WEBSITE
www.bronxmall.com/commboards/cd11.html



Dominic Castore
Chairman

Ruben Diaz, Jr.
Borough President

John A. Fratta
District Manager

COMMITTEES

Bronx Park
 East/Olinville

November 1, 2010

Community
 Development and Budget
 Priorities

Carol Samol
 Bronx Borough Director
 Department of City Planning
 One Fordham Plaza
 Bronx, New York 10458

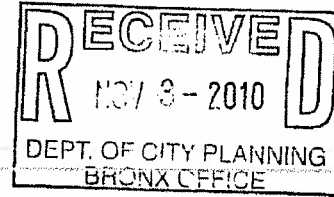
Education/Youth

Indian
 Village/Westchester Hgts

Land Use

Morris Park/Van Nest/
 Pelham Parkway

Pelham Gardens



RE: ULURP NO. 110090ZRY

Dear Ms. Samol:

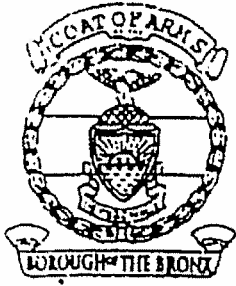
Community Board 11 in the Bronx reviewed the application by the Department of City Planning's Zoning Text Amendment regarding 'Key Terms Clarification'. We support the zoning text amendment except for the semi-attached house change.

The full board debated this issue at our meeting on October 21, 2010 and voted to support the zoning text amendment, leaving out the "semi attached house" definition. This vote passed with three abstentions and one member present and not entitled to vote.

Sincerely,

John A. Fratta
 District Manager

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Dominic Castore
Chairman

Ruben Diaz, Jr.
Borough President

John A. Fratta
District Manager

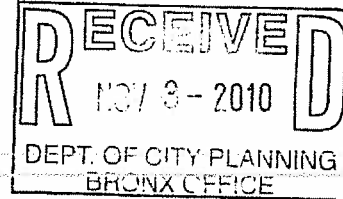
COMMITTEES

Bronx Park
 East/Olinville

November 1, 2010

Community
 Development and Budget
 Priorities

Carol Samol
 Bronx Borough Director
 Department of City Planning
 One Fordham Plaza
 Bronx, New York 10458



Education/Youth

Indian
 Village/Westchester Hgts

Land Use

RE: ULURP NO. 110090ZRY

Morris Park/Van Nest/
 Pelham Parkway

Dear Ms. Samol:

Pelham Gardens

Community Board 11 in the Bronx reviewed the application by the Department of City Planning's Zoning Text Amendment regarding "Key Terms Clarification". We support the zoning text amendment except for the semi-attached house change.

The full board debated this issue at our meeting on October 21, 2010 and voted to support the zoning text amendment, leaving out the "semi attached house" definition. This vote passed with three abstentions and one member present and not entitled to vote.

Sincerely,

John A. Fratta
 District Manager



BRONX COMMUNITY BOARD NO. 10

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Website: www.nyc.gov/bronxcb10



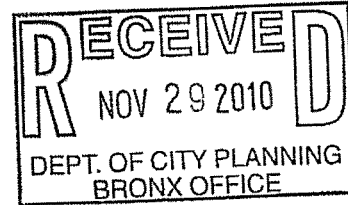
John Marano
Chairperson

Kenneth Kearns
District Manager

Ruben Diaz, Jr.
Borough President

November 26, 2010

Ms. Carol Samol, Bronx Borough Commissioner
New York City Department of City Planning
1 Fordham Plaza
Bronx, New York 10458



RE: N110090ZRY ✓

Key Terms Clarification Text Amendment

Dear Ms. Samol:

At its general meeting on November 18, 2010, Bronx Community Board #10 approved the key terms Clarification Text Amendment, with the following Resolution:

“Resolved... at the recommendation of the Housing and Zoning Committee to accept the changes in the Zoning Resolution as presented by the Department of City Planning’s Key Terms Clarification Text Amendment, and bring it to a vote before the full Board.”

The vote was 27 in favor. This was a unanimous vote.

Thank you for your attention and consideration in this matter.

Sincerely,

Kenneth Kearns
District Manager

- C: J. Marano, Chairman
- P. Sullivan, Chair, Housing and Zoning Committee
- J. Horstman, Department of City Planning
- R. Singer, Department of City Planning

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MANHATTAN COMMUNITY BOARD SIX

866 United Nations Plaza – Ste. 308, New York, NY 10017

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Toni Carlina
District Manager

Mark Thompson
Chair

Ellen Imbimbo
First Vice Chair

Charles Buchwald
Second Vice Chair

Claude L. Winfield
Vice Chair

Letty Simon
Vice Chair

Sandro Sherrod
Vice Chair

Beatrice Disman
Treasurer

Aaron Humphrey
Secretary

VIA E-MAIL: twargo@planning.nyc.gov

November 17, 2010

Thomas Wargo
Director, Zoning Division
Department of City Planning
22 Reade Street
New York, NY 10007

12/6/10 ✓
N 110090 ZRY

RE: DCP Key Terms Clarification Text Amendment; to clarify and preserve the intent of the zoning regulation in relation to the terms: development and building.

Dear Mr. Wargo:

At the November 10th, Full Board meeting of Community Board 6 the following resolution was adopted:

WHEREAS, The Department of City Planning proposes a Zoning Text Amendment to address questions with regard to the intent of the Zoning Resolution's definition and usage of two key terms – development and building; and

WHEREAS, The Department of City Planning's review was comprehensive and requires amending a large portion of the Zoning Resolution Text; and

WHEREAS, CB6 commends the Department of City Planning for their thorough and inclusive review process; now

THEREFORE, BE IT

RESOLVED, CB6 supports the proposed Zoning Text Amendment.

VOTE: 38 in Favor 0 Opposed 0 Abstention 0 Not Entitled

Yours truly,

Toni Carlina
Toni Carlina
District Manager

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COMMUNITY BOARD NUMBER 9

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BRONX, NEW YORK 10473

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RUBEN DIAZ JR.
BRONX BOROUGH PRESIDENT

ENRIQUE VEGA
CHAIRMAN

FRANCISCO M. GONZALEZ
DISTRICT MANAGER

SERVING

November 26, 2010

BRONX RIVER

CASTLE HILL

CLASON POINT

HARDING PARK

PARKCHESTER

PARK STRATTON

**SOUNDVIEW/
BRUCKNER**

UNIONPORT

Ms. Carol Samol Director,
Office of Bronx City Planning
New York City Department of City Planning
1 Fordham Plaza, 5th Floor Room 502
Bronx, NY 10405

110090 ✓

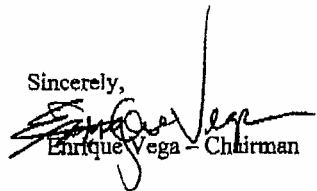
Dear Ms. Samol:

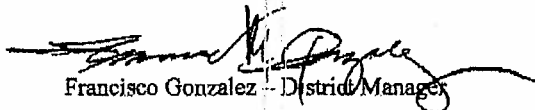
Pursuant to a unanimous vote at the Community Board 9 monthly board meeting held on November 18, 2010; the Board supports the proposed Text Amendment which seeks to clarify the definition of "Development" and "Buildings".

Community Board meeting agrees that there is a need for clarification in zoning text amendments and therefore, look forward to the efforts being made by the New York City Department of City Planning.

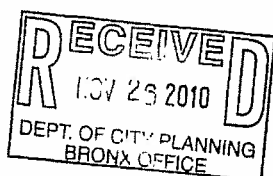
Please do not hesitate to contact Community Board 9 with any questions or concerns that you may have regarding these issues.

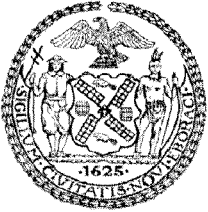
Sincerely,


Enrique Vega - Chairman

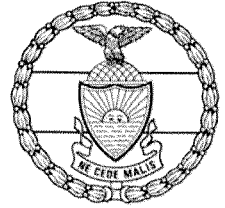

Francisco Gonzalez - District Manager

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THE CITY OF NEW YORK
BOROUGH OF THE BRONX
COMMUNITY BOARD 7



PAUL FOSTER, CHAIRMAN

FERNANDO P. TIRADO, DISTRICT MANAGER

November 17, 2010

Carol Samol, Director
NYC Dept. of City Planning, Bronx Office
One Fordham Plaza, 5th Floor
Bronx, NY 10458

N 1100902RY

Re: Letter of support for the proposed Key Terms Clarification Text Amendment

Dear Ms. Samol:

This letter is being sent to you on the behalf of the Board, who voted at the General Board meeting on Tuesday, November 16th to send this letter of support for the aforementioned citywide amendment as presented. The Board also wishes to extend its thanks to your office and staff who presented the proposal at the General and Land Use Committee meetings.

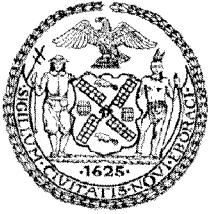
If you have any questions, please feel free to contact me at the office directly. Thank you.

Sincerely,

Fernando P. Tirado
District Manager

cc: Ozzie Brown, Land Use Committee Chair, BxCB7

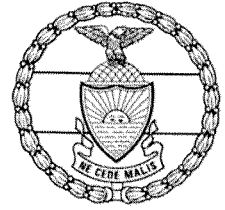
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THE CITY OF NEW YORK

BOROUGH OF THE BRONX

COMMUNITY BOARD 7



PAUL FOSTER, CHAIRMAN

FERNANDO P. TIRADO, DISTRICT MANAGER

WHEREAS, To preserve existing low density character in the residential areas of Bedford Park and Norwood, it is necessary to institute zoning changes for the purposes of neighborhood preservation, and encourage new development to concentrate along Webster Avenue; and

WHEREAS, the Board believes that development should in the best interests of all stakeholders, with the surrounding community and its residents considered the primary stakeholders; and communities should have a voice in matters affecting the usage of land within the confines of their district that will directly impact upon their livelihood, for gain or for loss, on a long-term basis; and

WHEREAS, the Board is charged with representing the various interests in the community on all issues regarding land use issues within the district; and the Board has demonstrated due diligence in considering the needs and concerns of these interests throughout its role in the ULURP process;

NOW, THEREFORE BE IT RESOLVED, at the General Board meeting held on Tuesday, November 16, 2010 that Bronx Community Board 7 recommended approval of the aforementioned ULURP applications.

BE IT FURTHER RESOLVED, that Bronx Community Board 7 further recommends that a study be conducted in the areas east of the Grand Concourse, along East Mosholu Parkway South, including the blocks of East 202nd and East 203rd Streets between Briggs Avenue and Valentine Avenue. These areas of Bedford Park need to be similarly down-zoned in order to preserve the characteristics of the neighborhood and be consistent with the proposed zoning along East Mosholu Parkway North as part of a future 197c proposal.

BRONX CB7 VOTE RECORD (25 of 36 members present, quorum established)

1. Applications #110085ZMX and #N110086ZRX – Rezoning of Webster Avenue and portions of the neighborhoods of Bedford Park and Norwood and support for Inclusionary Housing in designated areas along Webster Avenue.
2. 25 in favor, 0 opposed, and 0 abstention(s)
3. In Favor – Mohammed S. Ali, Frank Benitez, Ischia Bravo, Ozzie Brown, Monique Casablanca*, Nelson Cruz, Sandra Erickson, Paul Foster*, William Francis, John Franco, Lowell Green, Helene Hartman-Kutnowsky, Joyce Hernandez-Lopez, Ezequiel Jiménez, Andrew Laiosa, Joseph Lee, Hector Lopez, Eleanor Lundeen, Yvette Page, Dilletta Pina, Charlesetta Rhett, Khadijaha Saeed, Jay Shuffield*, Dawn Stan*, Barbara Stronczer
4. Opposed – (N/A)
5. Abstention – (N/A)

Asterisk (*) indicates a board member who owns property in the proposed rezoning area and are required to publicly disclose prior to voting as per COIB rules.ba



**BOROUGH OF STATEN ISLAND
COMMUNITY BOARD 3**

655-218 Rossville Avenue, Staten Island, N.Y. 10309

Telephone: (718) 356-7900 Fax (718) 966-9013

Website: www.nyc.gov/sicb3

November 1, 2010

City Planning Commission
Calendar Information Office
22 Reade Street, Room 2E
New York, N.Y. 10007

Re: Key Terms Clarification Text Amendment
N110090ZRY

To Whom It May Concern:

Community Board #3 approves the proposal by the Department of City Planning for a text amendment to the Zoning Resolution to clarify the intent of the zoning regulations in relation to the terms "development" and "building".

Community Board #3 voted unanimously in favor (28-0-0) for the proposed text amendment at the General Board Meeting held on October 26, 2010.

Thank you for providing the details of this amendment for the Community Board to review and the opportunity to comment on this proposal.

Thomas Barlotta
Thomas Barlotta
Chairman Land Use Committee

Sincerely,
Frank Morano
Frank Morano
Chairman of the Board

CITY PLANNING COMMISSION
2010 NOV - 8 PM 4:18
DEPT OF CITY PLANNING

TB:FM:pp

cc: Borough President James P. Molinaro
Robert Englert, Land Use Director - Borough President's Office
Councilman Vincent Ignizio

Docket No. 907671

456



NOV 17 2010 9:29 AM

THE CITY OF NEW YORK ADMINISTRATION
Community Board Two
BOROUGH OF STATEN ISLAND

460 BRIELLE AVENUE
STATEN ISLAND, NEW YORK 10314
718-317-3235
FAX: 718-317-3251

DANA T. MAGEE
CHAIR

DEBRA A. DERRICO
DISTRICT MANAGER

November 17, 2010

Mr. Thomas Wargo
Director, Zoning Division
City Planning Commission
Calendar Information Office
22 Reade Street, Room 3E
New York, New York 10007

Dear Mr. Wargo:

On Tuesday, November 17, 2010 Community Board Two voted unanimously to support New York City Department of City Planning Application N110090ZRY, Key Terms Clarification Text Amendment, a proposed citywide text amendment of the Zoning Resolution to clarify the meaning and usage of the key terms "development" and "building."

If you have any questions or require additional information, please call.

Very truly yours,

Dana T. Magee
Chairman
Community Board Two

Frank Marchiano
Chairman
Land Use Committee

Copy to: Hon. James P. Molinaro
Hon. James Oddo
Hon. Vincent Ignizio
Hon. Debi Rose
Robert Englert
Jason Razefsky
Len Garcia-Duran, DCP
James Miraglia, DCP
Jacquelyn Harris, DCP
Nicole Campo, DCP
Board of Standards & Appeals

457

City of New York

1 Edgewater Plaza, Suite 217 • Staten Island, New York 10305

Tel: 718-981-6900

Fax: 718-720-1342

Community Board No. 1

November 15, 2010

Mr. Leonard Garcia-Duran, Director
Department of City Planning
130 Stuyvesant Place, 6th Floor
Staten Island, New York 10301

718-556-7305

Re: N 110090 ZRY ✓
Key Terms Clarification Text Amendment

Dear Mr. Garcia-Duran:

On November 9, 2010 Community Board #1 unanimously approved the above referenced Text Amendment.

If you need any further information or have any questions, please do not hesitate to call or e-mail.

As always, thank you for your concern for and interest in our community.

Very truly yours,

Leticia Remauro
Leticia Remauro
Chairwoman

Vincent Accornero
Vincent Accornero
Land Use Chairman

LR:lc

456

CITY PLANNING DEPT. - SIDI
2010 NOV 16 PM 3:49
DEPT OF CITY PLANNING



COMMUNITY BOARD NO.9

Queens Borough Hall

120-55 Queens Boulevard, Room 310-A
Kew Gardens, NY 11424

(718) 286-2686

Fax (718) 286-2685

Meeting Hotline (718) 286-2689

Email communitybd9@nyc.rr.com

Ivan Mrakovic, Chairperson * Mary Ann Carey, District Manager * Helen Marshall, Borough President

December 2, 2010

Mr. Thomas C. Wargo, Director
Department of City Planning
22 Reade Street, 2E
New York, NY 10007

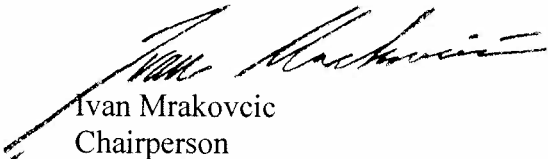
Dear Mr. Wargo:

RE: N 110090 ZRY ✓
Key Terms Clarification Text Amendment

At its November 9, 2010 meeting this board voted to support the NYC Department of City Planning's Key Terms Clarification Text Amendment.

If there are any questions kindly contact me at the above telephone number.

Sincerely,


Ivan Mrakovic
Chairperson

449

CITY PLANNING COMM. SEC.
2010 DEC - 6 PM 5:35
DEPT OF CITY PLANNING



COMMUNITY BOARD # 4Q

Serving: Corona, Corona Heights and Elmhurst

46-11 104th Street

Corona, New York 11368-2882

Telephone: 718-760-3141 Fax: 718-760-5971

e-mail: cb4q@nyc.rr.com

Helen Marshall
Borough President

Barry Grodenchik
Deputy Borough President
Director of Community Boards

Anthony R. Moreno
Chairperson

Richard Italiano
District Manager

N110090 ZRY

November 18, 2010

Yvette Gruel
Department of City Planning
Calendar Office
22 Reade Street Room 2E
New York, NY 10007

Re: Key Terms Text Amendment

Dear Y. Gruel,

After a presentation by Edgar Banjana from the Queens City Planning office, the Zoning and Land Use committee of CB #4Q unanimously approved the Key Term Text Amendments.

The proposed Key Terms Text Amendment is a clear and over due amendment. The amendment will help property owners and the Department of Buildings by providing clear and understandable meanings of what can be built in our neighborhoods.

Sincerely,

Richard Italiano
District Manager, CB #4Q

444

CITY PLANNING COMMISSION
2010 NOV 22 PM 2:48
DEPT. OF CITY PLANNING



Community Board No. 2

43-22 50th Street, 2nd Floor

Woodside, New York 11377

(718) 533-8773

Fax (718) 533-8777

Email QN02@CB.NYC.GOV

Websites www.QueensCB.org - www.CB2Queens.org

Joseph Conley
Chairman

Debra Markell Kleinert
District Manager

November 5, 2010

OFFICE OF THE
CHAIRPERSON

NOV 10 2010

22309

Amanda M. Burden
Director
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007

RE: Key Terms Clarification Text Amendment
N 110090 ZRY

Dear Ms. Burden:

On November 4, 2010, Community Board 2 held a public hearing on the Key Terms Clarification Text Amendment (N 110090 ZRY).

Following the public hearing, a motion was made and seconded to approve the application. The vote was 34 In Favor; 0 Opposed; 3 Abstentions with the Chairman of Community Board 2 present and not voting.

If you have any questions, please contact Community Board 2.

Sincerely,

Debra Markell Kleinert
District Manager

DMK/mag

Cc: Honorable Joseph Crowley, US Congress
Honorable Carolyn B. Maloney, US Congress
Honorable Nydia M. Velazquez, US Congress
Honorable George Onorato, NY State Senate
Honorable Michael DenDekker, NYS Assembly

442



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

CITY PLANNING COMM. SID.
2010 DEC 14 PM 12:50
DEPT OF CITY PLANNING

SCOTT M. STRINGER
BOROUGH PRESIDENT

December 14, 2010

Amanda M. Burden, FAICP, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: Key Terms Clarification Text Amendment (N 110090 ZRY)

Dear Chair Burden:

Thank you for providing the opportunity to comment on the application submitted by the Department of City Planning (“DCP”) for amendments to the New York City Zoning Resolution. The proposed text amendments generally clarify important definitions in the zoning and remove ambiguities through technical rewordings or more explicit provisions. The extensive changes proposed by DCP will apply to a wide ranging number of zoning districts throughout the city; however, I write to support the application as it more specifically applies to Manhattan. As the proposed text amendments are extensive, affecting nearly 700 pages of the zoning text, I will focus on a few of the changes found in this proposal.

The initial impetus and primary goal of the text amendments is to clarify and preserve the intent of zoning regulations as they relate to the specific terms “building” and “development.” Changes to these defined terms required a review of the entire zoning resolution in order to ensure that they are used consistently and appropriately in relation to the intent of the zoning resolution. Currently, zoning defines a building as being bounded by a zoning lot line or open space. This definition has created an unintended consequence where multiple abutting buildings can be interpreted as a single building for the purposes of zoning. The proposed amendment would modify the definition of a building to include a structure bounded by “fire walls” and having independent essential life systems. This definition will allow the term “building” in zoning to be consistent with the commonplace conception of an individual building. Of particular note, the text amendments will close a loophole that permitted new buildings or enlargements to circumvent the “Sliver Rule” by combining zoning lots. This loophole is contrary to the original intent of the zoning provision; therefore, the proposed text amendment will promote more contextual building forms.

In addition, the proposed modification to the definition of building will require new buildings that currently could be considered enlargements to provide certain public amenities. The

MUNICIPAL BUILDING • 1 CENTRE STREET, 19TH FLOOR • NEW YORK, NY 10007
PHONE (212) 669-8300 FAX (212) 669-4306
WWW.MBPO.ORG



proposed amendment to the definition of building will, in this case, increase the applicability of waterfront public access area and street tree planting requirements as was originally intended by the subject zoning provisions for new buildings. Furthermore, the proposed amendment to “development” will now only refer to a new building or a new use of open land that is not an accessory use. Finally, the amendment will reference a new section that clarifies that an alteration of a building, resulting in both the removal of more than 75 percent of floor area and more than 25 percent of the perimeter walls of said building, will be considered a development and will be required to comply with existing public amenity provisions, including street tree plantings, special use requirements for retail continuity, arts and entertainment uses, subway improvements, subway stair relocations, and street wall transparency.

As part of its extensive review of the zoning resolution, DCP also identified ambiguously worded zoning provisions that required modification. DCP proposes to clarify these provisions in order to bring them in line with the current Department of Buildings’ interpretation consistent with the original intent of the City Planning Commission or to ensure these provisions will be applied consistent with the original intent of the City Planning Commission. These proposed changes are in addition to DCP’s review of building and development within the zoning resolution.

Included in these clarification sections of the proposed text are modifications of the bulk regulations for community facilities in residential districts. Currently, community facility bulk regulations govern a building that contains both community facility and residential uses, unless the applicable provision specifically states that residential bulk regulations apply to the residential portions of that building. This is contrary to the original intent of the zoning resolution and requires clarification. Therefore, DCP is proposing a text change to specify that the residential bulk regulations should govern the residential portions of a building containing both of these uses unless otherwise specified. In addition, to ensure that the original intent of tower regulations for community facility buildings are not misapplied, the new text would explicitly state that in R7-2 and R8 zoning districts, towers may only be applied in buildings that are entirely comprised of community facility uses at every level, thereby preventing a building with a single community facility use from creating a residential tower in districts that residential towers were not intended.

I would like to thank DCP for all the hard work and thoughtful consideration it has given to this text amendment proposal. The proposed text changes are extensive. Many of the text changes address concerns expressed by communities. The text would, in particular, strengthen the existing Sliver Rule and provide neighborhoods with the protections the zoning text originally intended. The proposed text clarifications will promote more predictable development within communities. However, as with any text amendment, the application of the revised text could create unintended results. Consequently, certain proposed text changes within this proposal will likely require additional review. I look forward to working with DCP on any such potential issue that may arise from this comprehensive text review.

Through the public review process, Manhattan community boards that have chosen to comment on DCP’s proposal have expressed support for the proposed text amendment. However, several other community boards expressed concern that the referral period did not provide adequate time

to review the nearly 700 pages of text changes and consider their implications. I encourage DCP to continue its dialogue with each community board and continue its public outreach and education. As the text amendment is implemented, I also encourage DCP to reach out to the community boards in order to monitor and interpret the results of the text changes.

Sincerely,



Scott M. Stringer
Manhattan Borough President

cc: Manhattan Community Boards
Manhattan Delegation of The New York City Council
Council Member Leroy Comrie, Jr., Chairperson, Committee on Land Use

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C 110100 ZSX**
CEQR # **10HPD001X**
Community District No. 06 Borough: The Bronx
Community District No. ___ Borough: ___
Project Name: **East Tremont Apartments**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District, Borough of the Bronx, Community District 6.

Plans for this proposal are on file with the City Planning Commission and may be seen at 22 Reade Street, Room 3N, New York, NY 10007.

Applicant(s):

NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038
Phone: (212) 863-5000

Applicant's Representative:

Winifred Campbell
NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

Community Board No. 06 Borough: **The Bronx**

Borough Board
West Farms Branch Library
2085 Honeywell Avenue, Bronx, NY, 10460
Location: _____

Date of public hearing: December 8, 2010

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: Dec. 8, 2010

West Farms Branch Library
Location: 2085 Honeywell Avenue, Bronx, NY 10460

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

CITY PLANNING COMMISSION
2010 DEC 13 PM 3:04
DEPT. OF CITY PLANNING

Voting

In Favor: 11 Against: 5 Abstaining: 4

Total members appointed to the board: 28

One member was ineligible to vote on this matter.


Community/Borough Board Officer **Ivine Galarza**

District Manager

Title

December 9, 2010

Date

v.012006w

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C 110101 HAX**
CEQR # **10HPD001X**
Community District No. 06 Borough: The Bronx
Community District No. ___ Borough: ___
Project Name: **East Tremont Apartments**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation Development (HPD):

1. Pursuant to Article 16 of the General Municipal Law of New York State for:
 - a. the designation of properties located at 1157-1167 East 178th Street a.k.a. 1172 East Tremont Avenue (Site B, Block 3909, Lot 8) and 1160 Lebanon Street a.k.a. 1175 East Tremont Avenue (Site A, Block 4007, Lot 15) as an Urban Development Action Area; and
 - b. an Urban Development Action Area Project for such area; and
2. Pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

to facilitate development of three, mixed use buildings with a total of approximately 141 dwelling units.

Applicant(s):

NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038
Phone: (212) 863-5000

Applicant's Representative:

Winifred Campbell
NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

Community Board No. 06 Borough: The Bronx

Borough Board
West Farms Branch Library
2085 Honeywell Avenue, Bronx, NY 10457
Location: _____

Date of public hearing: December 8, 2010

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: Dec. 8, 2010

Location: West Farms Branch Library
2085 Honeywell Avenue, Bronx, NY 10457

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

CITY PLANNING COMMISSION
2010 DEC 13 PM 3:05
DEPT OF CITY PLANNING

Voting

In Favor: 11 Against: 5 Abstaining: 4 Total members appointed to the board: 28
One (1) member was Ineligible to vote on this item.



Community/Borough Board Officer

December 9, 2010

Date

District Manager
Title

v.012006w

* Indicates application was certified by the CPC pursuant to Section 197-C(c) of the City Charter.

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C 110103 ZSX**
CEQR # **10HPD001X**
Community District No. 06 Borough: The Bronx
Community District No. ___ Borough: ___
Project Name: **East Tremont Apartments**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1157-1167 East 178th Street a.k.a. 1172 East Tremont Avenue (Site B, Block 3909, Lot 8), in an M1-1 District, Borough of the Bronx, Community District 6.

Plans for this proposal are on file with the City Planning Commission and may be seen at 22 Reade Street, Room 3N, New York, NY 10007.

Applicant(s):

NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038
Phone: (212) 863-5000

Applicant's Representative:

Winifred Campbell
NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

Community Board No. 06 Borough: **The Bronx**

Borough Board

West Farms Branch Library

Date of public hearing: December 8, 2010

Location: 2085 Honeywell Avenue, Bronx, NY 10460

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

West Farms Branch Library

Vote adopting recommendation taken: Dec. 8, 2010

Location: 2085 Honeywell Avenue, Bronx, NY 10460

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

CITY PLANNING COMMISSION
2010 DEC 13 PM 3:04
DEPT OF CITY PLANNING

Voting

In Favor: 11 Against: 5 Abstaining: 4 Total members appointed to the board: 28
One (1) member was ineligible to vote on this matter.


Community/Borough Board Officer

District Manager

Title

December 9, 2010

v.012006w

Date

Queens Borough Board Recommendation

APPLICATION: ULURP #N110090 ZRY

Citywide

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 200 of the New York City Charter to clarify and preserve the intent of the zoning regulations.

BOROUGH BOARD MEETING

The monthly meeting of the Queens Borough Board was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Monday, December 6, 2010, at 5:30 P.M. pursuant to Section 82 of the New York City Charter. The applicant made a presentation.

CONSIDERATION

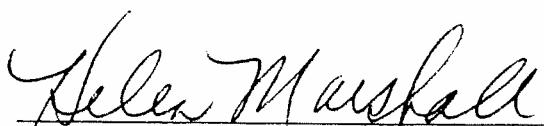
Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The Department of City Planning is proposing to revise several sections of the New York City Zoning Resolution by refining and clarifying the language and definitions of the resolution to reflect the intended regulation of the uses and bulk of buildings in the city.;
- The proposed amendments would also address ambiguities and inconsistent interpretations of the zoning resolution since many of these sections were adopted.;
- It is expected that the proposed amendments would result in a better understanding by the property owners, the general public, practitioners and the reviewing agencies of what can be developed on any given property.;
- The proposed amendments would also address current practices in the in the building industry unforeseen in 1961 when much of the language in the zoning resolution were adopted.;
- The Queens Borough Board approved this application by a vote of fourteen (14) in favor with two (2) abstentions.

RECOMMENDATION

Based on the above consideration, I hereby recommend approval of the Key Terms Clarification Text amendment.

440


PRESIDENT, BOROUGH OF QUEENS

12/15/10
DATE

DEPT OF CITY PLANNING
2010 DEC 14 PM 6:01
CITY PLANNING COMM. SEC.



MANHATTAN COMMUNITY BOARD SIX

866 United Nations Plaza – Ste. 308, New York, NY 10017

Phone: (212) 319-3750 - Fax: (212) 319-3772

E-mail: mn06@cb.nyc.gov

Web site cb6mnyc.org

Mark Thompson
Chair

Ellen Imbimbo
First Vice Chair

Charles Buchwald
Second Vice Chair

Claude L. Winfield
Vice Chair

Letty Simon
Vice Chair

Sandro Sherrod
Vice Chair

Beatrice Disman
Treasurer

Aaron Humphrey
Secretary

Toni Carlina
District Manager

VIA E-MAIL: twargo@planning.nyc.gov

November 17, 2010

Thomas Wargo
Director, Zoning Division
Department of City Planning
22 Reade Street
New York, NY 1007

12/6/10 ✓
N 110090 ZR7

RE: DCP Key Terms Clarification Text Amendment; to clarify and preserve the intent of the zoning regulation in relation to the terms: development and building.

Dear Mr. Wargo:

At the November 10th, Full Board meeting of Community Board 6 the following resolution was adopted:

WHEREAS, The Department of City Planning proposes a Zoning Text Amendment to address questions with regard to the intent of the Zoning Resolution’s definition and usage of two key terms – development and building; and

WHEREAS, The Department of City Planning’s review was comprehensive and requires amending a large portion of the Zoning Resolution Text; and

WHEREAS, CB6 commends the Department of City Planning for their thorough and inclusive review process; now

THEREFORE, BE IT

RESOLVED, CB6 supports the proposed Zoning Text Amendment.

VOTE: 38 in Favor 0 Opposed 0 Abstention 0 Not Entitled

Yours truly,

Toni Carlina
Toni Carlina
District Manager

426

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

October 15, 2010

Hon. Amanda Burden
Chair
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007

110090 ZRY ✓

RCDD 10/28/10

Re: "Key Terms" text amendment

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, October 14, 2010, the Board passed the following resolution by a vote of 37 in favor, 0 opposed, 1 abstaining:

WHEREAS, The purpose of this text amendment is to clarify and preserve the intent of the zoning regulations in relation to the terms "development" and "building," as they are defined in the Zoning Resolution; and

WHEREAS, The City Planning Department has examined each section of the Zoning Resolution which uses the terms "development" or "building" and has concluded that in order to clarify the meaning of the regulations consistent with their intent, it is necessary to amend these definitions; and

WHEREAS, Currently, vagueness in the definition of "development" means that the term can refer to either a single building, a single new or existing building or all buildings on a single zoning lot; and

WHEREAS, The new definition of "development" will only be applied to new buildings, the term "building" will mean only structure bounded by open areas or fire walls, and the term "zoning lot" will refer to all buildings on a single zoning lot; and

WHEREAS, The new text amendment will also clarify height and setback rules, retail continuity, and demolition/alterations; and

WHEREAS, The new definitions are being created to provide clarity for the property owners, the public, the Department of Buildings and developers; therefore be it

RESOLVED, That CB5 **recommends approval** of the key term text amendment from the Department of City Planning.

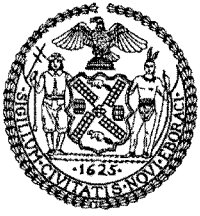
Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair

Kevin Finnegan
Chair, Land Use and Zoning Committee



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

JOHN WEIS
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

✓
12/6/10

December 6, 2010

Director Amanda M. Burden
Department of City Planning
22 Reade Street
New York, New York 10007

Re: N 110090 ZRY – Key Terms Clarification Text Amendment

Dear Director Burden:

At the recommendation of its Chelsea Preservation and Planning Committee, Manhattan Community Board No. 4 recommends approval of the Key Terms Clarification Text Amendment, N 110090 ZRY, subject to our comments below.

The core of the proposed amendment is formed by new definitions for “Building” and “Development,” their impacts distributed throughout the Zoning Resolution, and various miscellaneous changes that have been waiting patiently for a vehicle for their implementation. We applaud the Department of City Planning for their efforts and are in general agreement with the changes to the Zoning Resolution. We note, however, that the number and scope of the changes make a comprehensive review impossible for us. Accordingly, we have focused on the changes we believe will have the greatest impact on Community District 4 and offer the following comments, recommendations and reservations.

I. “Building” and Exemptions

The Zoning Resolution currently defines a “Building” as being bounded by either open area or a zoning lot line. As a result, what in common experience would be considered multiple, independent, abutting buildings on a single zoning lot are treated as a single building. The proposed amendment changes the definition of a “Building” to be bounded by open area or a fire wall, whereby abutting buildings on a single zoning lot would be considered to be independent buildings. This change affects multiple aspects of building form, including the height of sliver buildings, the size of dormers, and recesses and street wall continuity, as well as the location of residential uses in buildings abutting buildings with commercial uses on higher floors.

424

We believe that this change confirms the definition of a building to common experience and is appropriate. Our one concern is that some old row houses may have demising walls that are not fire walls as proposed to be defined. The proposed solution for cases where a demising wall may not be a fire wall is a cumbersome process involving the Commissioner of the Department of Buildings. In order to make such recourse as infrequent as possible we suggest adding the tax lot line as an additional determinant of a building's boundary.

Recognizing that this change may create unfair situations for some owners, the amendment proposes exemptions for building permits issued before the effective date of the Amendment, and for buildings that are damaged or destroyed. In each case abutting buildings on a single zoning lot could be treated as a single building for the purpose of determining what could be built or rebuilt, thus reverting to the current definition of a building.

We agree that buildings for which a building permit has been issued before the effective date of the amendment should be exempt from the changed definition. This would be fair to owners who planned and proceeded under the existing definition and should apply only to a limited number of buildings and for a limited period of time.

The case for damaged or destroyed buildings is more difficult and is likely to apply to a greater number of buildings and to last substantially longer. The principal issue is whether when a damaged or destroyed building that does not comply with the existing zoning is rebuilt, should it be constrained by existing zoning or should it be permitted to be rebuilt to its former, non-complying form. In effect, such an exemption is a variance from zoning. In principal we believe that responsible zoning developed with community participation should guide development, and that variances should be rare and should only permit minor deviations from the underlying zoning. We recognize that the proposed change in definition could have an adverse impact on the value of a building or lot, but we believe this is offset by the wider benefits conferred by complying with the zoning. We recommend that the exemption for destroyed buildings be eliminated, and that the exemption for a building damaged to the extent that its pre-existing, non-conforming FAR is significantly reduced also be eliminated

II. Residential Buildings and Uses

The proposed amendment makes two troubling changes to definitions that apply to residences or residential buildings. While we appreciate the intent of the changes and the clarity they may bring to the Zoning Resolution, we are concerned that there may be significant consequences, perhaps unintended, that erode the special protections afforded residences, residential buildings and residential districts that will adversely affect many CD4 residents.

Residence, or residential (9/9/04) (Current)

A "residence" is a #building# or part of a #building# containing #dwelling units# or #rooming units#, including one-family or two-family houses, multiple dwellings, boarding or rooming houses, or #apartment hotels#.

Residential building (Proposed)

A "residential building" is a #building# used only for a #residential use#.

Mixed building (Proposed)

A "mixed building" is a #building# in a #Commercial District# used partly for #residential use# and partly for #community facility# or #commercial use#.

- **Non-Residential Uses in Residential Districts**

CD4's housing stock is different from small scale, purely residential areas found elsewhere in the city. Although we have small areas of townhouses that would not be affected by this change, many of our residences are found in buildings that would be transformed from residential buildings in residential districts to something else, perhaps undefined, by these new definitions. For example, many residential buildings have ground floor health-related or community facilities. Under the new definition, such buildings would not be residential buildings, nor would they be mixed buildings.

The Department of City Planning believes they have successfully differentiated between a "wholly residential" building and a building that is at least partially residential – a #building# containing #residences# - on a case-by-case basis throughout the Zoning Resolution. While we respect DCP's expertise and appreciate the work that was required to write the amendment, we believe that calling a twenty two story building, located in a Residential District, with nearly 200 residential units and a single doctor office on the ground floor anything other than a "Residential building" is nonsensical and is more likely to cause problems in the long run than to solve them.

We suggest that the definition of a "Residential building" proposed by DCP be expanded to include a building in a "Residential District" used only for "residential use" and such other "uses" permitted in a "Residential District." Since community facilities can be large, it may be desirable to include a maximum percentage of floor area for non-residential use. We ask DCP to reconsider the consequences of these new definitions as they pertain to CD4 and similar areas of the city, and specifically to consider our suggested alternative.

- **Residential Uses in Non-Residential Districts**

Much of CD4's housing stock is located in commercial zones, either in commercial overlays on the avenues, or, increasingly, in purely commercial districts created during recent rezonings. Under the proposed amendment, these buildings would become "Mixed buildings." We have written before about problems caused by using commercial

zoning to create residential districts, including permitting the location of public parking garages in predominantly residential areas. Again, we appreciate the competing forces at work and do not have an ideal solution.

Another, potentially acute, problem for functionally residential buildings in commercial districts is the loss of ground floor rear yards. Currently, the required rear yard in a mixed use building may not be higher than the floor level of the lowest residential story. This means that a functionally residential building with a ground floor rear yard can find itself with multi-story, windowless walls from one or both adjacent buildings with rear yards above ground level, as well as the building opposite. The proposed amendment exacerbates this by mandating that the required rear yard be at the lowest residential story that has a window facing onto the rear yard. This eliminates any possibility that a rear yard could be placed at the level of the ground floor, lower than the lowest residential story, thus ensuring the loss of light and air for adjacent buildings. Furthermore, the addition of a requirement for a window in a dwelling unit to be facing the rear yard creates the possibility that the rear yard could be at an even higher level.

Section 35-53 Modification of Rear Yard Requirements

Current:

C1 C2 C3 C4 C5 C6

In the districts indicated, for a #residential# portion of a #mixed building#, the required #rear yard# may be provided at any level not higher than the floor level of the lowest #story# used for #residential use#.

Proposed:

C1 C2 C3 C4 C5 C6

In the districts indicated, for a #residential# portion of a #mixed building#, the required #residential rear yard# shall be provided at the floor level of the lowest #story# used for #dwelling units# or #rooming units#, where any window of such #dwelling units# or #rooming units# faces onto such #rear yard#.

III. Special Purpose Districts

Section 11-12 is particularly important to us because CD4 contains several special districts. We find the revised section confusing and wish to clarify the intent and presentation of the changes.

Currently, Section 11-12 establishes each of the residence, commercial and manufacturing districts, as well as each of the Special Districts. The proposed Amendment introduces a new Section 11-121, District names, that presents general nomenclature, a new Section 11-122, Districts established, and a new Section 11-123, Special Purpose Districts, that refers to the Special Purpose Districts listed in 11-122.

It appears that the text currently found in Section 11-12 establishing each of the districts is intended to be moved to 11-122. We wish to confirm that the text presented in the proposed Amendment as 11-122 is an abbreviated version of the text currently found in 11-12 and that the new 11-122 will establish each of the residence, commercial and manufacturing districts, as well as each of the Special Districts, as 11-12 currently does.

IV. Conversion

Finally, we note an apparent oversight in the definition of "Conversion." In order to be complete, the definition, beginning "A 'conversion' is a change of #use#..." should be followed by, "To 'convert' is to create a #conversion#." This makes the definitions of the noun and verb forms consistent with those for "Development, or to develop."

Again, we would like to commend DCP for the thoughtful work that went into the writing of the proposed amendment. We hope that the comments presented above will be considered before approval, and we look forward to working with DCP on the "reclarifications" that such an extensive amendment inevitably will require.

Sincerely,



John Weis, Chair



J. Lee Compton, Co-Chair
Chelsea Preservation and Planning

cc: NYC Council Speaker Christine Quinn
NYC Council Speaker Quinn's Office –Melanie Larocca
NYC Council Land Use Division – Danielle DeCerbo
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
MBP Scott Stringer
MBPO – Brian Cook, Deborah Morris