



## CITY PLANNING COMMISSION

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February 29, 2012 / Calendar No. 8

N 120090 ZRY

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**IN THE MATTER OF** an application submitted 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, relating to Articles I, VIII, IX, X, XI, XII and XIII and other related Sections concerning environmental requirements associated with potential hazardous material contamination or noise or air quality.

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The application for an amendment to the Zoning Resolution was filed by the Department of the City Planning on October 12, 2011 to update, streamline and clarify regulations related to the administration of the city-wide (E) designations Program.

### **BACKGROUND**

The Department of City Planning (DCP) proposes a city-wide text amendment to Section 11-15 (Environmental Requirements) and related sections of the Zoning Resolution to reorganize, update and clarify the zoning regulations governing Environmental ("E") designations. This amendment is also necessary to reflect the role of the New York City Office of Environmental Remediation (OER) as successor to the Department of Environmental Protection (DEP) for the purpose of administering the City's (E) designation Program.

(E) designations are environmental controls proposed for potential development sites by the lead agency for the City Environmental Quality Review (CEQR) as part of a zoning map amendment. They are a mechanism for the City Planning Commission (CPC) and the City to ensure that potential impacts related to hazardous materials, air quality or noise, which could result from construction generated by the adoption of a zoning map change, are addressed prior to or during development of the site.

The environmental requirements of an (E) designation with respect to hazardous materials, air quality, and/or noise are contained in the lead agency CEQR determination. A hazardous materials (E) designation may require soil testing, soil removal, and/or development of a

Construction Health and Safety Plan. (E) designations related to air quality may require the installation of non-operable windows and alternative air intakes, or the use of a specific type of boiler fuel with boiler stacks at specified heights or locations. Noise (E) designations typically require the installation of windows which are designed to reduce the transmission of noise, with a specified window-wall attenuation (e.g. 35 dBA), to maintain acceptable interior noise levels. Once an (E) designation is adopted in connection with a zoning map change, it is listed in Appendix C to the Zoning Resolution and flagged in the NYC Department of Buildings' online Buildings Information System (BIS).

With an (E) designation placed on a lot, new development and certain other construction activities requiring a NYC Department of Buildings (DOB) permit cannot proceed until OER, as successor to DEP, issues a notice certifying that: (1) no environmental work is required; (2) the required environmental work may proceed simultaneously with construction; or (3) the required environmental work has been completed. Once OER provides notice to DCP that the environmental requirements for a tax lot or all of the lots subject to an (E) designation have been fully satisfied, DCP administratively updates Appendix C to the Zoning Resolution to reflect that such lots are no longer subject to the (E) designation.

Zoning Resolution Section 11-15 was originally enacted in 1983 to establish the (E) designation process in order to address potential impacts due to noise and air quality in connection with zoning map amendments. In 1989, the text was expanded to address potential significant adverse impacts due to the presence of underground gasoline storage tanks. In 1994, Section 11-15 was amended to replace a reference to "underground gasoline storage tanks" with an expanded reference to "potential hazardous material contamination." This amendment also added the requirement that the environmental requirements associated with hazardous materials (E) designations must be addressed as a condition to building permit issuance and provided a process for the administrative removal of hazardous materials (E) designations when environmental requirements were satisfied. Further, this amendment required the promulgation by DEP of related rules (City "E" Rules) for the administration of hazardous materials (E) designations.

The zoning text together with the related rules adopted by DEP encompass what is referred to as the "E Program". In 2009, OER, within the Mayor's Office of Operations, was created by a local law amending the City Charter and Administrative Code. Among other things, this local law, referred to as the "New York City Brownfield and Community Revitalization Act," granted OER the authority to administer the rules under the E Program, as defined in Section 11-15 of the Zoning Resolution ("ZR"), acting as successor to DEP for such purpose.

The Department of City Planning has identified five significant issues with the E Program that have emerged within the past decade. The purpose of this text amendment is to address these issues and, in doing so, streamline the administration of the E Program, improve existing enforcement mechanisms, clarify Section 11-15 and remove outdated provisions. The issues and the Department's proposals are set forth below.

#### Applicability

Currently, pursuant to Section 11-15 of the Zoning Resolution, (E) designations may only be applied in connection with applications which result in a change to the zoning map. The proposed text amendment modifies Section 11-15 to broaden the types of actions that may involve an (E) designation so that (E) designations will be permitted to be used in connection with any discretionary land use action conducted pursuant to the Zoning Resolution, including special permits, authorizations and variances.

In addition, under the City's current (E) Rules, (E) designations for hazardous materials may only be placed on properties not under the ownership or control of an applicant. This results in the use of Environmental Restrictive Declarations in connection with site-specific actions such as special permits, authorizations and variances, to ensure that environmental requirements are satisfied. Environmental Restrictive Declarations are cumbersome for the City to prepare, administer and enforce, and their existence is not as easily researched by the public as (E) designations because they are not referenced in the Zoning Resolution. Therefore, in coordination with this amendment, OER is proposing amendments to the City (E) Rules that would permit the use of (E) designations with any discretionary action, consistent with the proposed text, and would allow (E) designations for hazardous materials to be placed on

properties under the ownership or control of an applicant. These changes will eliminate the need for new Environmental Restrictive Declarations for hazardous materials, air quality and noise requirements. At the same time, the text amendment incorporates Environmental Restrictive Declarations into the framework for (E) designations so that existing declarations may be enforced and tracked in the same manner as (E) designations.

The proposed zoning text amendment also clarifies the provisions governing applicability by separating the regulations for hazardous materials, air quality and noise. This change improves the clarity and precision of the text, and more accurately reflects its intent.

The proposed text amendment relocates the existing provision regarding the applicability of (E) designations in the event of a lot merger or subdivision to its own paragraph to make it more visible to the reader. In addition, the proposed text makes this provision applicable to Environmental Restrictive Declarations. The proposed text also clarifies that the environmental requirements, as applicable, of an (E) designation or Environmental Restrictive Declaration apply to the newly subdivided or merged lots.

#### Enforcement

ZR Section 11-15 is currently unclear regarding DOB's jurisdiction over air quality and noise (E) designations, and is silent about its jurisdiction over Environmental Restrictive Declarations. The proposed text amendment would modify Section 11-15 to clearly state that addressing the air quality and noise requirements of (E) designations and the environmental requirements of Environmental Restrictive Declarations are prerequisites to DOB's issuance of building permits. In addition, references to "building permits" in the proposed amendment have been updated to incorporate both temporary and final Certificates of Occupancy, to more precisely reflect the intent of the original drafters and DOB's practice.

#### Modifications

The current text does not provide for the modification of environmental requirements associated with an (E) designation once it is adopted, where new information or changes in technology warrant a modification. For example, a property owner may be able to demonstrate that a lower

specification window (e.g. provides less sound attenuation) installed on the upper floors of a building would achieve the same level of interior noise intended by the (E) designation as the required higher specification window installed on the lower floors, due to the greater distance of upper floors from the ground level noise source. The proposed text amendment would give OER the authority, with the consent of the lead agency, to modify the environmental requirements of an existing (E) designation, provided the modified requirements are equally protective of public health.

#### Ongoing Monitoring and Site Management

The current text does not address the potential need for ongoing site management and monitoring of environmental control technologies once a building is constructed and occupied, such as a vapor barrier installed beneath a building foundation. Some environmental control technologies require ongoing monitoring to ensure continued effectiveness. The proposed text amendment would require that any such ongoing monitoring required by OER be reflected on any subsequently issued Certificate of Occupancy for the building. This requirement is intended to provide future owners, building occupants, the public, and City agencies with better notice of such obligations and would improve enforcement capabilities.

#### Duplicative and Outdated Text, and Other Clarifications

ZR Section 11-15 (Environmental Requirements) contains outdated references and provisions.

The “Sunset provision” in the current text would be eliminated. This provision was added in 1994 to ensure that DEP would establish City (E) Rules by a certain date, setting forth standards for determining potential hazardous material contamination as well as testing and remediation standards and protocols, to govern its administration of environmental requirements related to hazardous materials. This text provision is now obsolete, as such rules were established.

Further, many Special Purpose District chapters contain regulations regarding the (E) Program that were adopted in order to clearly establish DOB’s jurisdiction over air quality and noise (E) designations. These provisions are no longer necessary with the newly-clarified citywide

applicability of enforcement mechanisms in Section 11-15. Accordingly, duplicative enforcement language will be deleted from the following Special Purpose District sections:

- Special Forest Hills District, Section 86-04
- Special Harlem River Waterfront District, Section 87-04
- Special Hudson Yards District, Section 93-051
- Special West Chelsea District, Section 98-051
- Special Manhattanville Mixed Use District, Section 104-05
- Special Downtown Jamaica District, Section 115-03
- Special Long Island City Mixed Use District, Section 117-05
- Special Hillside Preservation District, Section 119-06
- Special Willets Point District, Section 124-041
- Special College Point District, Section 126-03
- Special St. George District, Section 128-051
- Special Coney Island District, Section 131-041

(E) designations are listed in Appendix C to the Zoning Resolution and, with the proposed text amendment, existing Environmental Restrictive Declarations will be listed as well. The processes and conditions for DCP's administrative removal of a lot number from the list in Appendix C, and DCP's administrative removal of an (E) designation or Environmental Restrictive Declaration itself from Appendix C because the requirements on all applicable lots have been met, have been reorganized into four paragraphs. Additional detail has been added with respect to the conditions that would provide the basis for removing a tax lot or an entire (E) designation or Environmental Restriction Declaration from the Appendix. For example, an (E) designation established in response to a noise condition from an elevated rail line may be removed from Appendix C if the elevated rail has since been demolished, because the source of the noise and the basis for the environmental requirement no longer exists. Conditions that could provide the basis for removing a tax lot or an entire (E) designation or Environmental Restrictive Declaration from Appendix C also include: no further testing, remediation or ongoing site management is required for hazardous materials contamination; and the emissions source related to air quality has been permanently eliminated.

The title of Zoning Resolution Appendix C, *City Environmental Quality Review (CEQR) Environmental Designations Table* will be changed to, *City Environmental Quality Review (CEQR) Environmental Requirements*. This change in title reflects the anticipated addition of existing environmental restrictive declarations to the Appendix. Appendix C will be administratively updated to reflect changes in lot numbers resulting from subdivision or merger of lots related to particular (E) designations or Environmental Restrictive Declarations.

### **ENVIRONMENTAL REVIEW**

This application (N 120090 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 12DCP057Y. The lead is the City Planning Commission. This application was determined to be a Type II action which requires no further environmental review.

### **PUBLIC REVIEW**

This application (N 120090 ZRY) was duly referred on October 17, 2011, to all community boards, borough presidents and borough boards in accordance with the procedure for referring non-ULURP matters.

### **Community Board Review**

Responses were received from 23 of the 59 Community Boards, with 22 of those Community Boards who responded passing a resolution of support for the amendment. In addition, five Community Boards issued comments or conditions with their approval, details of which are included in the following.

#### Manhattan

Community Board 1: On December 21, 2011, Community Board 1 voted in unanimous support of the application by a vote of 28 in favor, and none opposed.

Community Board 2: Declined to comment on the application.

Community Board 3: Community Board 3 voted in support of the application by a vote of 32 in favor, and none opposed and one abstention.

Community Board 4: On December 7, 2011, Community Board 4 voted to approve the application and further urges the various agencies to establish clear procedures for reporting and compiling data and ensure proper communication between the agencies.

Community Board 5: On November 10, 2011, Community Board 5 (MCB-5) voted in support of the application by a vote of 37 in favor, none opposed, and 2 abstentions, in addition to submitting the following five recommendations:

- The enforcement confusion this text amendment is designed to clarify may result in situations where mitigation measures have not been adequately monitored or enforced so MCB-5 urges the Department of City Planning, Office of Environmental Remediation, and Department of Buildings and any other relevant agencies to coordinate and determine if this may have been the case and put in place any corrective measures and allow any strengthened enforcement mechanisms to apply retroactively.
- The City should retroactively apply (E) designations to those sites where in the past restrictive declarations were put in place to ensure that the (E) designations list in the Zoning Resolution reflect all sites where mitigation is required.
- The City should consider the creation of a designation similar to the (E) designation to record potential service and infrastructure impacts such as on school seats, sanitation, open space and traffic to ensure that as development occurs, there is a careful monitoring of whether adequate services exist to accommodate the influx of new residents, workers, or visitors.
- MCB-5 recommends the City look at some of these issues much more proactively and not wait for a CEQR review in order to determine whether remediation is necessary.

- MCB-5 supports the goals of streamlining and strengthening the E Program but urges adequate resources and oversight to its enforcement.

Community Board 6: In November, 2011, Community Board 6 voted in support of the application by a vote of 40 in favor, none opposed and no abstentions.

Community Board 7: On December 6, 2011, Community Board 7 voted unanimously in support of the application, with 39 in favor, none opposed and no abstentions.

Community Board 8: On November 16, 2011, Community Board 8 voted in support of the application by a vote of 38 in favor, none opposed and 5 abstentions.

Community Boards 9, 10, 11 and 12: No comments received for the application.

#### Bronx

Community Board 1: No comments received for the application.

Community Board 2: On December 21, 2011, the Full Board voted to approve the application.

Community Board 3: On December 13, 2011, Community Board 3 voted in support of the application.

Community Boards 4, 5 and 6: Declined to comment on the application.

Community Board 7: In December 2011, Community Board 7 voted in support of the application.

Community Board 8: On December 13, 2011, Community Board 8 failed to adopt a resolution in opposition to the application, with 18 in favor, 12 opposed, and 10 abstentions.

Community Board 9: In December, the Community Board 9 Land Use Committee and General

Board voted unanimously in support of the application.

Community Board 10: In December 2011, the Community Board 9 Land Use Committee approved the text application.

Community Board 11: On November 30, 2011, the Land Use Committee recommended the text amendment to the full board for approval. The full board met on December 15, 2011, and voted to approve the proposed amendment, with one member abstaining.

Community Board 12: On November 17, 2011, the Land Use Committee voted unanimously in support of the application.

### Brooklyn

Community Boards 1 and 2: No comments received for the application.

Community Boards 3, 4, 7, 9, 11, 12, 13, 14, 16, 17, and 18: Declined to comment on the application.

Community Boards 5 and 8: No comments received for the application.

Community Board 6: At its December 14, 2011 general meeting, Community Board 6 resolved unanimously to conditionally approve of the proposed (E) designations Text Amendment. The Community Board is concerned that unlike DEP, which is accountable to Community Boards under Section 2704 of the City Charter, OER has no such clear-cut lines of accountability. The Community Board calls on the administration to make OER a full-fledged, accountable partner to the Community Board in City government through a revision of the City Charter.

Community Board 10: On December 19, 2011, Community Board 10 voted in unanimous support of the application. In addition, CB-10 recommends Community Boards and Council Members be notified and given an opportunity to comment prior to OER approving any (E) designation modifications, and that (E) designations continue to be noted on relevant zoning

maps.

Community Board 15: On November 29, 2011 Community Board 15 voted in support of the application.

### Queens

Community Boards 1, 4, 6, 7 8, 10, 11, 12, 13, and 14: Declined to comment on the application.

Community Board 2: On December 1, 2011, Community Board 2 voted to approve the application by a vote of 29 in favor, none opposed and 1 abstention.

Community Board 3: On December 15, 2011, Community Board 3 voted to approve the application by a vote of 30 in favor, 0 opposed, and 2 abstaining – all on the condition that the local community board be notified in the event of any modifications to environmental requirements.

Community Board 5: On November 9, 2011, Community Board 5 voted to approve the application by a vote of 41 in favor, none opposed and no abstentions.

Community Board 9: Community Board 9 voted to approve the application.

### Staten Island

Community Board 1: On December 13, 2011, Community Board 3 voted to support the application by a vote of 24 in favor, none opposed and no abstentions.

Community Boards 2 and 3: No comments received for the application.

### **Borough President Review**

This application was considered by the Brooklyn Borough President, who issued a letter

supporting the application with additional comments. The Borough President expressed concern about what he believes is OER's lack of clear-cut lines of accountability to Community Boards, unlike the clearly established accountability for DEP that is mandated pursuant to Section 2704 of the City Charter. The letter suggests the Administration take steps to address this omission to make OER a full-fledged, accountable partner to the City's Community Boards.

No recommendations were received from the Bronx, Manhattan, Queens or Staten Island Borough Presidents.

### **Borough Board Review**

In December 2011, the Brooklyn Borough Board voted to support the application.

The Manhattan Borough Board declined to comment on the application, and no recommendations were received from the Bronx, Queens or Staten Island Borough Boards.

### **City Planning Commission Public Hearing**

On December 12, 2011 (Calendar No. 1), the City Planning Commission scheduled January 4, 2012, for a public hearing on this application (N 1200090 ZRY). The hearing was duly held on January 4, 2012 (Calendar No. 7). There were two speakers in favor of the application and none in opposition.

Henry Euler, member of the Auburndale Improvement Association, Inc. and Co-Chair of the Environment Committee of Queens Community Board 11, informed the Commission that there were no objections to the application, however that the 60-day non-ULURP comment period coinciding with winter holidays made it difficult to schedule community board meetings and formulate comments prior to the December 27, 2011 deadline.

Daniel Cole, Assistant Director of the E Program at OER, testified in favor of the application,

stating that the E Program is a citywide effort among DEP, OER, DCP and DOB, and that this text amendment would further the combined effort to enhance an already-transparent process by providing the public with better resources for locating information on environmental requirements.

## **CONSIDERATION**

The City Planning Commission considers the proposed amendments to Section 11-15 (Environmental Requirements) and related Sections of the Zoning Resolution, as modified, to be appropriate.

The citywide E Program continues to serve as an important tool in allowing the City to proceed with area-wide rezonings while accounting for potential environmental concerns related to hazardous materials, air quality and noise. The Commission believes that updates to the administrative procedures and the zoning text governing the E Program are needed to reflect OER's new role in administering the E Program, to streamline the E Program, and to reorganize, update and clarify the zoning regulations governing (E) designations. The Commission believes that this amendment meets its goals of improving transparency and efficiency, both in terms of access to information on environmental requirements and overall clarity and predictability of the process by updating and clarifying existing zoning language, thereby enhancing enforcement, and better reflecting the current practices of the City agencies involved in the E Program.

The Commission believes that eliminating the extra processes and administrative burdens associated with Environmental Restrictive Declarations and allowing (E) designations to be placed on applicant-controlled properties and in connection with any zoning action will streamline and improve the efficiency of the E Program, benefitting land use practitioners, property owners and City agencies. The Commission further believes that these changes will result in increased transparency and easier tracking of environmental requirements as well as enhanced enforcement of the E Program.

The Commission also believes that the proposed text amendment reorganizes the zoning provisions in a manner that will be clearer to the reader. The Commission believes that the text clarifications in the amendment related to applicability of environmental requirements, the conditions under which an (E) designation can be removed, and the revisions related to enforcement are important steps in strengthening the E Program.

The Commission also recognizes that conditions often change and new information or technology becomes available between the time when an (E) designation is placed on a property and when development of the site occurs. To respond to these circumstances, the Commission believes it is appropriate to give OER the ability, with the consent of the lead agency, to modify the environmental requirements of an (E) designation. The Commission notes that the proposed amendment requires that any modification to environmental requirements be protective of public health to the extent intended by the (E) designation. The Commission further notes that the provision related to the modification of environmental requirements was difficult to locate in the text as originally proposed, and that the Commission has revised the text to relocate the provision to a new paragraph (c), titled “Modifications.”

The Commission believes the addition of provisions addressing the ongoing monitoring and site management of environmental control technologies, such as a vapor barrier installed beneath a building that may become less effective over time, is appropriate and consistent with OER’s authority under the City’s (E) Rules to include such a requirement as part of a site’s remediation plan. The Commission notes that the text further requires that a recorded declaration of covenants and restrictions containing ongoing site monitoring requirements be reflected on any subsequently issued Certificate of Occupancy for the building, which will enhance the City’s ability to monitor and enforce such monitoring requirements. In response to a request from OER, the Commission has modified this provision by replacing the term “monitoring” with “site management”, which OER considers to be a more accurate and inclusive term. In addition, the Commission has clarified that OER *may* require the recordation of a declaration of covenants and restrictions to reflect that, in practice, such declarations are not always required.

The Commission believes that the provision regarding the applicability of environmental requirements when a zoning or tax lot is merged or subdivided is appropriate. However, the Commission believes that further clarification is needed to better reflect the intent of the text amendment and has thus modified it to reflect that the (E) designation or Environmental Restrictive Declaration shall be considered assigned to the merged or subdivided property, and that the environmental requirements of such (E) designation or Environmental Restrictive Declaration apply to the merged or subdivided property, or portion thereof, “as determined by OER,” clarifying the proposed text’s original reference to “as applicable”.

The Commission acknowledges the recommendations of Brooklyn Community Board 10 and Queens Community Board 3 that the public be notified of modifications to environmental requirements of (E) designations. The Commission notes that all submissions by an owner, including any additional analyses, in connection with such a modification and OER’s and the lead agency’s response will be part of the public record. The Commission also notes the City’s ongoing efforts towards making environmental review and other public documents readily available by allowing these records to be accessible through the internet. In addition, Brooklyn Community Board 10 recommended a process for public comment prior to any such modification. The Commission notes that modifications to the specifications of an (E) designation, such as adjusting the amount of window-wall attenuation, involve matters of technical judgment which are appropriate for OER to address.

The Commission notes the comments of Brooklyn Community Board 6 and the Brooklyn Borough President regarding agency jurisdiction for the administration of the E Program, including concerns about OER’s accountability to community boards. These comments raise issues which are beyond the scope of this proposal.

In response to the recommendation from Manhattan Community Board 5 (MCB-5) that (E) designations be applied retroactively to sites with Environmental Restrictive Declarations, the Commission notes that DEP and OER are in the process of inventorying existing Environmental Restrictive Declarations which will be listed in Appendix C to ensure that they are as visible as (E) designations. MCB-5 also raised a concern that under the existing text, environmental requirements

may not have been implemented or adequately monitored and recommended that the strengthened enforcement mechanisms of the proposed text amendment apply ‘retroactively’. The Commission observes that while DOB’s enforcement of air and noise (E) designations and existing Environmental Restrictive Declarations will be clarified under the proposed text, property owners have been responsive to addressing these conditions on their properties under the direction of DEP. Specific air quality and noise provisions in Special Purpose Districts, described above, also ensured DOB enforcement of these (E) designations prior to this citywide amendment to Section 11-15. The proposed text amendment streamlines the regulations by bringing all types of (E) designations and Environmental Restrictive Declarations into the same enforcement framework under the Zoning Resolution.

The Commission notes that MCB-5’s suggestion that the City create a designation, similar to the (E) designation to address potential impacts to school seats, sanitation services, open space and traffic, is beyond the scope of this application. In response to the suggestion by MCB-5 that the City look at some of these issues much more proactively and not wait for a CEQR review in order to determine whether remediation is necessary, the Commission notes that the E Program was not intended to serve as a comprehensive environmental program to address environmental conditions throughout the City. It is instead a tool that functions within the CEQR review process to account for potential conditions related to specific zoning proposals.

The Commission has carefully considered the comments and recommendations received during the public review of the application and believes that the proposed text amendment, (N120090ZRY), as modified, is appropriate. The Commission believes that the amendment will ultimately result in greater protection of the health and safety of future residents, commercial occupants, their neighbors and construction workers.

## **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**, 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:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

## **Article 1**

### **General Provisions**

#### **Chapter 1**

#### **Title, Establishments of Controls and Interpretations of Regulations**

\* \* \*

#### **11-15**

#### **Environmental Requirements**

The designation (E), or an environmental restrictive declaration, where listed in Appendix C (CEQR Environmental Requirements), of this Resolution, indicates that environmental requirements pertaining to potential hazardous materials ~~contamination,~~ or noise or air quality impacts have been established ~~which are incorporated into~~ in connection with the provisions of a #zoning map# an amendment of or an action pursuant to this Resolution for one or more tax lots. ~~The said~~ Such environmental requirements are set forth in the ~~City Environmental Quality Review (CEQR) Declaration determination~~ determination related to such amendment or action, a specific #zoning map# amendment. ~~In the case of a merger or subdivision of tax lots or #zoning lots# with an (E) designation, involving improved or unimproved properties, the (E) designation will apply to all portions of the property.~~

The ~~CEQR Declarations determinations~~ determinations are on file with the ~~designated~~ lead agency and the Mayor's Office of Environmental Coordination (MOEC). A listing of such ~~CEQR Declarations determinations and their related environmental requirements,~~ entitled City Environmental Quality Review Declarations, is found within Appendix C of this Resolution, appended to the #zoning maps#. (E) designations and environmental restrictive declarations may only be removed from Appendix C or modified in accordance with the provisions of paragraph (d) of this Section.

In the case of a merger or subdivision of lots, any of which is subject to an (E) designation or Environmental Restrictive Declaration, such (E) designation or Environmental Restrictive

Declaration shall be considered assigned to all portions of the merged or subdivided lots. The environmental requirements of such (E) designation or environmental restrictive declaration shall apply to the merged or subdivided lots, or portions thereof, as determined by OER.

Tax lots with environmental requirements shall be subject to the following:

(a) Building permit conditions

Prior to issuing a building permit, or temporary or final Certificate of Occupancy, for any #development#, or for an #enlargement#, #extension# or a change of #use#, any of which involves a #residential# or a #community facility use#, or for an #enlargement# of a #building# for any #use# that involves a disturbance of the soil any action listed in paragraphs (a)(1), (a)(2) or (a)(3) of this Section, on a tax lot that has an (E) designation or an environmental restrictive declaration related to ~~for potential~~ hazardous materials, noise, or air quality ~~contamination~~, the Department of Buildings (DOB) shall be furnished with a report from the Department of Environmental Protection notice issued by (DEP OER ) of the city of New York stating that the environmental requirements related to the (E) designation have been met for that lot OER does not object to the issuance of such building permit, or temporary or final Certificate of Occupancy, in accordance with the applicable rules of the City of New York (“OER Notice”).

An (E) designation for potential hazardous material contamination may be satisfied and administratively removed from a #zoning map# through the following procedure:

(a) Satisfaction of requirements

The owner of any tax lot with an (E) designation for potential hazardous material contamination may file, with the Department of City Planning, a report from DEP, or its successor agency, specifying that the environmental requirements relating to such designation have been satisfied regarding that lot. Upon receipt of such report, the Department of City Planning shall indicate such satisfaction as to that lot on the listing of (E) designations appended to the #zoning maps# of the Zoning Resolution.

(1) For hazardous materials:

- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#, any of which involves a #residential# or a #community facility use#; or
- (iii) an #enlargement# or alteration of a #building# for any #use# that involves a disturbance of the soil;

(2) For air quality:

- (i) any #development#;

- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves ventilation or exhaust systems, including but not limited to stack relocation or vent replacement; or

(3) For noise:

- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves window or exterior wall relocation or replacement.

(b) Ongoing site management Removal of (E) designation

~~The Department of City Planning shall administratively remove the (E) designation for potential hazardous material contamination from a #zoning map# when all environmental requirements for potential hazardous material contamination have been met on all tax lots specified in the CEQR declaration.~~

In the event that a duly issued OER Notice indicates that a tax lot that has an (E) designation or an environmental restrictive declaration requires ongoing site management, OER may require that a declaration of covenants and restrictions governing the ongoing site management requirements be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lot is located.

As a condition to the issuance of a temporary or final Certificate of Occupancy or granting of permit sign-off, if no Certificate of Occupancy is required, DOB shall be provided with proof that the declaration of covenants and restrictions for ongoing site management has been duly recorded. The recording information for the ongoing site management declaration shall be referenced on the first Certificate of Occupancy to be issued after such declaration is recorded, as well as all subsequent Certificates of Occupancy, for as long as the declaration remains in effect.

~~The Director of the Department of City Planning shall transmit notice of such satisfaction or removal of an (E) designation to the Department of Buildings, the OEC and the DEP.~~

(c) Modifications

Upon application to the Mayor's Office of Environmental Remediation (OER) by the owner of the affected lot(s), OER may, with the consent of the lead agency, modify the environmental requirements set forth in a CEQR Determination based upon new

information, additional facts or updated standards, as applicable, provided that such modifications are equally protective.

(d) Completion of environmental requirements ~~Sunset provision~~

~~The DEP shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall establish:~~

- ~~(1) — standards for determining potential hazardous material contamination which, upon adoption, shall be utilized in determining whether or not an (E) designation shall be imposed on any tax lot; and~~
- ~~(2) — testing and remediation standards and protocols for potential hazardous material contamination which, upon adoption, shall be utilized in determining whether or not the environmental requirements relating to such (E) designation(s) have been satisfied so as to warrant the removal of such designation.~~

~~The requirements for the adoption of rules set forth in paragraph (c) of this Section, inclusive, shall not be construed to prohibit either the imposition or the removal of an (E) designation, in accordance with law, prior to the adoption of such rules.~~

~~In the event that such rules are not adopted by DEP by July 1, 2001, the provisions of this Section as they relate to potential hazardous material contamination, except for underground gasoline storage tanks, shall lapse.~~

(1) Removal of tax lots subject to an (E) designation or an environmental restrictive declaration from Appendix C

The Department of City Planning (DCP) shall administratively modify Appendix C after receiving a duly issued OER Notice, stating that the environmental requirements related to an (E) designation or contained in an environmental restrictive declaration related to potential hazardous materials, noise or air quality have been completed for or otherwise no longer apply to a tax lot or lots, because:

- (i) no further testing, remediation or ongoing site management is required for hazardous materials contamination;
- (ii) the noise generating source has been permanently eliminated; or
- (iii) the emissions source related to air quality has been permanently eliminated.

(2) Removal of (E) designation from Appendix C

DCP shall administratively remove an (E) designation from Appendix C when, in accordance with the provisions of paragraph (d)(1) of this Section, the environmental requirements for all tax lots subject to the (E) designation have been completed.

(3) Cancellation of environmental restrictive declaration and modification of Appendix C

DCP shall administratively remove an environmental restrictive declaration from Appendix C when, in accordance with the provisions of paragraph (d)(1) of this Section, the environmental requirements contained in such environmental restrictive declaration have been completed for all tax lots and a Notice of Cancellation of the environmental restrictive declaration has been duly recorded against the subject tax lots in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lots are located.

(4) Notification

DCP shall notify DOB, MOEC and OER when modifications to Appendix C are made.

(de) Notice provision

~~The City Planning Commission shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall require the lead agency, as defined in 6 N.Y.C.R.R., Part 617, and Executive Order 91 of 1977, as amended, to provide notification of a proposed (E) designation to the owner(s) of the property to be so designated not less than 60 days prior to such designation.~~

The provisions of this Section 11-15 shall apply to all (E) designations and environmental restrictive declarations, notwithstanding the date such environmental requirements were established.

## **11-151**

### **Special requirements for properties in the Borough of Queens**

- (a) Block 9898, Lots 1 and 117, in the Borough of Queens, shall be subject to the provisions of Section 11-15 (Environmental Requirements) governing (E) designations. The City Environmental Quality Review (CEQR) Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Environmental Designations Requirements) of the Zoning Resolution.

- (b) The following special requirements shall apply to a #development#, #enlargement# or change of #use# for properties in the Borough of Queens located within the areas described in paragraphs (1) through (5) of this paragraph, (b):

\* \* \*

However, in the event that the Chairperson of the City Planning Commission, based on consultation with the Department of Environmental Protection of the City of New York, provides a certificate of no effect to the Department of Buildings with regard to industrial air emissions for an area described in this ~~Section~~ paragraph (b), the regulations of the zoning districts designated on the #zoning map# shall apply to any #development#, #enlargement# or change of #use# within such area, to the extent permitted under the terms of the certificate of no effect.

\* \* \*

#### **86-04**

##### **Applicability of Article I**

~~Within the #Special Forest Hills District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:~~

- (a) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- (b) ~~in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

\* \* \*

#### **87-04**

##### **Applicability of Article I, Chapter 1**

~~Within the #Special Harlem River Waterfront District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:~~

- (a) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~

(b) ~~in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

**87-05 04**

**Applicability of Article VI, Chapter 2**

\* \* \*

**87-06 05**

**Modification of Use and Bulk Regulations for Parcels Containing Newly Mapped Streets**

\* \* \*

**93-051**

**Applicability of Chapter 1 of Article I**

(a) Within the #Hudson Yards Redevelopment Area#, ~~Section 11-15 (Environmental Requirements)~~ shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

(1) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~

(2) ~~in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

(b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on January 19, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than January 19, 2006.

\* \* \*

**98-051**

**Applicability of Chapter 1 of Article I**

(a) Within the #Special West Chelsea District#, ~~Section 11-15 (Environmental Requirements)~~ shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a #zoning

lot# that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that #zoning lot#; or
- (2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

(b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on June 23, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than June 23, 2006.

\* \* \*

#### **104-05**

##### **Applicability of Article I, Chapter 1**

Within the #Special Manhattanville Mixed Use District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

\* \* \*

#### **115-03**

##### **Applicability of Article I, Chapter 1**

Within the #Special Downtown Jamaica District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be

furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- (b) ~~in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

\* \* \*

### **117-05**

#### **Applicability of Article I, Chapter 1**

~~Within the #Special Long Island City Mixed Use District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for potential hazardous material contamination, or noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:~~

- (a) ~~in the case of an (E) designation for potential hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- (b) ~~in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

\* \* \*

### **119-06**

#### **Special requirements for certain properties within Special Hillside Preservation District**

~~The following sites: Block 24, Lot 1; Block 23, Lots 17, 42; Block 23, Lots 1, 4, 13; Block 115, Lots 61, 62, 63; and Block 47, Lots 7, 10, 107 shall be subject to the procedures of Section 11-15 (Environmental Requirements) governing (E) designations. The CEQR Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Requirements Declarations) of the Zoning Resolution. Section 11-15, paragraph (b), shall not apply to such CEQR Declarations.~~

\* \* \*

### **124-041**

#### **Applicability of Article I, Chapter 1**

~~Within the #Special Willets Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a tax lot or #zoning lot# that has an (E)~~

designation(s) for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# shall result in compliance with the environmental requirements related to the (E) designation.

**124-042 041**  
**Applicability of Article III, Chapter 6**

\* \* \*

**124-043 042**  
**Applicability of Article VII, Chapter 3**

\* \* \*

**124-044 043**  
**Applicability of Article VII, Chapter 4**

\* \* \*

**126-03**  
**Applicability of Article I, Chapter 1**

Within the #Special College Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

\* \* \*

**128-051**  
**Applicability of Article I, Chapter 1**

Within the ~~#Special St. George District#~~, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any ~~#development#~~, or for an ~~#enlargement#~~, ~~#extension#~~ or a change of ~~#use#~~, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York, stating:

- (a) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- (b) ~~in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

**128-052 051**

**Applicability of Article I, Chapter 2**

\* \* \*

**128-053 052**

**Applicability of Article I, Chapter 5**

\* \* \*

**128-054 053**

**Applicability of Article III, Chapter 6**

The provisions of Section 36-76 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the ~~#Special St. George District#~~.

\* \* \*

**131-041**

**Applicability of Article I, Chapter 1**

Within the ~~#Special Coney Island District#~~, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any ~~#development#~~, or for an ~~#enlargement#~~, ~~#extension#~~ or a change of ~~#use#~~, on a lot that has an (E) designation for potential hazardous material contamination, noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) ~~in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~

(b) in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

**131-042 041**

**Applicability of Article I, Chapter 5**

\* \* \*

**131-043 042**

**Applicability of Article VI, Chapter 2**

\* \* \*

**131-044 043**

**Applicability of Article VII, Chapter 4**

\* \* \*

**131-045 044**

**Physical culture or health establishments**

\* \* \*

**131-046 045**

**Modification of use and bulk regulations for zoning lots fronting upon Riegelmann Boardwalk, KeySpan Park and Highland View Park**

\* \* \*

NYC ZONING RESOLUTION

**APPENDIX C:**

CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) ENVIRONMENTAL DESIGNATIONS REQUIREMENTS TABLE					
E-No.	CEQR No.	Description	Tax Block	Tax Lot(s)	Lot Remediation Date
Effective Date	ULURP No.				
Satisfaction Date	Zoning Map No.				
<b>E-1</b> 4/28/1983	NA 830178 ZMK 16a,16c	Double Glazed Windows	319	1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,39,42,49, 50,51,55,62,65	
<b>E-2</b> 4/28/1983	82-214X 830468 ZMX 3d	N2 Ambient Noise Zone Levels	2953	1,6,8,9,11,12,13,17,21,22,23,24,33,35,37,39,41,43,48,50,58,64	

<b>E-3</b> 3/15/1984	83-080X 84030 0 ZMX 3d	N2 Ambient Noise Zone Levels	297 7	126,128,129,131,133,134,135, 136,137,138,139,141,142,143	
<b>E-4</b> 6/14/1984	82-070M 84026 0 ZMM 8b,12a	Double Glazed Windows & Alternate Ventilatio n	641	17,36,39,75	
			642	1,2,3,4,12,14,19, 30,34	
			643	1,2,3,4,5,6,7,8,9,10,11,12,13,14,15, 16,17,18,19,27	
<b>E-5</b> 12/6/1984	82-270Q 83019 3 ZMQ 13d	Double Glazed Windows	363 7	1,2	

\* \* \*

**END OF AMENDMENT TEXT**

The above resolution (N 120090 ZRY), duly adopted by the City Planning Commission on February 29, 2012 (Calendar No. 8), is filed with the Office of the Speaker, City Council, and the Borough President 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, ORLANDO MARIN,**

**SHIRLEY A. MCRAE, Commissioners**



The City of New York  
**Manhattan Community Board 1**  
 Julie Menin CHAIRPERSON | Noah Pfefferblit DISTRICT MANAGER

✓

January 4, 2012

City Planning Commission  
 Calendar Information Office  
 22 Reade Street, 2E  
 New York, NY 10007

CITY PLANNING COMMISSION  
 2012 JAN 11 PM 2:03  
 DEPT. OF CITY PLANNING

Re: N120090 ZRY  
 (E) Designation Text Amendment

Dear Director Burden,

Attached is a resolution adopted by Manhattan Community Board One on December 21, 2011 regarding the proposed citywide zoning text amendment to update provisions of the (E) Designation Program. We are pleased to inform you that our board voted unanimously in favor of this comprehensive improvement to this program.

Thank you for your consideration of our resolution and please feel free to contact us if your staff would like to discuss this matter.

Sincerely,

Julie Menin  
 Chairperson

COMMUNITY BOARD #1 – MANHATTAN  
RESOLUTION

DATE: DECEMBER 21, 2011

COMMITTEE OF ORIGIN: PLANNING AND COMMUNITY INFRASTRUCTURE

COMMITTEE VOTE:           4 In Favor   0 Opposed   0 Abstained   0 Recused  
BOARD VOTE:             28 In Favor   0 Opposed   0 Abstained   0 Recused

RE:                   (E) Designations Zoning Text Amendment - N 120090 ZRY

WHEREAS: The Department of City Planning proposes a citywide text amendment to Section 11-15 and related Sections of the Zoning Resolution (ZR) to update the regulations governing Environmental “(E)” designations, and

WHEREAS: This text amendment is being closely coordinated with the New York City Office of Environmental Remediation (OER) and will result in a more streamlined and transparent (E) Program – the City’s process for establishing environmental requirements related to hazardous materials, air quality and noise on potential development sites identified during CEQR for proposed rezoning, and

WHEREAS: Six main issues with the current (E) Program have been identified, which are proposed to be addressed through this text amendment, alone or in combination with changes proposed by OER to its rules:

1. Environmental Restrictive Declarations

The City established the (E) Program to be able to rezone large areas which would include lots the City, as applicant, had no access to and therefore could not test for potential hazardous materials contamination. For applicant-controlled properties, the practice has been to use Environmental Restrictive Declarations to ensure further testing and remediation. Having these two different mechanisms within the (E) Program that achieve the same result is unnecessary. With this amendment, the two mechanisms for applying environmental requirements will be consolidated, thereby streamlining the process.

2. Applicability

The (E) Program currently limits the use of (E) designations to zoning map amendments. As part of this text amendment, and with OER’s proposed Rule change, (E) designations will be able to be applied in connection with all actions under the Zoning Resolution, including special permits and authorizations.

3. Enforcement

This text amendment would clarify that DOB does have jurisdiction and that satisfying air quality and noise requirements of (E) designations and complying with the environmental requirements embodied in existing Environmental RDs are prerequisites to obtaining building permits and certificates of occupancy from DOB.

4. Post-Approval Modifications

This text amendment would allow OER, with the consent of the lead agency, to modify the requirements of an existing (E) designation, provided that the modification is equally protective

5. Ongoing Monitoring

The current text does not ensure the ongoing monitoring of environmental control technologies, such as a vapor barrier installed beneath a building foundation, once a building is constructed and occupied. The proposed text amendment would require that any ongoing monitoring requirements be reflected on the next issued certificate of occupancy for the building, to provide notice and improve the City's enforcement capabilities in this regard.

6. Duplicative and Outdated Text

ZR Section 11-15 contains outdated provisions and many Special District chapters contain regulations that would be duplicative of the language in the proposed amended Section 11-15. This text amendment would remove duplicative provisions and obsolete language, clarifying existing regulations, and

WHEREAS: Addressing the above issues with the proposed text amendment, in conjunction with OER's Rule changes, would result in a more predictable and streamlined land use and environmental review process which will benefitting land use practitioners, property owners, the public and city agencies, and

WHEREAS: This amendment will also result in increased transparency and easier tracking of environmental requirements and enhanced enforcement of the (E) Program, now

THEREFORE

BE IT

RESOLVED

THAT: Manhattan Community Board 1 recommends adoption by the City Planning Commission of N 120090 ZRY (E) Designations Zoning Text Amendment.



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

330 West 42<sup>nd</sup> Street, 26<sup>th</sup> floor New York, NY 10036  
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[www.nyc.gov/mcb4](http://www.nyc.gov/mcb4)

**COREY JOHNSON**  
Chair

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

December 9, 2011

Hon. Amanda M. Burden, Chair  
New York City Planning Commission  
22 Reade Street  
New York, NY 10007-1216

**Re: Proposed (E) Designation Text Amendment**

Dear Chair Burden:

At its December 7, 2011 meeting, Manhattan Community Board 4 voted to approve the following comments on the proposed (E) designations text amendment to the New York City Zoning Resolution Section 11-15 Environmental Requirements.

The (E) program was created to establish and enforce environmental requirements pertaining to specific tax lots that are part of a proposed rezoning. These environmental requirements, related to hazardous materials, air quality or noise, allow the City to undertake rezonings and meet the review mandates of the City Environmental Quality Review (CEQR) process, by ensuring that certain potential environmental conditions will be addressed at the time of development, on lots the City does not own or have access to. As a condition to the issuance of future building permits, an owner would need to perform testing or remediation to the satisfaction of the New York City Office of Environmental Remediation (OER).

The proposed (E) designation Text Amendment would modify Section 11-15 (Environmental Requirements) of the Zoning Resolution to streamline and clarify existing regulations, update the text to reflect current agency responsibilities, and add flexibility to the administration of the program that would benefit both owners and OER.

MCB4 supports the text amendment and its goal to result in a more efficient, effective and transparent (E) program. However for the new text amendment to be successful there needs to be coordination between all involved parties. The (E) program is coordinated among multiple city agencies; it is established by City Planning in ZR Section 11-15, administered by the Office of Environmental Remediation, and enforced by the Department of Buildings. MCB4 urges the various agencies to establish clear procedures for reporting and compiling data and ensure proper communication between the agencies.

Sincerely,



Corey Johnson, Chair  
Manhattan Community Board 4



Jean-Daniel Noland, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee

[signed 12/9/2011]

Gretchen Minneman, Co-Chair,  
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn  
Manhattan Borough President Scott Stringer  
NYC Council Member Gale Brewer  
NYS Assembly Member Linda Rosenthal  
NYS Senator Thomas Duane  
Congressman Jerrold Nadler  
Erika Sellke – Department of City Planning  
Danielle DeCerbo – City Council Land Use Division

## 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

November 14, 2011

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

***Re: A PROPOSED REVISION BY THE DEPARTMENT OF CITY PLANNING TO THE ZONING RESOLUTION TO STREAMLINE AND IMPROVE THE ZONING REGULATIONS GOVERNING ENVIRONMENTAL ("E") DESIGNATIONS (SECTION 11-15).***

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, November 10, 2011, the Board passed the following resolution by a vote of 37 in favor, 0 opposed, 2 abstaining:

WHEREAS, In the New York City Zoning Resolution, (E) designations are applied during the City Environmental Quality Review (CEQR) process to account for environmental conditions that are likely to exist on sites not under the control of an applicant; and

WHEREAS, These environmental conditions could pertain to hazardous materials, air quality or noise and with an (E) designation, the City can undertake re-zonings and meet CEQR mandates by ensuring that potential environmental conditions will be addressed at the time of development; and

WHEREAS, The (E) Program was created by the Department of City Planning in 1983, is administered by the Office of Environmental Remediation (OER), and enforced by the Department of Buildings (DOB); and

WHEREAS, The (E) Program was not designed to address general public health and safety but instead to be used in connection with the environmental review of proposed discretionary development that could result in an environmental impact and where immediate remediation is not feasible; and

WHEREAS, With these proposed changes, the (E) Program will now include all actions under the Zoning Resolution, including Special Permits and Authorizations; and

WHEREAS, This proposed revision is intended to streamline the administration of the (E) Program, enhance its existing enforcement mechanisms, update and clarify Program-related provisions in the zoning text, and overall, to improve efficiency, record-keeping, and transparency in its administration to the benefit of property owners, land use practitioners and City agencies; and

WHEREAS, Community Board Five is concerned that the enforcement confusion this text amendment is designed to clarify may result in situations where mitigation measures have not been adequately monitored or enforced so we urge the Department of City Planning, Office of Environmental Remediation, and Department of Buildings and any other relevant agencies to coordinate and determine if this may have been the case and put in place any corrective measures and allow any strengthened enforcement mechanisms to apply retroactively; and

WHEREAS, Community Board Five believes that to advance the goal of transparency, one of the stated goals of this text change, that the City retroactively apply (E) designations to those sites where in the past restrictive declarations were put in place to ensure that the (E) designations list in the Zoning Resolution and on the Zoning Map reflect all sites where mitigation is required; and

WHEREAS, Community Board Five believes the City should consider the creation of a designation similar to the (E) designation to record potential service and infrastructure impacts such as on school seats, sanitation, open space and traffic to ensure that as development occurs, there is a careful monitoring of whether adequate services exist to accommodate the influx of new residents, workers, or visitors; and

WHEREAS, Community Board Five also recommends that the City look at some of these issues much more proactively and not wait for a CEQR review in order to determine whether remediation is necessary; and

WHEREAS, Community Board Five supports the goals of streamlining and strengthening the (E) Program but urges adequate resources and oversight to its enforcement; and therefore be it

**RESOLVED**, That Community Board 5 **recommends approval** of the proposed revision by the Department of City Planning to the City-wide Zoning Resolution to streamline and improve the zoning regulations governing environmental ("E") designations, Section 11-15.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero  
Chair



Katherine McDonough  
Chair, Land Use and Zoning Committee



## MANHATTAN COMMUNITY BOARD SIX

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**Mark P. Thompson**  
*Chair*

**Toni Carlina**  
*District Manager*

**November 2011**

### **RE: DCP E-Designation Citywide Text Amendment**

**Whereas** the New York City Department of City Planning has proposed a citywide text amendment to the Section 11-15 (Environmental Requirements), and related other Sections, of the Zoning Resolution, and

**Whereas** Section 11-15 governs "(E)" designations which are environmental controls placed on potential development sites by the lead agency for the City Environmental Quality Review (CEQR) of a zoning map amendment and are necessary for the Office of Environmental Remediation (OER) which administers the City's (E) program, and

**Whereas** the OER is the successor to the Department of Environmental Protection in administering the E designation program which clarifies and strives to streamline existing regulations and is designed to consolidate two existing processes for applying environmental requirements, with the goal of being less complicated and more transparent and will be applicable for all actions under the Zoning Resolution, and

**Whereas** the E designations would be clarify issues of enforcement by making the Department of Buildings the agency with jurisdiction for all existing Environmental Restrictive Declarations, which would be enforced in the same manner, now

**Therefore, be it**

**Resolved** that Community Board 6, Manhattan, offers no objection to the proposed (E) Text Amendments which would modify Section 11-15 (Environmental Requirements) of the New York City Zoning Resolution.

**VOTE: 40 in Favor 0 Opposed 0 Abstention 0 Not Entitled**

**RESOLUTION**

**Date: December 6, 2011**

**Committee of Origin: Land Use**

**Full Board Vote: 39 In favor 0 Against 0 Abstentions 0 Present**

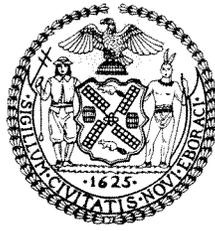
**Re: (E) Designation Text Amendment (N 1200090 ZRY). Department of City Planning proposed city-wide text amendment to streamline and improve the zoning regulations governing Environmental (“E”) designations. E designations are environmental controls placed on potential development sites by the lead agency for the City Environmental Quality Review (CEQR) of a zoning map amendment.**

BE IT RESOLVED THAT Community Board 7/Manhattan **approves** the Department of City Planning proposed city-wide text amendment (N 1200090 ZRY) to streamline and improve zoning regulations governing Environmental (“E”) designations.

*Committee: 7-0-0-0.*

Jacqueline Ludorf  
Chair

Latha Thompson  
District Manager



505 Park Avenue  
Suite 620  
New York, N.Y. 10022  
(212) 758-4340  
(212) 758-4616 (Fax)  
info@cb8m.com- E-Mail  
www.cb8m.com – Website

The City of New York  
Manhattan Community Board 8

November 18, 2011

Hon. Amanda M. Burden  
Chair  
The Department of City Planning  
22 Reade Street  
New York, New York 10007

**Re: Application N 120090 ZRY (E) designations Text Amendment**

Dear Chair Burden:

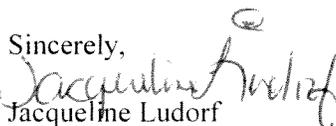
At the Full Board meeting on Wednesday, November 16, 2011 Community Board 8M approved the following resolution by a vote of 38 in favor, 0 opposed and 5 abstentions.

**Whereas**, The Department of City Planning is proposing a citywide text amendment to update provisions related to the (E) Designation Program. In addition to clarifying the text and removing obsolete provisions from Zoning Resolution Section 11-15 (Environment Requirements) originally established in 1983, the proposed modifications would remove duplicative zoning provisions concerning the (E) Program in the Special Districts. The proposed modifications would also streamline the administration of the (E) Program, result in increased transparency and easier tracking of hazardous materials, air quality and noise environmental requirements, and enhance existing enforcement mechanisms. The department has worked in cooperation with the city agencies that have a role in the (E) Program, including the Department of Environment Protection (DEP), the Office of Environmental Remediation (OER), which administers the (E) program as successor to DEP for this purpose, and the Department of Buildings, which enforces the Zoning Resolution. A more streamlined and predictable land use and environmental review process will benefit land use practitioners, property owners, the public and city agencies.

**THEREFORE BE IT RESOLVED** that Community Board 8M approves application N 120090 ZRY (E) designations Text Amendment to update provisions related to the (E) Designation Program.

Kindly advise this office of your decision made concerning this matter.

Sincerely,

  
Jacqueline Ludorf  
Chair

cc: Honorable Michael Bloomberg, Mayor of the City of New York  
Honorable Scott Stringer, Manhattan Borough President  
Honorable Carolyn Maloney, 14<sup>th</sup> Congressional District Representative  
Honorable Liz Kruger, NYS Senator, 26<sup>th</sup> Senatorial District  
Honorable Micah Kellner, Assemblyman, 65<sup>th</sup> Assembly District  
Honorable Dan Quart, Assemblyman, 73<sup>rd</sup> Assembly District

Honorable Jessica Lappin, NYC Council Speaker, 5<sup>th</sup> Council District  
Honorable Daniel Garodnick, NYC Council Member, 4<sup>th</sup> Council District  
Thomas Wargo, Director, Zoning Division, NYC Department of City Planning

# Bronx Community Board #2

Borough President Ruben Diaz, Jr.

1029 East 163<sup>rd</sup> St.

Bronx, NY 10459

718-328-9125 • 718-991-4974 Fax

E-mail: [brxcb2@optonline.net](mailto:brxcb2@optonline.net)



Dr. Ian Amritt  
Chairperson



Rafael Salamanca, Jr.  
District Manager

December 28, 2011

Carol Samol  
Director  
Department of City Planning, Bronx Office  
One Fordham Plaza, 5<sup>th</sup> Floor  
Bronx, New York 10458

Dear Ms. Samol:

On Wednesday, December 21, 2011, Bronx Community Board #2 voted to support your agency's E-Designation Zoning Text Amendment recommendations. This letter serves as acknowledgment of the Board's support to be used with your agency's submission to the City Planning Commission.

Should you have any questions please feel free to contact me at 718-328-9125 or email [rsalamanca@cb.nyc.gov](mailto:rsalamanca@cb.nyc.gov).

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Rafael Salamanca, Jr.", written over the typed name and title.

Rafael Salamanca, Jr.  
District Manager



The City of New York  
***Bronx Community Board Three***

1426 Boston Road, Bronx, NY 10456  
Telephone No.:(718)378-8054 – Fax No.:(718)378-8188/8226  
E-mail Address: [brxcomm3@optonline.net](mailto:brxcomm3@optonline.net)

DIAL	Government Services
311	& Information for NYC
Comm. Bd. Info go to: <a href="http://bronxmail.com">bronxmail.com</a>	

**RUBEN DIAZ, JR.**  
**BRONX BOROUGH PRESIDENT**

**GLORIA ALSTON**  
**CHAIRWOMAN**

**JOHN W. DUDLEY**  
**DISTRICT MANAGER**

December 27, 2011

Mr. Jonathan Keller  
NYC Dept. of City Planning  
Bronx Office  
One Fordham Plaza  
Bronx, NY 10458

**RE: E-DESIGNATION TEXT AMENDMENT**

Dear Mr. Keller:

This is to inform you that at a meeting of Bronx Community Board Three held Tuesday, December 13, 2011, in which there was a quorum of members present and entitled to vote, approval was given in support of the E-designation text amendment as it relates to Section 11-15 of the Zoning resolution governing environmental requirements.

Please contact me should you require additional information or assistance in this matter.

Sincerely,

John W. Dudley  
District Manager

Cc: Gloria Alston, chairwoman  
Rev. Bruce Rivera, chairperson, Housing, Land-Use and Economic Development committee

---

**EXECUTIVE OFFICERS**

Rev. Bruce Rivera  
1<sup>st</sup> Vice-Chairperson

Min. Abraham Jones  
2<sup>nd</sup> Vice-Chairperson

Berniesha Coleman  
Secretary

Juanita Hamilton  
Treasurer

Rita Jones  
Sgt.-at-Arms/Parliamentarian



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



---

PAUL FOSTER, CHAIRMAN

FERNANDO P. TIRADO, DISTRICT MANAGER

---

December 21, 2011

Carol Samol, Director  
Department of City Planning Bronx Office  
One Fordham Plaza, 5th Fl.  
Bronx, NY 10458-5891

Dear Ms. Samol,

After reviewing and approving your agency's presentation on the (E) Designation zoning text amendment at the November Land Use Committee and December Executive Committee meetings, the Board has voted in support of this amendment. This letter serves as acknowledgment of the Board's support to be used with your agency's submission to the City Planning Commission.

If you have any questions regarding this matter, please contact the office at 718-933-5650. Thank you.

Sincerely,

Paul Foster  
Chairman, BxCB7

*Lisa Sills-Short*

Lisa Sills-Short  
Land Use & Zoning Committee Chair, BxCB7



# COMMUNITY BOARD NO. 8 BRONX

5676 Riverdale Avenue, Suite 100 • Bronx, New York 10471-2194

Telephone: 718-884-3959 • Fax: 718-796-2763

E-Mail: [brxcb8@optonline.net](mailto:brxcb8@optonline.net)

Website: [www.nyc.gov/bronxcb8](http://www.nyc.gov/bronxcb8)

1/3/12

**Honorable Ruben Diaz, Jr.  
Bronx Borough President**

**District Manager  
Nicole M. Stent**

**OFFICERS:**

**Chairperson**

Robert Fanuzzi

**Vice Chairperson**

Maria Khury

**Secretary**

Joyce M. Pilsner

**Treasurer**

Philip Friedman

December 16, 2011

**COMMITTEE CHAIRS:**

**Aging**

Karen Pesce

**Budget**

Brendan Contant

**Economic Development**

Sergio Villaverde

**Education**

Sylvia Alexander

**Environment & Sanitation**

Rosemary Ginty

**Health, Hospitals &  
Social Services**

Steven Froot

**Housing**

Thomas C. Durham

**Land Use**

Charles G. Moerdler

**Law, Rules & Ethics**

Irving Ladimer

**Libraries & Cultural Affairs**

Robert G. Abbott

**Parks & Recreation**

Bob Bender

**Public Safety**

Arlene Garbett Feldmeier

**Traffic & Transportation**

Daniel Padernacht

**Youth**

Andrew Cohen

Amanda M. Burden, FAICP, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007-1216

**Re: CPC Calendar No.: 120090  
Proposal for a Citywide text  
amendment related to E Designation  
Program**

Dear Chair Burden:

At its regular Board Meeting held on December 13, 2011, Bronx Community Board No. 8 disapproved the following resolution by a vote of 18 in favor 12 opposed and 10 abstentions:

1. **RESOLVED**, Community Board No. 8 disapproves City Planning Commission Cal. No. 120090 ZRY proposal for a Citywide text amendment related to (E) Designations Program. The Committee believes the E-designation program as proposed and as extant is overly broad and unfair.

Sincerely,

**Robert Fanuzzi  
Chairman**

RF:db



# BRONX COMMUNITY BOARD No. 10

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Tel: (718) 892-1161 • Fax: (718) 863-6860  
E-mail: [bx10@cb.nyc.gov](mailto:bx10@cb.nyc.gov) • [www.bronxmail.com](http://www.bronxmail.com)  
Website: [www.nyc.gov/bronxcb10](http://www.nyc.gov/bronxcb10)



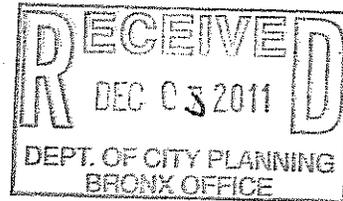
John Marano  
Chairperson

Kenneth Kearns  
District Manager

Ruben Diaz, Jr.  
Borough President

December 7, 2011

Ms. Carol Samol, Director  
Bronx Office  
New York City  
Department of City Planning  
1 Fordham Plaza  
Bronx, NY 10458



Re: "E" Designations

Dear Ms. Samol:

Please be advised that the Housing and Zoning Committee of Bronx Community Board #10, its meeting of November 29, 2011 approved the following Resolution:

Resolved ... At the recommendation of the Housing and Zoning Committee of Bronx community Board #10, that the Zoning Text Amendment governing "E" Designations offered by the New York City Department of City Planning (DCP) be approved and that his Resolution be forwarded to the full Board for its review.

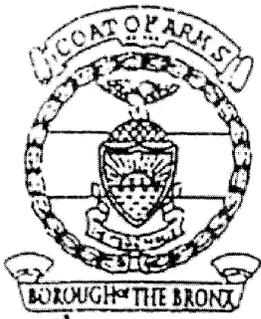
The full Board will not meet until January 19, 2012. At that meeting, this Resolution will be presented to the full Board for its review.

Thank you for your attention and assistance in this matter.

Sincerely,

Kenneth Kearns  
District Manager  
Bronx Community Board #10

- C: Ryan Singer – DCP
- Jutan Horstman – DCP
- John Marano – Chairman – CB#10
- Peter Sullivan – Chair – HOUSING AND Zoning Committee



**BRONX COMMUNITY BOARD 11**  
**1741 COLDEN AVE**  
**BRONX, NY 10462**  
[www.bronxmall.com/commboards/cd11.html](http://www.bronxmall.com/commboards/cd11.html)  
Email: [bx11@cb.nyc.gov](mailto:bx11@cb.nyc.gov)  
**(718) 892-6262, FAX: (718) 892-1861**



**Dominic Castore**  
**Chairman**

**Ruben Diaz Jr.**  
**Borough President**

**Jeremy Warneke**  
**District Manager**

**COMMITTEES**

December 27, 2011

*Bronx Park East/Olinville*

*Community Development  
and Budget Priorities*

*Education/Youth*

*Indian Village/Westchester  
Hgts*

*Land Use*

*Morris Park/Pelham  
Parkway/Van Nest*

*Pelham Gardens East*

*Pelham Gardens West*

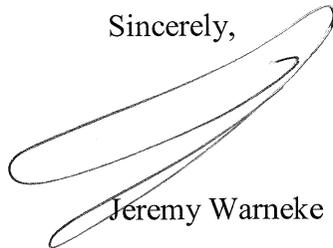
Carol Samol, Director  
Department of City Planning Bronx Office  
One Fordham Plaza, 5<sup>th</sup> floor  
Bronx, New York 10458-5891

Dear Ms. Samol:

Community Board 11's Land Use Committee reviewed the (E) Designation zoning text amendment (120090ZRY) on November 30, 2011 and recommended approval before the full board. The full board met on December 15, 2011 and voted to approve the proposed amendment with only one Board Member abstaining. This letter serves as acknowledgment of the Board's support for 120090ZRY.

Should you have any questions or concerns about this letter, please contact us by calling (718) 892-6262 or emailing me at [jwarneke@cb.nyc.gov](mailto:jwarneke@cb.nyc.gov).

Sincerely,



Jeremy Warneke



# THE CITY OF NEW YORK Borough Of The Bronx

## COMMUNITY BOARD #12

FATHER RICHARD F. GORMAN, *CHAIRMAN*  
CARMEN ROSA, *DISTRICT MANAGER*

4101 WHITE PLAINS ROAD  
BRONX, NEW YORK 10466  
TELEPHONE: (718) 881-4455/6  
FAX: (718) 231-0635

22 November 2011

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

**RE: (E) Designations Text Amendment  
N120090ZRY**

Dear Mr. Wargo:

At its regularly scheduled meeting for the month of November convened on Thursday evening, 17 November 2011 at 7:00 P.M. in Town Hall—4101 White Plains Road at the intersection of East 229<sup>th</sup> Street in the Borough of The Bronx—the membership of Community Board 12's Land Use Committee voted unanimously in favor of the above referenced (E) Designations Text Amendment as presented by Mr. Nestor Danyluk, Bronx City Planning.

Thank you for allowing us the opportunity to comment on this matter. If you require any additional information please feel free to contact me at 718-881-4455.

Sincerely,

Father Gorman  
Chairman





# THE CITY OF NEW YORK **COMMUNITY BOARD SIX**

**Marty Markowitz**  
Borough President

**Daniel M. Kummer**  
Chairperson

**Craig Hammerman**  
District Manager

January 25, 2012

Amanda Burden  
Chairperson  
City Planning Commission  
22 Reade Street  
New York, New York 10007-1216

Re: (E) designations Text Amendment  
ULURP No. N 120090 ZRY

Dear Chairperson Burden:

I am writing to advise you that at its December 14, 2011 general meeting Brooklyn Community Board 6 resolved unanimously to conditionally approve of the proposed (E) designations Text Amendment, to update provisions related to the (E) Designation Program, remove duplicative zoning provisions and streamline the administration of the program.

After hearing a thorough presentation by representatives for the department at our December 1, 2011 meeting of our Landmarks/Land Use Committee, it was our committee's recommendation that the department be commended for taking a comprehensive approach to cleaning up these regulations as they relate to the (E) Designation Program. This undertaking is especially meaningful to districts like ours that have mixed-use industrial-residential areas as a way of improving the transparency and utility of the existing designation program. We appreciate the importance of this program as a way of universally identifying potential land use and environmental concerns as they pertain to hazardous materials, air quality and noise environmental requirements.

The central issue for us is the 2009 creation of the Office of Environmental Remediation (OER) which was granted the authority to administer the (E) Designations Program as a successor to the Department of Environmental Protection (DEP). We think very highly of OER and work closely with them on a number of important initiatives in our district that relate to brownfields and community revitalization. They have quickly become an indispensable partner to us in City government. But unlike DEP, which is accountable to Community Boards under Section 2704 of the City Charter, OER as a relatively new entity has no such clear-cut lines of accountability. As a condition of our support for the proposed changes to the (E) Designations Program we are calling upon the administration to make OER a full-fledged, accountable partner to us in City government through appropriate revision of the City Charter.

**250 Baltic Street • Brooklyn, New York 11201-6401 • [www.BrooklynCB6.org](http://www.BrooklynCB6.org)  
t: (718) 643-3027 • f: (718) 624-8410 • e: [info@BrooklynCB6.org](mailto:info@BrooklynCB6.org)**

We note that this is not an isolated case insofar as there have been other important and major restructuring efforts in City government that have removed levels of accountability between the agencies and our communities. There is no clear-cut line of accountability between the Community Boards and the Department of Design and Construction. There is no clear-cut line of accountability between the Community Boards and the Department of Education. And now we can add the Office of Environmental Remediation to this list as well.

None of these agencies are required to appoint local service chiefs to work with Community Boards. They are not required to attend District Service Cabinet meetings with other agency representatives. They do not have to furnish information to Community Boards, work with them in a planning capacity to address budgetary and programmatic needs, or coordinate service functions and programs that serve the communities. In short, they do not have to comply with the same provisions of Chapter 69 of the City Charter which focuses on the coterminous delivery of services that virtually every other City agency has to comply with.

More and more critical service delivery responsibilities are being transferred to newly-created agencies without assurances that they will function in the traditionally accountable framework that binds most City agencies to Community Boards in a coterminous and co-active partnership. We are not suggesting that there were nefarious reasons for this oversight but the trend is alarming and one which we hope to reverse by bringing to your attention and the attention of other administration officials.

We hope you will agree that preserving the Charter-intended framework of accountability between City agencies and the Community Boards is a priority. Efforts which erode that framework even if unintentional can ultimately undermine the public's role and faith in City government. This trend must be reversed. We stand ready to work with you and the administration toward that end.

Thank you for the opportunity to comment.

Sincerely,

Daniel M. Kummer  
Chairperson

cc: Hon. Michael Bloomberg	Hon. Marty Markowitz
Hon. Stephen Levin	Hon. Sara M. Gonzalez
Hon. Brad Lander	Deputy Mayor Patricia E. Harris
Deputy Mayor Caswell Holloway	Commissioner Nazli Parvizi, CAU
Director Purnima Kapur, DCP/Brooklyn	All Community Boards

**250 Baltic Street • Brooklyn, New York 11201-6401 • [www.BrooklynCB6.org](http://www.BrooklynCB6.org)  
t: (718) 643-3027 • f: (718) 624-8410 • e: [info@BrooklynCB6.org](mailto:info@BrooklynCB6.org)**



# Community Board Ten

8119 5<sup>th</sup> Avenue • Brooklyn, NY 11209  
(718) 745-6827 • Fax (718) 836-2447  
Communitybd10@nyc.rr.com

**BRIAN KIERAN**  
*Vice Chairperson*  
**ELEANOR SCHIANO**  
*Secretary*  
**MARY ANN WALSH**  
*Treasurer*

**JOANNE SEMINARA**  
**Chairperson**  
**JOSEPHINE BECKMANN**  
**District Manager**

OFFICE OF  
CHAIRPERSON

JAN -6 2012

December 27, 2011

Amanda M. Burden, AICP Director  
City Planning Commission  
Calendar Information Office  
22 Reade Street, Rm 2E  
New York, NY 10007-1216

Re: E Designations Text Amendment  
N 120090 ZRY

Dear Ms. Burden:

At a duly publicized meeting of Community Board Ten held on Monday, December 19, 2011, members unanimously supported the recommendation of our Zoning and Land Use Committee to support the E Designation Text Amendment with two recommendations for your review.

1. Community Boards and Council Members should be notified and given an opportunity to comment prior to OER approving any e designation modifications, and
2. E designations continue to be noted on relevant zoning maps.

I have enclosed a copy of the Zoning and Land Use Report for your perusal.

Thank you for your attention.

Sincerely,  
  
Joanne Seminara  
Chairperson

Enc.  
cc: Hon. Marty Markowitz  
Hon. Vincent Gentile

MARTY MARKOWITZ, BOROUGH PRESIDENT

Community Board 10 (Brooklyn)

ZALUC Report

Topic: E Program Text Amendment to the Zoning Resolution

Board Meeting Date: December 19, 2011

Committee Meeting Date: December 7, 2011

Good evening zoning fans.

ZALUC met in quorum on December 7 to consider the e program text amendment to the Zoning Resolution. Also present was Chair Joanne Seminara and DM Josephine Beckmann

SEQRA and CEQR are laws requiring that municipalities identify environmental hazards attached to specific tax lots before permitting development. In response to those laws, the New York City e program was instituted in 1983 by the City Planning Commission to address environmental issues on specific, non-City owned, tax lots included within a proposed rezoning. The e program is administered by the Office of Environmental Remediation and Enforced by the Department of Buildings. The e program insures that environmental hazards are remediated at the time the lot is developed. The environmental hazards relate to hazardous materials, air quality or noise.

When a re-zoning is about to take place, say from a manufacturing to a residential zone, certain lots with environmental issues may receive "e designations". When that occurs the identified hazard must be remediated at the same time as development. For example a dry cleaning establishment may receive an e designation during a re-zoning. That would require a future developer to eliminate any pollution before putting a house on the site. The designation documents may be quite complex in what is required to release the property to development.

The way this currently works is as follows: While evaluating potential development sites within a rezoning area, a lead agency determines whether a significant environmental impact is likely based on criteria within the CEQR Technical Manual. If so the lead agency requests an e designation. On the public hearings for the rezoning, the affected property owners are notified and given an opportunity to object. Upon passage of the rezoning the existence of any new e designations passed are noted within the zoning resolution (Appendix C), and on certain zoning maps, and the specifics of the environmental requirements are filed with the lead agency and the Mayor's Office of Environmental Coordination.

That means if you want to buy a property for development you must check the appendix in the zoning resolution to see if an e designation applies. Importantly if you buy a lot without knowledge of the e designation you are stuck because the e designation is a public notice and the responsibility to find it falls on the purchaser. If there is an e designation you must contact the lead agency or mayor's office to find out the nature of the problem and extent of the necessary remediation. Once there is an e designation no building permit can be issued until the issue is addressed to the satisfaction of the OER. Once OER is satisfied the DCP administratively notes the satisfaction in Appendix C to the Zoning resolution.

Getting to the proposed amendment, it is important to emphasize that this process only applies to large rezonings such as those that CD10 underwent in the last decade. When small rezonings,

like special permit or variance applications, are requested by the owner or developer, environmental restrictions are handled, not through notices in the zoning resolution and through e designations on zoning maps, but through restrictive declarations. Restrictive declarations are filed in the land records with the county clerk and will typically be revealed on a title search. This can be confusing and lead a purchaser to review either the e designations but not the restrictive decantations, or vice versa, but not both sets of records. This can have disastrous effects.

There have been other problems. There are issues as to the DOB's jurisdiction to enforce air and noise e designations and any restrictive covenants. Currently environmental requirements associated with e designations cannot be modified once adopted. Existing regulations do not ensure the ongoing monitoring of environmental control technologies post-occupancy, such as a vapor barrier installed beneath a building foundation. And there are also some duplicative regulations as between the main zoning text and special districts and some outdated language. This text amendment is intended to address that.

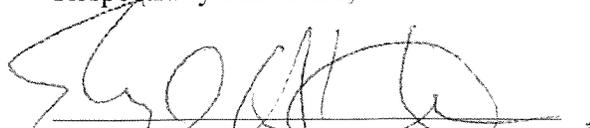
The proposed changes would end the restrictive declaration process and use e designations as the exclusive mechanism for environmental notifications to the public. The DOB would be given explicit jurisdiction over air and noise e designations (not general air and noise complaints), as well as existing environmental restrictive declarations. The amendment would give OER the authority, with the consent of the lead agency, to modify the environmental requirements of an existing (E) designation, provided that the modified requirements are equally protective. Such a modification could be necessary due to new information or changes in technology. The amendment would create a mechanism for ongoing monitoring after occupancy. And duplicative and unnecessary language would be addressed.

The committee discussed the proposed changes and comments were generally favorable. The committee noted the following: 1) Community Boards and Council Members are not included in the notification process if the OER decides to modify an e designation. ZALUC, however, believes both should be notified prior to any modification by the OER; 2) while adopting the e designation as the public notification process of choice, the proposal also eliminates e designations from the relevant zoning maps. ZALUC believes that the zoning map designations should remain.

I wish to be clear that the issue concerning the notification on the zoning maps was NOT discussed at the ZALUC meeting. It was noticed by DM Beckmann and brought to our attention the day after the meeting. It was handled through emails and the ZALUC members agreed with its inclusion in this report.

ZALUC recommends and moves that the proposed amendment be approved as written subject to the recommendations that 1) relevant Community Boards and Council Members be notified and given an opportunity to comment prior to OER approving any e designation modifications and 2) e designations continue to be noted on relevant zoning maps

Respectfully submitted,



Stephen A. Harrison, Chair ZALUC



**MARTY MARKOWITZ**  
BOROUGH PRESIDENT

**THERESA SCAVO**  
CHAIRPERSON

**OFFICERS**

**DR. ALAN DITCHEK**  
FIRST VICE-CHAIRPERSON  
**RITA NAPOLITANO**  
SECOND VICE-CHAIRPERSON  
**JACK ERDOS, ESQ.**  
TREASURER  
**HON. ANNE M. DIETRICH**  
SECRETARY

**EXECUTIVE COMMITTEE**

**JOYCE ARBERMAN**  
**DONALD BROWN**  
**ROBERT GEVERTZMAN**  
**MORRIS HARARY, ESQ.**  
**DR. OLIVER KRAPP**  
**HON. EILEEN M. O'BRIEN**  
**ALLEN POPPER, ESQ.**  
**HELEN SARUBBI**  
**RONALD TAWIL**  
**IRA TEPPER**

The City of New York  
**Brooklyn Community Board 15**



**MICHAEL R. BLOOMBERG**  
MAYOR

**PEARL BURG**  
DISTRICT MANAGER

December 5, 2011

Department of City Planning  
22 Reade Street  
New York, N.Y. 10007

To Whom it May Concern,

At the full Board Meeting of Community Board 15 on November 29, 2011, the Board unanimously endorsed the Department of City Planning's (E) Designation Text Amendment.

The Board believes these changes will result in greater protection of the health and safety of future residents, commercial occupants, their neighbors and construction workers. This text amendment will also result in a more predictable and streamlined land use and environmental review process, benefitting land use practitioners, property owners, the public and city agencies.

If you have any questions please feel free to contact (718) 332-3008.  
Thank you.

Sincerely,

*Theresa Scavo*  
Theresa Scavo



# 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](mailto:QN02@CB.NYC.GOV)

Websites [www.QueensCB.org](http://www.QueensCB.org) - [www.CB2Queens.org](http://www.CB2Queens.org)

*Joseph Conley*  
Chairman

*Debra Markell Kleinert*  
District Manager

December 15, 2011

Department of City Planning Calendar Office  
City Planning Commission  
Room 2E  
22 Reade Street  
New York, NY 10007-1216

RE: (E) Designation Text Amendment – N1200090 ZRY  
CB 2 Recommendation

Community Board 2 held a public hearing on December 1, 2011 regarding the (E) Designation Text Amendment – N1200090 ZRY. Following the public hearing at the regular monthly meeting of Community Board 2, a motion was made and seconded to approve the application with the vote as follows:

In favor: 29                      Opposed: 0                      Abstentions: 1

With the Chairman of Community Board 2 present and not voting.

If you have any questions, please contact CB 2 at (718) 533-8773.

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 Michael Gianaris, NY State Senate  
Honorable Michael DenDekker, NYS Assembly  
Honorable Margaret Markey, NYS Assembly  
Honorable Catherine T. Nolan, NYS Assembly  
Honorable Elizabeth Crowley, NYC Council Member  
Honorable Jimmy Van Bramer NYC Council Member  
Honorable Daniel Dromm, NYC Council Member  
Honorable Helen Marshall, President of the Borough of Queens  
Honorable Barry Grodenchik, Deputy Borough President  
Irving Poy, Queens Borough President's Office  
John Bittner, Queens Borough President's Office  
John Young, Department of City Planning  
Penny Lee, Department of City Planning  
Joseph Conley, Chairman, Community Board 2  
Lisa Deller, Chair, Land Use Committee CB 2

DCP (E) Designation Text Amendment



COMMUNITY BOARD No. 3, Q.  
82-11 37<sup>th</sup> Avenue, Suite 606  
Jackson Heights, New York 11372  
Telephone: (718) 458-2707 Fax: (718) 458-3316  
www.CB3QN.NYC.GOV

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

**APPLICATION: N120090-ZRY- (E) Designation Text Amendment**

**DOCKET DESCRIPTION:** The proposed text amendment would modify Section 11-15 (Environmental Requirements) of the zoning Resolution to streamline existing regulations and update the text to reflect current agency responsibilities

COMMUNITY BOARD NO. 3

BOROUGH Queens

BOROUGH BOARD \_\_\_\_\_

DATE OF PUBLIC HEARING 12/15/11

LOCATION: **I.S. 227 – Louis Armstrong School**  
32-02 Junction Boulevard  
East Elmhurst, NY 11369

WAS 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**

DATE 12/15/11

LOCATION: **I.S. 227 – Louis Armstrong School**  
32-02 Junction Boulevard  
Jackson Heights, NY 11372

**RECOMMENDATION:**

Community Board #3, at its monthly meeting held on December 15, 2011 reviewed the above referenced application and recommends approval with the proviso that the local community board be informed of all plans to modify the environmental requirements in (E) designated properties within its district.

\_\_\_\_\_ APPROVE  APPROVE WITH MODIFICATIONS/ CONDITIONS

\_\_\_\_\_ DISAPPROVE \_\_\_\_\_ DISAPPROVE WITH MODIFICATIONS/ CONDITIONS

**VOTING:**

IN FAVOR 30 AGAINST 0 ABSTAINING 2

TOTAL MEMBERS APPOINTED TO BOARD 50

Grace V. Lawrence

Chairperson

COMMUNITY / BOROUGH BOARD OFFICER

Title

12/22/11 Date -

CommunityBoard 3@nyc.rr.com



# Community Board No. 5

Borough of Queens

Ridgewood, Maspeth, Middle Village and Glendale

61-23 Myrtle Avenue • Glendale, NY 11385

(718) 366-1834

Fax (718) 417-5799

E-mail: qnscb5@nyc.rr.com



Vincent Arcuri, Jr.  
Chairperson

Gary Giordano  
District Manager

December 1, 2011

NY City Planning Commission  
Calendar Information Office  
22 Reade Street (Room 2E)  
New York, NY 10007

Re: N 120090 ZRY  
(E) Designations Text Amendment

Dear Chairperson Burden & Commissioners:

At our meeting of Wednesday, November 9, 2011, the members of Community Board 5, Queens unanimously voted in favor of a motion stating that Community Board 5, Queens has no objection to the proposed (E) Designations Text Amendment, submitted by the Dept. of City Planning. The vote regarding this application was 41 in favor, -0- opposed, -0- abstaining, and -0- not voting.

Thank you for your attention to this matter.

Sincerely,

  
Gary Giordano  
District Manager

CC: John Young, Director-Queens Office, Dept. of City Planning  
Hon. Helen Marshall, Queens Borough President  
Walter Sanchez, CB5Q Zoning & Land Use Comm. Chairman

**Community/Borough Board Recommendation**

City Planning Commission  
22 Reade Street, New York, NY 10007  
Fax: (212) 720-3356

Application # N 120090ZRY  
CEQR#

Community District No. 1 Borough Staten Island

**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:**

N 120090 ZRY  
(E) designations Text Amendment

**Applicant (s):**  
NYC Department of City Planning  
22 Reade Street  
New York, New York 10007  
212-720-3262 Fax: 212-720-3262

**Applicant's Representative:**  
Thomas Wargo  
Director, Zoning Division, NYC Dept. of City Planning  
22 Reade Street  
New York, NY 10007  
212-720-3262 Fax: 212-720-3244

Community Board No. 1  
Staten Island

Borough: Staten Island

Borough Board:

Date of Public Hearing: December 5, 2011

Location: CB#1 Office, 1 Edgewater Plaza Suite #217

Was a quorum present: Yes  NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but no fewer than 7 members.

Vote adopting recommendation taken: 12/13/11 Location: All Saints Church, 2329 Victory Blvd.  
Recommendation: Approve application as submitted.

Approve

Approve with Modifications/Conditions

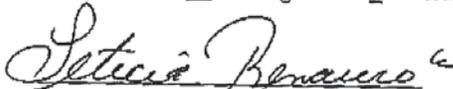
Disapprove

Disapprove with Modifications/Conditions

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

**Voting:**

In Favor: 24 Against: 0 Abstaining: 0 Total members appointed to the Board: 37

  
Community/Borough Board Officer

Chairwoman  
Title

December 15, 2011  
Date



OFFICE OF THE  
CHAIRPERSON

FEB 2 - 2012

24244

OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

January 31, 2012

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

N 12 0090  
ZRY

Dear Ms. Burden:

I am writing to express my strong support for the city-wide text amendment to streamline the zoning regulations that govern Environmental (E) designations related to the Zoning Resolution.

Since established in 1983, E designations have played a part in assuring that properties potentially requiring environmental remediation from sources such as sound, air quality and/or hazardous materials in the ground, are addressed prior to development occurring on a property. Such designations provide plan reviewers at the Department of Buildings (DOB) with a notice of the presence of an environmental concern that exists. While being regulated by an E designation, the lot and the environmental conditions that need to be remedied are listed in Appendix C of the Zoning Resolution.

The proposed text amendment aims to increase the transparency of the E designation. Currently, E designations are placed on third party lots only in the event of a proposed zoning change where it is assumed possible redevelopment is likely to occur due to the rezoning. These lots do not undergo the same degree of examination as would the property specific to an applicant. Other actions such as first party rezoning, special permits, variances or authorization will have an Environmental Restrictive Declaration recorded against the property should it require environmental mitigation. This mechanism has not been part of the Zoning Resolution and is less visible to the public. As a result, the proposed amendment would now make an E designation applicable under all actions of the Zoning Resolution. Combined with other proposed administrative changes, these changes are expected to result in a more efficient process towards obtaining a DOB permit.

Prior to the reprinting of the Zoning Resolution with the adoption of the Key Terms text amendment, E designations could be easily identified on individual zoning maps. However, for whatever reason, the sole reference for such designations is currently Appendix C of the Zoning Resolution. For an individual seeking to find out whether a particular property has an E designation, navigating the Appendix can be problematic without knowing what year the property was rezoned. As currently formatted, each designation is listed in ascending order by the date in

Amanda M. Burden  
January 31, 2012  
Page - 2 -

which the E was placed on the site. As this text amendment seeks to add transparency and administrative clarity for properties subject to an E designation, I understand that DCP will supplement the Appendix with a list formatted by Block and Lot number for easier referencing when assessing whether the property is designated. This will be an important upgrade.

The jurisdiction change from the Department of Environmental Protection (DEP), which is accountable to Community Boards under Section 2704 of the City Charter, to the Office of Environmental Remediation (OER), a relatively new entity raises some concern as it has no such clear-cut lines of accountability.

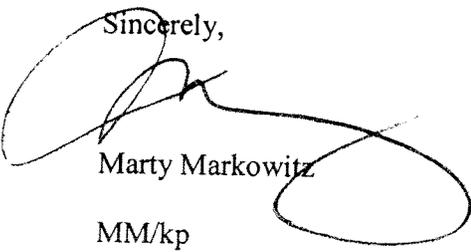
Agencies such as DEP, are required to appoint local service chiefs to work with Community Boards. They are required to attend District Service Cabinet meetings with other agency representatives. They have to furnish information to Community Boards, work with them in a planning capacity to address budgetary and programmatic needs, or coordinate service functions and programs that serve the communities. In short, they comply with the same provisions of Chapter 69 of the City Charter which focuses on the coterminous delivery of services that virtually every other City agency has to comply with.

Critical service delivery responsibilities should not be transferred to newly-created agencies, such as there being proposed for OER without assurances that it will function in the traditional accountable framework that binds most City agencies to Community Boards in a coterminous and co-active partnership.

Therefore, the Administration should take steps to address this omission to make OER a full-fledged, accountable partner to the City's Community Boards. This is best achieved through an appropriate revision of the City Charter. The Agency Rules that are subject to the February 27, 2012 public hearing regarding OER's responsibilities, in respect to the E-Designation Zoning Text Amendment, might also be an alternative venue on a interim basis to address the City Charter omission.

I look forward to these changes taking place after its public review process has ended. Please feel free to contact Kevin Parris, land use coordinator at 718-802-3856 if any further information is needed.

Sincerely,



Marty Markowitz

MM/kp

cc: Brooklyn Borough Board

204-05 43 Avenue  
Bayside, NY 11361-2617  
December 26, 2011

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

To the New York City Department of City Planning:  
Re: N 120090 ZRY  
(E) Designations Text Amendment

My name is Henry Euler and I am the Co-Chair of the Environment Committee of Community Board 11, Queens, and First Vice President of the Auburndale Improvement Association, Inc. I am not representing either group with these comments. My testimony represents my own views.

My community board sent out information about the proposed text amendment related to the (E) Designation Program in November to the co-chairs of the Environment Committee. At that time, my co-chair, Paul DiBenedetto, and I read the information in the application and we decided that we should discuss these proposed changes with the committee to see if there were any questions or objections to the text provisions. We asked that a representative from City Planning be sent to the meeting to explain the proposed changes and how they would impact on our communities and any proposed development.

On December 13, 2011, the Environment Committee met with Edgar Bajana, a planner from the Queens office of City Planning. He distributed a packet of information to all who attended and proceeded to explain the text amendment. During his presentation, many questions came up from the committee members. Mr. Bajana was able to answer most of the questions, however, there were some that he was not prepared to answer and required more research on his part. To his credit, he wrote down the nine questions that he wanted to check into and promised to return answers to the committee. On December 21st, the answers were received by Community Board 11 and immediately sent out by the district manager to the Environment Committee members, the zoning chairs of the Board and the Executive Board members.

My co-chair and I then forwarded an e-mail asking all of the above people to read the answers to the questions raised and the other information sent out regarding this text change. We requested that the above members send back any comments and/or concerns regarding the text amendment to us so that we could incorporate those responses into comments to be sent to the Commission by the December 27th comment deadline.

We did not receive any comments back including comments objecting to or supporting the text amendment. I believe that there was simply not enough time to complete the tasks of reading and submitting comments. Many of the board members are civic leaders as well, and when issues come before the Board, these leaders like to check with their organizations and members to apprise them of proposals and give them time to comment. Given the fact that Hanukkah and Christmas coincided with this time period where we requested responses, it does not surprise me that we did not have time to complete this process in a proper way.

A sixty day window for public comments is not long enough, especially when the most major holidays occur during that window. A ninety day period would definitely have been more desirable. Even though sixty days seems long, it is insufficient time to review a proposal when it involves organizing meetings, obtaining responses involving a sizable number of people and reaching consensus on comments to be submitted. Since this text amendment proposal did not require going through the ULURP process, which would have given more time and opportunities for public input, it would seem that a longer period of public commentary at ninety days would be appropriate and fair.

I understand that the Commission will be proposing a Green Text Amendment at the beginning of 2012. I strongly believe that it behooves the Commission to consider extending any public comment period for this and future text amendment changes to facilitate public input.

I have also read that the City Planning Commission hosted a conference called Zoning the City in November to address the city's future with respect to development and growth in the 21st century. As new proposals are put forth, and I understand that changes in the zoning resolution may be involved, these proposals must be thoroughly explained to the public, with many opportunities for everyone to give their comments and suggestions to the Commission. Community Boards, civic organizations and the general public must be actively involved in any change process.

Thank you for the opportunity to express my views.

Henry Euler



cc: Queens Borough President Helen Marshall  
Councilman Daniel Halloran  
Senator Tony Avella  
Assemblyman Edward Braunstein  
Community Board 11, Queens  
Queens Civic Congress  
Auburndale Improvement Association, Inc.