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**CITY PLANNING'S KEY TERMS CLARIFICATION TEXT AMENDMENT BEGINS PUBLIC REVIEW**

*Proposal would remove loopholes and streamline review processes*

September 27, 2010 – City Planning Commissioner Amanda M. Burden today announced the beginning of public review for the [Key Terms Clarification Text Amendment](#), a set of technical changes to the NYC Zoning Resolution designed to preserve the original intent of the zoning regulations and to clarify the meaning and usage of key terms within the regulations. The proposed text amendment would remove ambiguities from the zoning regulations, close potential loopholes and prevent costly delays during City reviews of building plans. These clarifications in the Zoning Resolution further Mayor Bloomberg's commitment to streamlining and simplifying government processes, and improving customer service.

Commissioner Burden said, "This text amendment is essential to ensuring that zoning regulations produce intended results. The clarifications will provide predictability for property owners and the public so that they know what is allowed to be built in their neighborhoods. The amendment will remove loopholes, make the regulations clearer during the examination stage at the Department of Buildings, and reduce the need for lengthy and costly appeals."

DCP has consulted with city agencies, including the Department of Buildings, the Board of Standards and Appeals, Housing Preservation and Development, and with associations of architects, planners and other experts to review the revised zoning text. In June of this year, DCP also posted a draft of this proposal on its website, presented the proposal at Borough Board meetings and held an information session for Community Board members and their advisors.

The text amendment primarily addresses the definitions of "[development](#)" and "[building](#)." These are two of the most commonly used terms in the Zoning Resolution and they are often used interchangeably, sometimes resulting in undesirable outcomes.

The need for the text amendment became apparent after the City lost a court case concerning a curb cut rule, which prohibited new curb cuts for developments in brownstone neighborhoods where curb cuts are a rarity. The judge found that the prohibition did not apply to an existing building since "development" is defined in the Zoning Resolution as a new building. Since the court case, the City has adopted a new rule that applies the curb cut prohibition to all "buildings," rather than "developments," so that the date of construction is irrelevant, and the original intent of the rule was restored. The Key Terms Clarification Text Amendment goes a step further and addresses the rest of the Zoning Resolution to ensure that all other rules that include the term "development" will be applied as intended.

For instance, many height and setback regulations are written to apply only to "developments" (new buildings) or "enlargements" (existing buildings that add floor space). Alterations to buildings that are technically neither a development nor an enlargement are therefore exempt and could significantly increase building height. The proposal will close this loophole by applying all height and setback regulations to all "buildings."

The proposal applies a common-sense understanding to the defined term "building." Currently, separate buildings that abut one another are considered one building for zoning purposes if they are on a single zoning lot. The proposal would define a "building" to mean any structure that is separated from other buildings by fire walls, a change that corresponds to the Building Code. Many zoning rules for new buildings are based on the width of the building, such as rules governing height, setbacks and recesses. These rules can be manipulated in unintended ways when abutting buildings on the same zoning lot are "used" to increase the width of a single building for zoning purposes. The new definition of "building" will ensure that the building height, setback and recess rules work as intended.

The proposal also restores the original intent of the Planning Commission when applying height and setback regulations to community facility buildings. Currently, liberal height and setback regulations apply to buildings such as hospitals and colleges, but were not intended to also apply to residential buildings that contain a small amount of community facility space, such as doctor's offices. The proposal will require that the more restrictive height and setback regulations for residential buildings apply to all residential portions of buildings that contain community facility space.

The text amendment will now be referred to all Community Boards, Borough Boards, and Borough Presidents for a 60-day review period, followed by a City Planning Commission and City Council review.

The Department of City Planning (DCP) promotes strategic growth and development in the City, in part, by initiating comprehensive, consensus-based planning and zoning changes for individual neighborhoods and business districts. It supports the City Planning Commission and each year reviews more than 500 land use applications for actions such as zoning changes and disposition of City property. The Department assists both government agencies and the public by providing policy analysis and technical assistance relating to housing, transportation, community facilities, demography and public space.