

July 15th, 2014

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NYC Department of City Planning
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New York, New York

Comments to the NYC Department of City Planning (DCP) regarding the Open Industrial Uses Study (OIUS) draft report from the NYC Environmental Justice Alliance (NYC-EJA) and its member organizations in the OIUS External Advisory Committee.

Dear Ms. Passmore,

We commend the NYC Department of City Planning (DCP) for creating a variety of initiatives that will help address community vulnerability for those who live/work in proximity to the Significant Maritime and Industrial Areas (SMIAs), and the various industrial uses located there.

The OIUS draft report recommendations represent a significant first step in establishing a coordinated approach to building sustainable and resilient industrial waterfronts. In particular, we are pleased to see the document addresses many of the issues raised by members of the NYC Environmental Justice Alliance through the OIUS External Advisory Committee. The draft report recognizes the economic importance of open industrial uses, while addressing important shortcomings in the current regulation -- including the need for further provisions to prevent the accidental exposure of hazardous substances in the event of severe weather.

However, there are several areas where the OIUS recommendations should be expanded and clarified. Any reforms to open industrial uses need to delineate a concrete framework to address a) the lack of updated performance standards in the Zoning Resolution and b) the need for a coordinated and comprehensive environmental regulatory framework, reflecting the potential impacts of climate change. In order to do so, the OIUS report should delineate the necessary next steps to address the lack of a coordinating body to oversee existing environmental regulations and supervise their enforcement; update the Zoning Resolution to reflect the evolution of other agencies' environmental regulation; and respond to the increasing technical and financial needs of local industrial businesses. **NYC-EJA supports the recommendations presented by the OIUS draft report, predicated on the assumption that the following suggestions will be incorporated in the final draft, and reflected in the upcoming zoning text and building code amendments, among other future phases of this important project.**

1. Establish the next steps in the creation of a framework to coordinate existing and future environmental regulation affecting open industrial uses.

- The OIUS should clarify how to coordinate the interaction of proposed design-based zoning requirements with other agencies' performance-based standards and regulations. A coordinating body could support inter-agency work to create effective policies and increase the enforcement of environmental regulation.

- This framework should identify strategies to support local industrial operators in identifying all requirements that apply to their location and operation, while providing direct technical and financial assistance to comply with the proposed regulation. Roles and responsibilities should be clearly articulated and broken down by agency. If a specific agency (like the Department of Buildings) is expected to oversee enforcement, the OIUS report should explain how/when will this take place.
- The OIUS should delineate what type of Mayoral-level involvement would be required to oversee/coordinate municipal inter-agency strategies for increasing climate adaptation and resiliency in NYC's industrial waterfront -- including steps required to address the needs of enclosed industrial facilities, among other recommendations of the Special Initiative for Rebuilding and Resiliency (SIRR).

2. Address the vulnerability of coastal areas within the 500-year floodplain and delineate a comprehensive response to climate change impacts.

- Proposed amendments should apply to areas within the FEMA-FIRM 500-year flood plain -- and must be periodically updated to include additional vulnerable areas according to the latest scientific projections documenting the impacts of sea-level-rise, storm surge, high winds, among other climate change impacts. Current OIUS recommendations applicable to open storage of hazardous substances are restricted to the FEMA-FIRM 100-year floodplain leaving out other areas that can be vulnerable to additional climate change impacts.
- Delineate a comprehensive response to climate change impacts, beyond an almost exclusive focus on flooding, to include sea level rise, storm surge, high winds, and other potential climate change impacts.

3. Provide strong technical and financial support to local industrial businesses to facilitate the implementation of climate adaptation and pollution prevention strategies, and encourage the voluntary implementation of best practices for the enhancement of environmental performance.

- The OIUS relies on a traditional cost-benefit analysis that fails to capture benefits to public health and the environment. When discussing the "cost effectiveness," the OIUS should acknowledge that certain strategies may appear to be less cost-effective in the short term but will result in long-term savings, and emphasize the importance of creating innovative incentives to help businesses implement them. For instance, the U. S. Environmental Protection Agency's Best Management Practices to Mitigate Toxics and Implement a Greening Program for Small Manufacturing Businesses helps industrial businesses incorporate safer products to address public health and environmental concerns, alongside strategies to save energy and water, and reduce waste management costs.
- Moreover, the OIUS should address the need for additional financial incentives, engaging local businesses and community-based planning organizations directly, in assessing the local capacity for implementation and the need for grants to help cover capital investments, not just tax-breaks or low-interest loans.

Thank you very much for considering our recommendations on the Open Industrial Uses Study draft report. We look forward to discussing your thoughts on these suggestions as the process moves forward.

Sincerely,



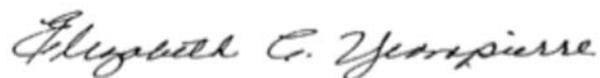
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