



Community Facilities Zoning Text Proposal - **Approved!**

Introduction & Public Review

On March 8, the City Planning Commission referred out a set of proposed text amendment changes on community facilities. This application, jointly sponsored by the Department of City Planning and the New York City Council's Land Use Committee, has been referred to each of the city's 59 community boards for comment.

The applicants are proposing to modify and replace existing text, add new text, and reorganize and renumber various sections of the Zoning Resolution regarding community facilities. The proposal would affect zoning regulations on a citywide basis, and would result in changes to the use, bulk and parking regulations for community facilities. The proposal involves changes affecting: (a) use regulations for houses of worship, ambulatory health care facilities, and college or school dormitories; (b) special provisions for adult use establishments in manufacturing districts; (c) rear yard obstructions for community facilities; (d) community facility floor area ratios in certain local retail and service commercial overlay districts; (e) off-street parking requirements for houses of worship and ambulatory health care facilities; and (f) parking lot screening for community facilities.

Background

Community facility zoning regulations in New York City permit a wide range of educational, health care, religious and not-for-profit institutions to locate in residence districts in New York City. These regulations are intended to accommodate the need for these institutions to locate near the populations they serve, and to recognize the special legal protections that federal and state law accord to houses of worship and schools.

In the past two decades, as community facilities have grown in number and size, and in many cases have served regional rather than neighborhood populations, land use conflicts have developed in which local residents, community groups and elected officials have asked that zoning for community facilities lessen their impacts in residential areas. The Department of City Planning's studies of these issues have highlighted the difficulty of reconciling the needs, and legal rights, of community facility providers with the important planning goal of preserving the character of residential neighborhoods.

Working with the City Council's Land Use Committee, the Department has identified a number of text changes that can be implemented to reduce land use conflicts while respecting the needs and legal rights of community facility providers. By carefully crafting new regulations that are more restrictive, where appropriate, and in some cases more permissive, the proposal would limit the land use impacts of some types of community facilities while allowing them opportunities to locate in a manner that is less problematic for residential communities.

The proposal would affect health care facilities, houses of worship, the maximum permitted community facility floor area ratio (*FAR*) in certain local commercial districts, construction in required rear yards and screening for off-street parking facilities. The proposal would also modify the zoning text definition of college or school dormitory or fraternity or sorority houses to clarify that these community facility uses are student accommodations. The changes are intended primarily to limit the size of certain community facilities, and their related parking and traffic impacts, in the city's lowest density neighborhoods. Most community facilities in the city are located in other types of zoning districts, which are widely mapped, and would not be affected by the proposal.

Public Review

On March 8, 2004, the City Planning Commission referred the proposed zoning text amendment (N 040202 ZRY) for public review and comment. The comment period lasted 60 days. In addition, a Draft Environmental Impact Statement was prepared for the application. A public hearing on the application and the DEIS was held by the City Planning Commission on June 9, 2004.

For detailed information on the proposal, download copies of the  [Draft Scope document](#), which sets forth the analyses and methodologies proposed for the project Environmental Impact Statement, and the  [Environmental Assessment Statement](#) (1.6 mb).

On July 28, 2004, the City Planning Commission voted unanimously to approve the proposed zoning text amendments, with modifications ( [Read the CPC report](#)). At the request of the applicants and in response to issues raised during the public review process, the Commission modified the proposal to provide a ministerial process for locally oriented houses of worship to waive required parking, and to add clarification to a proposed new special permit of the Board of Standards and Appeals to waive or reduce required parking for houses of worship based upon their operation or utilization. It also modified the proposal to leave intact current zoning rules that prohibit the location of adult establishments within 500

feet of houses of worship.

On September 9, 2004, the full City Council approved the application with one additional modification. The modification limits the proposed increase in the maximum permitted floor area ratio for community facilities located within commercial strips in R3-2 districts. (The maximum permitted FAR would increase from 1.0 to 1.6 instead of 2.0, still offering an incentive principally for ambulatory health care facilities to locate in commercial rather than residence districts). View the  [adopted zoning text amendment](#).

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Proposed Zoning Changes

The adopted community facilities zoning text changes are presented in the  [zoning text amendment](#). The main components of the proposal are:

Health Care Facilities

- "Ambulatory diagnostic or treatment health care facilities" would replace "medical offices," "government operated health centers or independent out-of-hospital health facilities," and "health centers" as they appear throughout the Zoning Resolution. Ambulatory health care facilities would include physicians, dentists, psychiatrists, psychologists, social workers, physical therapists, etc., licensed by the State Department of Education. The change would allow a broader array of health care providers to locate in residence districts than is formally permitted under current zoning, recognizing the changed nature of providing health care and the widespread location of such providers in these areas. "Hospitals and related facilities" would remain listed in the Zoning Resolution without change.
- Ambulatory diagnostic and treatment health care facilities would be prohibited in R1 and R2 single-family detached home districts. Medical offices may presently locate in R1 and R2 districts as-of-right up to 1,500 square feet of floor area, or by special permit of the Board of Standards and Appeals up to 6,000 square feet. These districts are the city's lowest density districts and should enjoy the most protection from land use impacts. In other single- or two-family districts (R3A, R3X, R3-1, R4A, R4B, R4-1), ambulatory health care facilities would be limited to 1,500 square feet of floor area as-of-right, and 10,000 square feet of floor area by special permit of the Board of Standards and Appeals. There are no such limitations on the amount of floor area for any of the uses subsumed in the new "ambulatory diagnostic or treatment health care facilities" category in these districts under current zoning. The proposed change would limit land use impacts while permitting the location of neighborhood-serving facilities.
- Ambulatory diagnostic or treatment health care facilities, where permitted, would be allowed to locate on any floor in a building that does not contain residences. In buildings containing residences, such facilities would be limited to locations below the first story ceiling, and allowed on the second story only when access is from the outside or directly from a portion of the facility located on the ground floor. The proposed rules would give additional flexibility to ambulatory health care facilities compared to existing location within buildings regulations for medical offices or group medical centers, which are generally limited to the first floor. Other categories of health care facilities have no restrictions on location within a building, and medical office buildings with two or more floors are widely found in residence districts. The regulations would provide adequate opportunities to locate ambulatory health care facilities while separating residences from facilities that share a building.
- Cellar space for ambulatory diagnostic or treatment health care facilities would generate a parking requirement, unless that space was to be used exclusively for storage. Ambulatory health care facilities are sometimes located in cellar spaces, but that space does not presently generate a parking requirement.
- Under current zoning rules in commercial and manufacturing districts, community facility medical offices below the level of the first story ceiling do not have a parking requirement. The proposal would apply the same parking requirement to ambulatory diagnostic or treatment health care facilities as that which exists currently for professional offices located in such districts.

Houses of Worship

- "Houses of worship" would replace "churches" as presently listed in the Resolution, better reflecting the city's diverse range of religious institutions.
- Houses of worship would continue to be allowed to locate in all residential and commercial districts in which they are allowed presently: as-of-right in R1 through R10, C1 through C6, and C8 districts. Houses of worship would be permitted as-of-right, rather than by special permit, in M1 Districts, to make it easier for them to locate in areas that are generally more isolated from residences.
- Parking requirements for houses of worship would be based on "persons rated capacity" of the largest room of assembly in a house of worship, rather than the current standard, "fixed seats." Often few or no parking spaces are provided because a house of worship is designed without fixed seats, relying instead on movable chairs. Where facilities serve a large number of persons arriving by automobile, as is often the case in low-density residence districts, traffic congestion and illegal parking may result. The change would result in a better match between the demand a facility creates for off-street parking, and the amount of parking provided.

- Parking would be required in R1 through R3 districts at 1 space per 10 persons rated capacity; in R4 and R5 Districts at 1 space per 15 persons rated capacity; in C1 and C2 districts mapped within R1 through R5 districts at the same ratio required in the underlying residence district; and, in commercial and manufacturing districts that presently have a parking requirement of 1 space per 10 or 15 fixed seats. These parking requirements are comparable to those for other community facility places of assembly in the same districts.
- Current parking requirements would be eliminated in R6, R7-1 and R7B districts, in C1 and C2 districts mapped within R6 through R10 districts, and in commercial districts with a parking requirement presently 1 space per 20 fixed seats. These districts are more typically mapped near transit and as such limited or no off-street parking is required.
- Other changes would provide flexibility for houses of worship to satisfy the parking requirements. The changes would allow houses of worship located in residence districts to provide required off-street parking on separate zoning lots as-of-right within 600 feet of the house of worship or within 1,000 feet by BSA special permit. Shared parking would be permitted with other non-residential uses as-of-right within 600 feet of the house of worship or within 1,000 feet by BSA special permit. The shared parking would be limited to 25 percent of the required parking for the other use and could be increased after review by the Commissioner of Buildings that more parking is available. A new BSA special permit would allow a waiver of or a proportional reduction in required parking, based on a finding that the house of worship is used in such a way as to reduce demand for on-site parking. A new certification of the Chairperson of the City Planning Commission would allow the waiver of required parking for locally oriented houses of worship, where at least 75% of the congregants of the house of worship reside within $\frac{3}{4}$ miles of the facility and where there are no on-site catering businesses.

Maximum Floor Area Ratio for Community Facilities in C1 & C2 districts mapped within R3-2 Districts

- To provide alternative locations for ambulatory health care offices near the single-and two-family districts, the maximum permitted floor area ratio for community facility buildings or buildings used for both commercial and community facility uses would be increased to 1.6 from 1.0 in the R3-2 commercial overlay districts. The parking requirement for ambulatory health care facilities located on the second floor would be the same as that for ambulatory health care facilities located in R3-2 districts: 1:400 sq ft of floor area.

Rear Yard Construction

- Under current zoning regulations, in R3 through R10 districts, community facilities may build within a required 30 foot rear yard one story up to a maximum 23 feet in height. No such building within a required rear yard is permitted in R1 and R2 districts for any community facility use. Building in a required yard may affect light and air to adjoining residences and the rear yard views of the block interior.
- The proposal would extend the current prohibitions on building in a required rear yard in R1 and R2 districts to all other single and two-family districts (R3A, R3X, R3-1, R4A, R4B & R4-1). In all other residence districts, libraries, museums, not-for-profit institutions with or without sleeping accommodations, nursing homes, group homes, and ambulatory health care centers, and other community facility uses would be prohibited from building within a required rear yard at locations beyond 100 feet from any wide street. However, schools (which include day care centers), houses of worship, colleges and universities, and hospitals and related facilities would continue to be governed by current rules allowing rear yard construction in other than single- or two-family residence districts. This would recognize both the special legal protections accorded to certain community facilities, as well as the core community interest in facilitating the growth and modernization of critical institutions.

Screening for Off-Street Parking Facilities

- Parking lots with 10 or more spaces in R1-R5 residence districts would be screened by required planting. Under current regulations, such parking lots could be screened by a wall or fence. The proposed regulation would require screening that better reflects the character of these areas.

Related Notes

-  Items accompanied by this symbol require the [free Adobe Acrobat Reader](#).