



# Queens Civic Congress

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## **QUEENS CIVIC CONGRESS, INC. TESTIMONY RE: COMMUNITY FACILITY ZONING TEXT PROPOSAL N 040202 ZRY & EIS 04DCP025Y**

Thank you for the opportunity to address you on the pressing issue of siting community facilities in New York City. My name is Sean M. Walsh, I am the President of the Queens Civic Congress (QCC), an umbrella organization of over 100 civic and community associations from every section of the Borough of Queens. For the past ten years, we have been advocating for the total reform of the Community Facilities provisions of the New York City Zoning Resolution. We recognize from our relationships with civic groups in other boroughs that this is a citywide problem.

While we applaud your initiation of reform in this matter, we believe the proposed zoning text changes and the criteria in the City Environmental Quality Review (CEQR) do not adequately address the problem or measure the impact of community facilities. Let us begin by acknowledging that community facilities provide essential services for all our citizens, but let us also clearly understand the impact these facilities have on the quality of life and the economic impact on surrounding residents.

### I

The scoping document fails to address the underlying linchpin of community facilities in New York City which is their special “as of right” treatment as to Use and Bulk requirements in residential zones under the Zoning Resolution. The scoping document does not address the crucial issue of the legal basis for the special treatment of community facilities or assess the need to give community facilities blanket exceptions to the Use and Bulk requirements under the Zoning resolution or the need by any of the defined community facilities for these exceptions. The present and proposed text changes violate the First Amendment, Establishment Clause, and the Fifth Amendment, private property taken for public use.

No where else in the State of New York, or for that matter in most of this country, does a community facility receive an automatic as of right use and bulk exemption to site itself in a residential zone. Most jurisdictions use the special permit process to review the propriety of any use or bulk variances given to community facilities.

### II

The scoping purports to address “community facilities” in the city of New York. There are, however, no criteria in the scoping document to review on a citywide basis any of these concerns. The Zoning Resolution is a citywide document, and therefore must first assess the needs and impacts of community facilities in all zoning maps - high and low density - before one can modify any one group. In fact the

Department of City Planning (DCP) in its July 21, 2003, synopsis of the proposed texts said, “The Department will continue to study the land use conflicts arising from the interaction between community facilities and residences, and may recommend additional changes in the future.” Therefore, it is imperative that the DCP include scoping criteria now for all zones throughout the city to provide a uniform, logical, and fair evaluation of the Use Group and Bulk exemptions.

In none of the EIS criteria is the impact of a community facility on the adjoining property owner, whose property rights and value is the most affected, required. The EIS must assess the impact of any Use or Bulk exceptions on the adjoining property owners. Otherwise it will fail to pass both the state and federal constitutional muster. In each and every one of the “Tasks” in the CEQR review, the analysis is not mandated for any of the criteria but is permissive, i.e., “Would have potential to ....” This is far too subjective a standard to serve as any guide or to withstand any legal challenge.

It is ironic that while most of the propose text changes are allegedly directed at lower residential zones where the structures are around 30 to 35 feet in height, the EIS will only “possibly” review [Task 6] community facility structures greater than 50 feet in height for impact. This only serves to illustrate the point that this “Draft Scope of Work” is not tailored to address the concerns of the residents of Queens not to mention the citizens of our sister boroughs.

### III

The proposed text amendment to permit Ambulatory Health Care Facilities (AHCF) to seek by special permit [via BSA] increased bulk up to 10,000 square feet in R-3 & 4 zones underscores the failure of a City Planning Commission (CPC) to measure the needs of the public and the health care facilities in this city. While on the one hand the CPC removes some of the burden of AHCFs in the R-1 & 2, it devastates the R-3 & 4 communities unnecessarily with the increase bulk variance. Today, health care providers do not need or will they necessarily site themselves in a local neighborhood in order to provide health care to the neighborhood. This example is illustrative of the failure to address on a city wide basis the needs of different community facilities in 2004, and the concomitant impact of a 2004 community facility on its adjoining property owners and surrounding community.

In 1961, the word “community” in the term Community Facility meant for the most part service to the surrounding neighbors. It was exactly for that reason in 1961 that community facilities were given use and bulk exceptions to provide necessary local services. In 2004, the word “community” in the term Community Facility has de facto come to mean service to the metropolitan area. Even the traditional local houses of worship no longer cater solely to people in their neighborhood. This is not a value judgment on the propriety or benefit to society at large of this change in the dynamic of a community facility. It is, however, a recognition of a significant change and a potentially substantial impact on a community which is not addressed in the proposed text changes or the evaluative process of the CEQA scoping criteria.

Ancillary and commercial uses of community facilities are not addressed in the proposed text changes and the evaluative process of the CEQA scoping criteria, thereby ignoring their impact. The present zoning text permits institutions such as houses of worship, universities, medical facilities, and other community facilities to take advantage of their Use and Bulk exception to use part of their property for profitable or income producing enterprises unrelated to their not for profit mission.

## IV

In conclusion, we strongly urge you to withdraw this proposal and reexamine this issue. See: *infra*. Appendix for specific proposed text critique.

Respectfully submitted,  
SEAN M. WALSH  
President Queens Civic Congress

### Queens Civic Congress Members

Assoc. of Old Forest Hills Bayside Hills Civic Assoc. Bayswater Civic Assoc. Bay Terrace Community Alliance Beachside Bungalow Preservation Assoc. Bellaire/Belvill Civic Assoc. Belle Harbor Property Owners Bellerose-Commonwealth Civic Assoc. Bellerose-Hillside Civic Assoc. Bell Park Manor-Terrace Community Council Bowne Park Civic Assoc. Briarwood Community Assoc. Cambria Heights Civic Assoc. College Point Civic Taxpayers Assoc. COMET Concerned Citizens of Laurelton Creedmoor Civic Assoc. Doug-Bay Manor Civic Assoc. Douglaston Civic Assoc. Douglas Manor Assoc East Flushing Civic Assoc. Federation of Laurelton Block Associations Floral Park Community Council Flushing on the Hill Civic Assoc. Flushing Heights Civic Assoc. Flushing Suburban Civic Assoc. Forest Hills Chamber of Commerce Forest Hills Community & Civic Assoc. Forest Hills Crescents Assoc. Forest Hills-Van Court Assoc. Fresh Meadows Homeowners Assoc. Georgetown Mews Glen Oaks Village Owners Greater Whitestone Taxpayers Civic Association Harding Heights Civic Assoc. Harrison Place/Sunnyside Gardens Hillcrest Estates Civic Assoc. Hilltop Village Co-op #4 Hollis Hills Civic Assoc. Holliswood Civic Assoc. Hollis Park Gardens Assoc. Holly Civic Assoc. Howard Beach Civic Forum Hunters Point Community Coalition Hyde Park Gardens Jackson Heights Beautification Group Jamaica Estates Assoc. Jamaica Hill Community Assoc. Joint Community Council College Point Juniper Park Civic Assoc. Kew Forest Neighborhood Civic Assoc. Kew Gardens Civic Assoc. Kew Gardens Hills Civic Assoc. Kissena Park Civic Assoc. Little Neck Bay Civic Assoc. Little Neck Community Assoc. Little Neck Pines Assoc. Locust Manor Neighborhood Civic Assoc. Lost Community Civic Assoc. Malba Civic Association Middle Village Property Owners Mitchell-Linden Civic Assoc. 97 Place Block Assoc. Newtown Civic Assoc. North Bellerose Civic Assoc. North Flushing Civic Assoc North Hills Estates Civic Assoc. North Queens Homeowners Civic Assoc. North Star Civic Assoc. Norwood Neighborhood Association Oakland Terrace/Gardens Council Off Broadway Homeowners Ozone Tudor Civic Assoc. Queensboro Hills Neighborhood Assoc. Queens Colony Civic Assoc. Queens Community Civic Corp. Queens Village Civic Assoc. Ramblersville-Hawtree Civic Assoc. Richmond Hill Historic Assoc. Ridgewood Property Owners Assoc. Robinwood Property Owners Rockaway Action Committee Rockaway Beach Civic Assoc. Rocky Hill Civic Assoc. Rosedale Civic Assoc. Royal Ranch Assoc. Sagamore Douglaston Civic Assoc. Southeast Queens Coalition of Concerned Neighbors South Ozone Park Coalition of Block Associations South Ozone Park West Civic Assoc. Springfield/Rosedale Community Assoc. Sunnyside Gardens Harrison Place Surrey Estates Civic Assoc. The Federation of Civic Associations of Southeast Queens The Property Civic Assoc. Union Turnpike Merchants Assoc. United Forties Civic Assoc. United Neighbors Civic Assoc. of Jamaica Utopia Estates Civic Assoc. Utopia Improvement Assoc. Village Mall at Hillcrest Waldheim Neighborhood Assoc. Wayanda Civic Assoc. West Cunningham Park Civic Assoc. Westmoreland Assoc. Woodside Community Council