

**BOROUGH PRESIDENT  
RECOMMENDATION**

**CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
Fax # (212)720-3356**

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATIONS NO: 190403 ZMX- Staten Island and Bronx Special District Text Update**

**DOCKET DESCRIPTION-PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION**

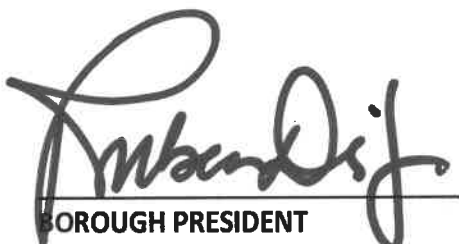
**COMMUNITY BOARD NO. # 8**

**BOROUGH: BRONX**

**RECOMMENDATION**

- APPROVE**
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)**
- DISAPPROVE**

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary): PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT'S RECOMMENDATION**

  
**BOROUGH PRESIDENT**

7/29/2019  
**DATE**

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION  
ULURP APPLICATION NO: C 190403 ZMX  
Staten Island and Bronx Special District Text Update**

**DOCKET DESCRIPTION**

**Bronx Community District #8**

**IN THE MATTER OF an** application submitted to the New York City Department of City Planning pursuant to Section 197-c and 201 of the new York City Charter for the amendment of the Zoning Map, Section Nos. 1a, 1b, 1c, and 1d:

1. Eliminating a Special Natural Area District (NA-2) bounded by a boundary line of the City of New York, Riverdale Avenue, a line 300 feet southerly of West 261<sup>st</sup> Street, Independence Avenue, a line 600 feet northerly of West 256<sup>th</sup> Street, Arlington Avenue, West 254<sup>th</sup> Street, Henry Hudson Parkway West, West 252<sup>nd</sup> Street Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Tibbett Avenue, West 244<sup>th</sup> Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246<sup>th</sup> Street, Henry Hudson Parkway West, West 249<sup>th</sup> Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue, distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246<sup>th</sup> Street, West 246<sup>th</sup> Street, Independence Avenue, West 240<sup>th</sup> Street, the centerline of the former West 240<sup>th</sup> Street, and its westerly centerline prolongation, Douglass Avenue, West 235<sup>th</sup> Street, Independence Avenue, West 232<sup>nd</sup> Street, Henry Hudson Parkway, West 231<sup>st</sup> Street, Independence Avenue, the westerly centerline prolongation of West 230<sup>th</sup> Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231<sup>st</sup> Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line) the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations; and
2. Establishing a Special Natural Resources District (SNRD) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261<sup>st</sup> Street, Independence Avenue, a line 600 feet northerly of West 256<sup>th</sup> Street, Arlington Avenue, West 254<sup>th</sup> Street, Henry Hudson Parkway West, West 252<sup>nd</sup> Street, Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Tibbett Avenue, West 244<sup>th</sup> Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246<sup>th</sup> Street, Henry Hudson Parkway West, West 249<sup>th</sup> Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246<sup>th</sup> Street, West 246<sup>th</sup>

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Street, Independence Avenue, West 240<sup>th</sup> Street, the centerline of the former West 240<sup>th</sup> Street and its westerly centerline prolongation, Douglass Avenue, West 235<sup>th</sup> Street, Independence Avenue, West 232<sup>nd</sup> Street, Henry Hudson Parkway, West 231<sup>st</sup> Street, Independence Avenue, the westerly centerline prolongation of West 230<sup>th</sup> Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231<sup>st</sup> Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue, (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation, of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations;

Borough of The Bronx, Community District #8, as shown on a diagram (for illustrative purposes only) dated May 6, 2019.

## **BACKGROUND**

Approval of this application will eliminate the Special Natural Area District (SNAD) and establish the Special Natural Resource District (SNRD). Approving this application will not alter the boundaries of the existing Special Natural Area District (SNAD). This district is located in the Riverdale community of The Bronx, in Community District #8. The SNAD boundaries are; the cityline on the north, the merge between the Harlem and Hudson Rivers on the south (Spuyten Duyvil), the Hudson River on the west and Riverdale Avenue on the east. Whereas the Fieldston Historic District area is included in the SNAD, the eastern boundary is Tibbett Avenue, between the Henry Hudson Parkway on the north and West 244<sup>th</sup> Street on the south. The SNAD or the proposed SNRD approximates 900 acres, includes approximately 1,003 lots of which approximately 83% are occupied by one and two family homes. Of the lots remaining, 5% are multi-family and 12% are institutions. These institutions include schools, colleges and nursing home facilities.

Originally adopted by the New York City Planning Commission in 1974 and expanded into The Bronx in 1975, the key objective of Special Natural Area District (SNAD) in Riverdale is to protect and enhance the many unique natural features of this community. These features include:

- Rock outcroppings
- Steep slopes
- Old growth trees
- Buffers adjacent to aquatic resources
- Recreational Open Space

## **The Current Special Natural Area District (SNAD)**

The primary objective of SNAD is to protect the natural features found within its boundaries. To that end, the consistent challenge has been to balance development with the need to protect these natural features. To date this has been done on a site-by-site basis, focusing on specific natural features found on the specific site, with less emphasis on how a development plan's approval may impact the broader community's natural environment. So too, the ordinances that pertain to

development within the SNAD are applicable to all sites, regardless of their size, type of natural features that are present and whether the site is residential or institutional.

To find “relief” from this one-size-fits-all approach, property owners are able to work with the Department of City Planning (in this case the Bronx office) in order that the final plan that is adopted satisfies the SNAD’s objectives but also allows for a proposed development to proceed. Accomplishing this requires that the property owner

- Hire an architect and provide a site survey showing how the proposed project will impact the natural features.
- Properties that are located within a landmarked district (such as Fieldston) a separate filing must be submitted to the Landmark’s Preservation Commission (LPC).
  - These steps average seven months to complete.
- The proposed project is then presented to the Community Board (in this case, Community Board #8) for its review. The Community Board has 60 days to review the project. During this time ongoing presentations and subsequent modifications pursuant to the Community Board’s dictates are made of the applicant.
- The Community Board will recommend or not recommend that the project move forward.
- The proposed project goes before the City Planning Commission (CPC) for a vote. Pending approval by the CPC, the owner completes legal documents for approval by the Department of City Planning (DCP).
- Upon approval, the DCP submits the approvals and project details to the Department of Buildings (DOB).
  - This complete process averages 13 months to finalize. If necessary, resolving all outstanding matters may require additional time.
  - This review process is “subjective,” as review standards may vary from project to project. As a result, property owners cannot be certain as to precisely what is required to realize a timely approval
- In Riverdale a majority of the projects that are subject to review pertain to the horizontal addition of a residence, constructing a swimming pool, patio or a driveway.

### **The Proposed Special Natural Resource District (SNRD)**

As proposed by the Department of City Planning (the applicant) the Special Natural Resource District (SNRD) will reduce the cumbersome (and subjective) approval process most applicants must currently follow. More specifically:

- Codify best practices and streamline the special districts rules
- End the site-by-site review which fail to consider implications for the broader community
- Establish specific guidelines based on property acreage and/or intended use
- Reduce the cost and time required for small property owners to obtain an approval for proposed projects
- Consider the overall ecology of an entire area rather than that of a specific site

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A significant change between the former SNAD and the proposed SNRD is that the Department of Buildings will oversee and enforce the provisions of the SNRD. This will also result in a diminishing oversight role for both the Department of City Planning and the local Community Board.

Key comparisons between the existing SNAD and the proposed SNRD include updating and existing rules that better reflect the Riverdale community's needs and proposing new rules. A general comparison includes:

- SNAD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed independently (site by site).
- SNRD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed by mapping natural features across the community (holistic).
  
- SNAD: Natural features are protected independently. The City Planning Commission can modify these rules (feature by feature).
- SNRD: All natural features are protected with special consideration to natural features that cannot be replaced (comprehensive).
  
- SNAD: Most applicants seek to modify the rules. No limits on the number of such modifications .
- SNRD: The proposed rules will define limits to modifications.
  
- SNAD: Lot coverage doesn't consider context; for example, is this site part of a larger steep slope and how steep is this slope. There are no clear guidelines for the City Planning Commission to consider. There are no lot coverage regulations for community facilities.
- SNRD: Lot coverage is based on ecological area and slope. R1 Districts range from 12.5% to 25%. Lot coverage for community facilities and large institutions; 25%. Lot coverage mandates apply to all sites. There is an incentive to preserve steep slopes by providing flexible lot coverage if the proposed development is on a flatter portion of the site. Accessory buildings are also included in calculating lot coverage .
  
- SNAD: There are no rules regulating hard surface areas (driveways).
- SNRD: Establish limits to hard surface areas as a percent of lot area. Such areas will include a building's footprint, driveways, patios, decks or pools. (R1 Districts range from 40%-50%). Provides for additional site controls to include more than a building's footprint.
  
- SNAD: Tree requirements are 1-tree per 1,000 square feet OR 51% of existing tree credits, whichever is greater. Each tree is regulated regardless of size or ecological importance. Trees can be removed within 15 feet of buildings and within required parking or driveways. Anything beyond these areas requires City Planning Commission approval.
- SNRD: In R1, R2 and R3 zoning districts tree requirements are 1-tree per 1,000 square feet AND 3 tree credits for every 750 square feet. For community facilities and

commercial uses, one tree would be required for every 2,000 square feet of lot area and 1.5 tree credits would be required for every 750 square feet of lot area.

- SNAD: Ground cover requirements on steep slopes where average percent of slope is greater than 10%, mandates that no vegetation can be removed except within 15 feet of a building to allow for driveways, private roads or parking. These requirements can be modified by the City Planning Commission. If vegetation is disturbed it must be replaced.
- SNRD: Biodiversity is encouraged. Groundcover planting that prioritizes sensitive areas with more planting including:
  - Wildlife gardens
  - Basic gardens
  - Landscape buffer on rear or side
  - Green roofs; Intensive 12.5% roof coverage, Extensive, 15% roof coverage

Biodiversity points: 4 points for most residential uses

2 points for community facilities uses

6 points for resource adjacent area (which are properties adjacent to ecologically sensitive resources)

The objective is to make clear those planting requirements that will enhance the biodiversity and ecological health of the community.

- SNAD: Rock outcroppings; there is a prohibition on the disturbance of all rock outcrops, but this can be modified by the City Planning Commission. There is no limit as to the amount of these modifications.
- SNRD: Limit rock outcrop disturbance to 50% in front and rear portions of a lot, with no such disturbance permitted in front yard. Boulders can be moved to the front. Any disturbance greater than 400 square feet will require authorization by the City Planning Commission. This will reduce disturbance of visible outcrops.
- SNAD: Subdivisions: Rules for subdivisions are inconsistent and vague. All zoning lot subdivisions must be certified by the City Planning Commission.
- SNRD: All subdivisions and/or development on sites exceeding one acre must meet clear rules for protection of natural features. Subdivisions will require a site plan review by the City Planning Commission. This review will include public comments and community board input. A natural resource assessment would map out the habitat areas that would be preserved and maintained permanently and could only be modified by special permit if the City Planning Commission finds strict conditions are met. This applies to:
  - Sites larger than one acre: residential development would be required to preserve 25% of the site, community facilities, 35% of the site with 15% preserved as open space. This open space could be used for recreation.
  - Sites in an Historic District (Fieldston).
  - Sites that create 4 or more lots or 8 or more dwelling units in a Resource Adjacent Area.
  - Sites with private roads.

Sites that are less than 1-acre are not subject to review by the City Planning Commission but compliance remains subject to approval by the Department of Buildings.

#### **A Campus Plan**

To facilitate long term planning on large sites (more than 1 acre) an applicant may apply for a campus plan. This requires the entire scope of future work to be established; including an open space plan and a habitat preservation area plan. A Designated Development Area for future work is defined as either flexible or defined. In addition to any other approvals being sought, a campus plan will require authorization. All campus plans are subject to review by the Community Board. Such plans allow for better long term planning.

#### **Preserving Valuable Habitat**

Natural areas located within the SNRD that provide valuable habitats referred to as “Designated Natural Resources” (DNR) serve as the basis for a holistic ecological strategy. In addition to the specific area so designated, those areas located within proximity to the DNR are prioritized to ensure proposed development is balanced by:

- Establishing clear requirements for trees, ground planting, permeability for the overall special district gleaned from 40 years of experience.
- Establishing tailored regulations for trees, ground planting, permeability for properties adjacent to DNR’s. These adjacent areas will be referred to as Resource Adjacent Areas and Escarpment Areas.
- For properties exceeding 1-acre require preservation of portions of existing habitat, where applicable, while considering cluster development to maintain development potential and create options for long-term planning approvals.
- Establishing a review process based on the size of the property and its proximity to sensitive areas.

The City Planning Commission will review plans for properties less than 1-acre based on the following:

- Sites with four or more lots or buildings, or eight dwelling units in a Resource Adjacent or Escarpment Areas because the revised as-of-right rules may not predict every outcome that best achieves the goals of balancing development with preservation.
- Developments with private roads.
- Development or subdivisions in an historic district such that the goals of the historic district and resource preservation are met.

The Department of City Planning notes that 4 out of 7 yearly applications in the Riverdale SNAD (60%) would now be able to apply directly to the Department of Buildings (DOB). Likewise, 3 or of 7 applications (40%) would apply to the Department of City Planning for Plan Site Review approval. Those applications going directly to the DOB will save approximately 7 months.

Ultimately, pursuant to SNRD the benefits include:

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- Clearer rules
  - More knowledgeable and empowered enforcement provided by the DOB
  - Site plan review by the DOB
  - Site inspections
  - A better informed community by offering on-line tools to track construction sites

#### **ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION**

This application was reviewed pursuant to CEQR and SEQRA a Type I Designation. An EAS was filed on November 9, 2018. The City Planning Commission certified this application as complete on May 6, 2019.

#### **BRONX COMMUNITY BOARD PUBLIC HEARING**

Bronx Community Board #8 held a public hearing on this application on June 27, 2019. At that hearing Community Board #8 adopted a resolution stating that they could not properly vote on this application given that “no intelligible or valid ULURP Certification received.” The complete resolution is attached. A unanimous vote to adopt this resolution was zero opposed, 37 in favor, zero abstaining.

#### **BRONX BOROUGH PRESIDENT’S PUBLIC HEARING**

The Borough President convened a public hearing on July 11, 2019. Representatives of the applicant spoke in favor of this application. Twelve members of the public attended the hearing, of which all speakers voiced their opposition to this application and requested that it be denied. In addition, a total of 96 e-mails were received. Of this total 94 recommended that this application be denied and 2 recommend approval. Verbal testimony at the hearing was closed. Written testimony and/or e-mail submission remained open through Friday, July 26, 2019.

#### **BOROUGH PRESIDENT’S RECOMMENDATION**

The New York City Department of City Planning’s (DCP) proposed change would facilitate an amendment to the City Map by removing the Special Natural Area District (SNAD) and establishing the Special Natural Resource District (SNRD) within the Riverdale neighborhood of Bronx Community Board #8. While there are regulatory changes between the two districts will be governed under different regulations and guidelines, the geographic boundaries will remain exactly the same under the DCP’s new proposal.

Currently, there are two major SNADs in New York City, the aforementioned Bronx location and the other located in Staten Island. While separate SNADs, both boroughs fell under the same SNAD regulations. The initial intent of this ULURP was to make wholesale changes to SNAD that would impact both boroughs. Halfway through the process, a decision was made by DCP to remove Staten Island from the existing ULURP to reevaluate the borough separately at the request of local residents. It was also decided that the ULURP would proceed for the Bronx SNAD.

This process to update SNAD has taken more than four years. DCP went to great efforts to include local residents, community boards and elected officials. My staff continually participated in the working group on this. While I commend the outreach effort of the DCP Bronx office in



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garnering input the last four years, and have no issue with the content of the Bronx SNAD, I have very serious procedural concerns regarding the splitting of the existing ULURP before us, and the lack of adequate notification Bronx Community Board #8 was afforded in reviewing the changes.

On May 6, 2019, the City Planning Commission certified the “Staten Island and Bronx Special Districts Text Update” as finalized. Following this, on May 15, 2019, the required application documents were sent to Bronx Community Board #8 and my office, in accordance to ULURP regulation and thereby starting the clock for our subsequent evaluation. My planning and development department began its review of this material, based only on what was initially delivered to us.

Succeeding this however, in a letter dated June 10, 2019, Bronx Community Board #8 was notified that the Staten Island office of the Department of City Planning sought to modify this matter and was granted a “withdrawal” from this current ULURP. Given this change made after the fact, Staten Island was to be afforded an undetermined amount of time to reconsider the full scope of approving this application and the impact that it may have in Staten Island. No such option was afforded to The Bronx. At my public hearing on July 11, 2019, my staff asked a number of questions about the procedure of withdrawing or pulling a ULURP, whether Staten Island would have to restart the ULURP process or if they were just being given additional time along the existing ULURP timeframe; and if the latter, why The Bronx was not afforded the same courtesy in having more time to review changes made to the now split ULURPs. The response from DCP was they had not made a determination if Staten Island would have to restart the ULURP process or if they would be given an extension, and said it was “a judgement call” to continue with Bronx Community Board #8 as-is.

Conceptually, I have no problem in amending, splitting or pulling ULURPs, particularly when it is done at a community’s request. In fact, I made such a request in a previous ULURP regarding the siting of the proposed jail in Mott Haven, asking the City Planning Commission that the site be pulled and reevaluated while the other sites could proceed in order to facilitate the closing of Rikers Island. The issue I have is the lack of proper notification and opportunity to review changes to the ULURP for Bronx Community Board #8. The clock was ticking and decisions were made. Unfortunately, the Community Board did not have an updated document to review in a timely fashion. In essence, Bronx Community Board #8 was asked to “take DCP’s word for it” that there were no content changes as it pertained to what was agreed upon with the working group.

This strikes at the heart of checks and balances. New York City has a Charter for a reason; part of it is to lay out proper procedure to assure that established entities within City government have proper review and say in the land use process. Asking one of those entities to move forward without the opportunity for proper review while another one of those entities in another geographic location is given an undetermined amount of time to reimagine their land use process is entirely unacceptable. My office did receive updated copies of the ULURP reflecting the changes, but I often take the views of community boards into consideration. If they were not afforded sufficient chance to review the document, even if to affirm that there no changes, how am I able to take into consideration all viewpoints that may advise my recommendation?

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I want to be very clear: ultimately the purpose of ULURP is to afford the public, community boards, City Planning Commission and elected officials the opportunity to comment and if necessary oppose applications that so warrant. To assure that this procedure is followed by all concerns, a *uniform* set of rules, which include very strict time limitations, must be followed. In the matter of the jail, the city saw no legitimate reason to grant The Bronx any variance from ULURP despite what we in The Bronx believe to be a very poor proposal. In the matter of SNAD vs. SNRD the city takes the opposite position, apparently seeing no reason why a variance from ULURP should not be provided to Staten Island. In both cases however, one ULURP application pertains to a related matter in multiple boroughs. In my opinion this alone violates a key rationale for ULURP. I do not wish to suggest that this was done unscrupulously, nor do I view it as done at the expense of The Bronx. The contents of this proposal are sound. However, the process has become muddled and decisions appear to be made subjectively at the behest of the City's particular stance at the time.

It is unclear if the decision to make changes to this ULURP was done by the City Planning Commission or if it was solely a staff decision. It is my understanding that the City Planning Commission has the power to amend ULURPs prior to their vote. As such, I request the Commission give Bronx Community Board #8 similar "pause" in the ULURP process as was given to Staten Island. Whether or not my objection as stated here is sustained going forward, and regardless of what a future ULURP application may pose, I do not believe that when the city is the applicant it should be able to unilaterally and arbitrarily determine that what is granted to one party cannot be granted to all parties. Again, there may be merit to the proposed SNRD map change, but as of July 23, 2019, the required text associated with this application had yet to be finalized.

At this time, based on procedural grounds, unless the City Planning Commission allows Bronx Community Board #8 the same opportunity Staten Island has to review the major changes made after initial certification, I recommend that this application be denied.



### Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application # **C 190403 ZMX**

Project Name: **SI & BX Special Districts Text Update**

CEQR Number: **19DCP083Y**

Borough(s): **Bronx**

Community District Number(s): **8**

*Please use the above application number on all correspondence concerning this application*

#### **SUBMISSION INSTRUCTIONS**

- Complete this form and return to the Department of City Planning by one of the following options.
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- 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

*(Check Description)*

**SEE ATTACHED**

Applicant(s) NYC Department of City Planning 120 Broadway, 31st Floor New York, NY 10271		Applicant's Representative Claudia Herasme Urban Design Division, DCP 120 Broadway, 31st Floor New York, NY 10271
Recommendation submitted by: <b>Bronx Community Board 8</b>		
Date of public hearing: <b>June 3, 2019</b> <b>June 27, 2019</b>	Location: <b>P.S. 81- 5550 Riverdale Ave Bronx NY</b> <b>P.S. 37- 360 W 230th Street Bronx NY</b>	
Was a quorum present? YES <input type="checkbox"/> NO <input type="checkbox"/> <b>June 3, 2019- No Quorum Present / Full Board June 27, 2019 Quorum Present + vote</b>		
A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.		
Date of Vote: <b>June 27, 2019</b>	Location: <b>PS 37, 360 W 230th Street Bronx NY</b>	
<b>RECOMMENDATION</b> <input checked="" type="checkbox"/> <b>No intelligible or valid ULURP Certification received. See attached Resolution</b>		
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions	
<b><u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u></b>		
<b>Voting</b>		
# In Favor: <b>37</b>	# Against: <b>0</b>	# Abstaining: <b>0</b> Total members appointed to the board: <b>45</b>
Name of CB/BB officer completing this form <b>Ciara Gannon</b>	Title <b>District Manager</b>	Date <b>July 1, 2019</b>



## BRONX COMMUNITY BOARD NO. 8

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

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

E-Mail: [bx08@cb.nyc.gov](mailto:bx08@cb.nyc.gov)

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

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Rosemary Ginty, Chairperson

Clara Gannon, District Manager

RE: CD 8 C 190403 ZMX

### OFFICERS:

**Vice Chairperson**  
Laura Spalter

**Secretary**  
Lisa Daub

**Treasurer**  
Rosaling Zavras

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**Aging**  
Eric Dinowitz

**Budget**  
David Gellman

**Economic Development**  
Sergio Villaverde

**Education, Libraries &  
Cultural Affairs**  
Sylvia Alexander

**Environment & Sanitation**  
Robert Fanuzzi

**Health, Hospitals &  
Social Services**  
Omar Murray

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**Land Use**  
Charles G. Moerdler

**Law, Rules & Ethics**  
Martin Wolpoff

**Parks & Recreation**  
Bob Bender

**Public Safety**  
Margaret Donato

**Traffic & Transportation**  
Dan Padernacht

**Youth**

WHEREAS, the Special Natural Area District (“SNAD”) was established in 1974, mapped in The Bronx in 1975 with the participation and involvement of the community, and has guided development while preserving areas of critical environmental sensitivity and unspoiled natural habitat for 40 years; and

WHEREAS, in the Spring of 2015, as a result of an increasing sentiment in the community at large and among members of Bronx Community Board 8 that SNAD regulations were not adequately protecting key areas of the community, the Land Use Committee of Bronx Community Board 8 formed a Working Group of four members (Working Group”) to meet with the Bronx Office of the Department of City Planning (“DCP”) and report back with findings and recommendations; and

WHEREAS, shortly thereafter, DCP independently began a review and revision of the SNAD regulations in large part for the purpose of (1) expanding the amount of development in the Staten Island SNAD that would be “as-of-right” for owners and developers and (2) alleviating the workload of the Staten Island DCP staff responsible for reviewing applications by owners and developers; and

WHEREAS, the Working Group held numerous meetings with the Bronx Office of DCP and issued three reports describing the progress of DCP’s proposed changes to the SNAD regulations and setting forth the Working Group’s concerns and recommendations in connection therewith; and

WHEREAS, at Land Use Committee meetings and in other public meetings, the Working Group and the Bronx Office of DCP made numerous presentations regarding the status of their efforts; and

WHEREAS, the Land Use Committee on September 5, 2017, and the full Community Board on September 13, 2017, adopted resolutions urging the separation of the Staten Island SNAD regulations from The Bronx SNAD regulations out of well-founded concern that any proposed text changes would be designed to provide solutions to problems that distinctly pertain to conditions and circumstances on Staten Island; in fact, while DCP was considering expanding the amount of “as of right” development in order to accommodate development and reduce DCP’s workload in Staten Island, in the Bronx, by contrast, community sentiment increasingly favored enhanced protection of the environment and natural areas, stepped-up enforcement of SNAD regulations, and preservation of public participation in Land Use matters via democratic institutions in the form of community boards and the public at large; and

**BRONX COMMUNITY BOARD NO. 8**

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**WHEREAS**, in or before 2018, DCP formulated, but did not disclose to the Working Group or the public, proposed amendments to the SNAD Zoning Text impacting Staten Island, the Bronx and the Ft. Totten area of Queens that would abolish SNAD in Bronx Community District 8 and create in its place a Special Natural Resource Area (“SNRD”), with such proposed changes subject to the city-wide ULURP process as a result of related changes to the Staten Island zoning map; and

**WHEREAS**, these proposed amendments to the Zoning Text would create four subdistricts, including a Riverdale-Fieldston subdistrict, through which the city-wide regulations applicable to the proposed Special Natural Resource Area would be implemented; and

**WHEREAS**, the five members of the New York City Council representing the proposed Special Natural Resource Area subdistricts jointly sent a letter to the Director of DCP formally asking that any proposed changes to the SNAD regulations be split into four separate amendments that would separately apply to each subdistrict and reflect the different circumstances present in diverse neighborhoods; and

**WHEREAS**, the City Planning Commission (“CPC”) certified the proposed changes to the SNAD (hereafter to be termed “SNRD”) Zoning Resolution (“SNAD proposal” or “proposed zoning text amendments”) on May 6, 2019, consisting of an approximately 200-page document replete with inter-related technical data, which began the ULURP process; and

**WHEREAS**, on May 8, 2019, the Land Use Committee of Staten Island Community Board 3 held a public hearing on the proposal and voted unanimously to disapprove; and

**WHEREAS**, on May 28, 2019 Staten Island Community Board 3 voted unanimously to disapprove the SNAD proposal and “strongly recommend[ed] that City Planning withdraw the entire proposed Special District amendment,” adding that Staten Island Community Boards 1 and 2 would follow suit, particularly in view of the fact that “... our elected officials have voiced their disapproval;” and

**WHEREAS**, the Land Use Committee of Bronx Community Board 8 timely published the required legal notice of its ULURP public hearing on the SNAD proposal, which hearing was held, as scheduled, on June 3, 2019; and

**WHEREAS**, not a single speaker at the June 3, 2019 public hearing spoke in favor of the CPC-certified SNAD proposal, although several participants, including the Working Group, noted that the proposal contained a number of elements that merited consideration; and

**WHEREAS**, at the June 3, 2019 public hearing, the representatives of DCP, in their 20-minute presentation and in the ensuing question and answer dialogue with the members of the Land Use Committee and the public, did not disclose or make any reference to the fact that DCP had committed to overhaul the proposed amendments to the zoning text following the Staten Island Community Board 3 unanimous rejection of the SNAD proposal, but concealed that relevant information from the Land Use Committee members who were scheduled to vote at that meeting; and

**WHEREAS**, the Land Use Committee of Bronx Community Board 8 was unable to vote on the proposal on June 3, 2019 due to the absence of a quorum; and

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**WHEREAS**, on June 14, 2019, over a month after CPC formally certified the zoning text amendments (together with the mandated environmental impact statement) that had been years in the making, Bronx Community Board 8 received from DCP a copy of a letter dated June 10, 2019, from the Staten Island Borough Director of DCP confirming that DCP was “amending the proposal for the project ‘Staten Island/Bronx Special Districts Update’ by withdrawing the application for a zoning map amendment on Staten Island.” Any subsequent SNAD proposal would be subject to the requisite formal DCP and CPC notice and procedures; and

**WHEREAS**, on June 14, 2019, Bronx Community Board 8 was advised by the Bronx Office of DCP that notwithstanding the complete withdrawal of the Staten Island portion of the SNAD proposal, (1) the approximately 200 pages of the proposed zoning text amendments would be “revised in a future update to remove all applicability from (sic) Staten Island”; (2) the SNAD proposal with respect to the Bronx would continue “to move through the official ULURP public review process”; and (3) that Community Board 8 should proceed with its scheduled vote on the proposal in accordance with ULURP – all in the absence of any such revised proposed zoning text or formal CPC action reflecting the acknowledged dramatically changed circumstances; and

**WHEREAS**, notwithstanding the withdrawal of Staten Island from the zoning text amendments and zoning map of the SNRD zoning resolution, the Bronx DCP representative stated that the process remains governed by ULURP because, among other factors, a name change and concomitant map change would result from changing “Special Natural *Area* District” to “Special Natural *Resource* District,” and, accordingly, the current “time clock” governing the time within which the Community Board may act still applies; and

**WHEREAS**, (a) the provisions of the approximately 200-page proposed zoning text amendments certified by CPC on May 6, 2019 that relate to Staten Island are inexorably intertwined with those relating to the Bronx; (b) the proposed Riverdale-Fieldston subdistrict is now the only district contemplated under a zoning resolution text change that was authorized by the CPC on May 6, 2019 as city-wide, and remains subject to zoning map changes in a ULURP application pertaining solely to Staten Island that have subsequently been withdrawn; (c) the Bronx Office of DCP estimates that it will take several weeks, at a minimum, to formulate and secure formal approval of new proposed amended zoning text language; (d) the proposed text amendments certified by CPC on May 6, 2019 no longer reflect the SNAD proposal DCP has now stated publicly has been materially changed and is being presented in indefinite form to Bronx Community Board 8 for consideration; and (e) members of Bronx Community Board 8 are being directed by DCP to adhere to ULURP strictures that may well no longer be applicable given the withdrawal of the proposed Staten Island zoning map changes and to vote, as scheduled, on June 27, 2019, on whatever it is that is before them – non-existent zoning text amendments; and

**WHEREAS**, on June 19, 2019, the Chairs of Bronx Community Board 8 and of its Land Use Committee wrote a letter (copy attached) to Marisa Lago, Chair of the City Planning Commission and Director of DCP, requesting a prompt meeting with “City Planning Commission executive staff” for the purpose of obtaining clarification of the CPC’s position on the present circumstances; and

**WHEREAS**, by letter dated June 20, 2019 (copy attached), the Executive Director of DCP responded to Bronx Community Board 8’s June 19, 2019 letter, effectively stating that the members of Community Board 8 should review the approximately 200-pages of the May 6, 2019 CPC-certified zoning text amendments and figure out for themselves what the new text language would be when the zoning text changes pertaining to Staten Island are eliminated and the balance of the text is somehow rationalized;

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**WHEREAS**, the only justification offered for the foregoing refusal by the Executive Director of DCP even to convene a meeting with CPC executive staff to provide a measure of clarity for the Community Board – assuming such clarification were possible – was that there was a “lack of any modification to your [Bronx] geography”; and

**WHEREAS**, with the Board meeting of June 27, 2019 formally scheduled and the agenda, including a vote on the SNAD proposal, timely published in accordance with law, the officers of Bronx Community Board 8 have thus exhausted their remedies at this juncture for obtaining from either DCP or CPC timely clarification as to precisely what is before the Community Board for a vote in accordance with the purportedly continuing ULURP process; and

**WHEREAS**, Bronx Community Board 8 has made it clear that it continues to be prepared, without prejudice and as previously demonstrated, to work with DCP in good faith once the Bronx portion of the SNAD proposal certified by CPC on May 6, 2019 is similarly formally withdrawn and new proposed zoning text amendments specifically designed for the Bronx SNAD are developed and promulgated in accordance with the law.

**THEREFORE, BE IT RESOLVED**, that Bronx Community Board 8 recommends in the strongest terms that the proposed SNAD (or SNRD) zoning text amendments and accompanying proposed map change be withdrawn in their entirety forthwith; and

**BE IT FURTHER RESOLVED**, that Bronx Community Board 8 is forced to conclude under the circumstances presented that it does not have before it any intelligible zoning text amendments upon which any reasonably knowledgeable person could be expected to cast a rational or informed vote to approve or disapprove; and

**BE IT FURTHER RESOLVED**, that Bronx Community Board 8 is forced to conclude under the circumstances presented that the provisions of ULURP and other applicable laws requiring CPC and DCP to timely place before affected Community Boards for review and appropriate action any such proposed SNAD text and map changes have been and are being violated, and that the proposal to amend the SNAD regulations (whatever it now may be) and the recent CPC and DCP actions in connection therewith are a legal nullity; and

**BE IT FURTHER RESOLVED**, that the actions herein of DCP, are shameful and contrary to the spirit and language of The City Charter and applicable laws and regulations and raise serious questions.

In Favor: 37  
Abstain: 0  
Oppose: 0