

A. INTRODUCTION

The proposed project is located within New York City's coastal zone boundary as defined by the New York City Department of City Planning (DCP). This chapter reviews the New York City coastal zone policies and assesses the consistency of the proposed project with these policies.

OVERVIEW

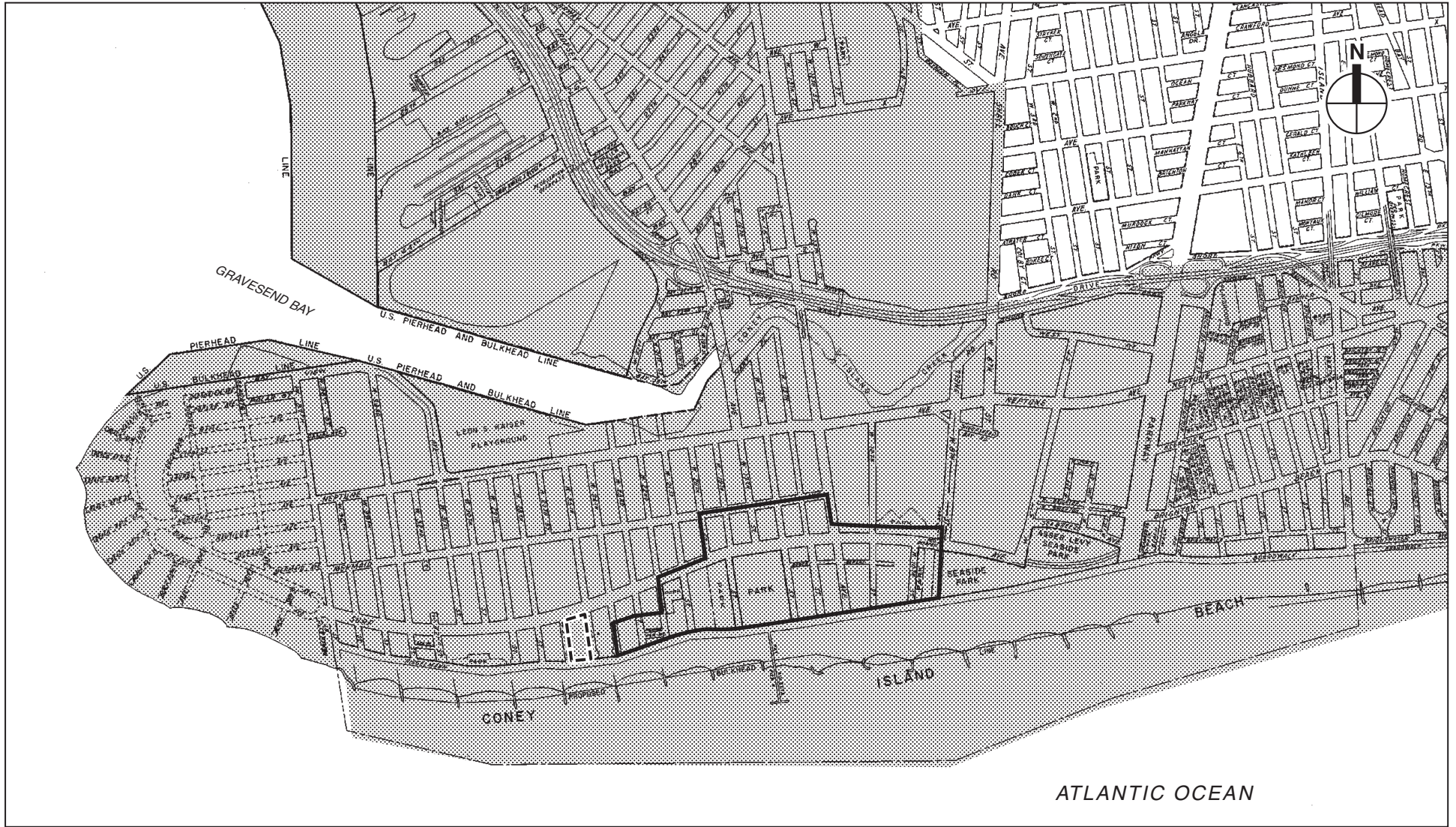
The Federal Coastal Zone Management (CZM) Act of 1972 was established to support and protect the distinctive character of the waterfront and to assist coastal states in establishing policies for managing their coastal zone areas. In 1982, New York State adopted a Coastal Management Program (CMP) designed to balance economic development and preservation in the coastal zone by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline and farmland, and minimizing adverse changes to ecological systems and erosion and flood hazards. The State program is consistent with the Federal CZM Act and contains 44 coastal policies, and is administered by the New York State Department of State (NYSDOS). The CMP provides for local implementation when a municipality adopts a local waterfront revitalization program consistent with the Federal CZM Act, as is the case with New York City.




The New York City Waterfront Revitalization Program (WRP) is the City's principal coastal zone management tool. The WRP was originally adopted in 1982 and approved by the NYSDOS for inclusion in the New York State CMP. It incorporates the State's 44 coastal policies and contains an additional 10 policies. The WRP encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program's goals in making land use decisions. The WRP was revised and approved by the City Council in October 1999. In August 2002, NYSDOS and federal authorities (i.e., the U.S. Army Corps of Engineers [USACE] and the U.S. Fish and Wildlife Service [USFWS]) adopted the City's 10 WRP policies for most of the properties located within New York City and in lieu of the original 44 coastal policies.

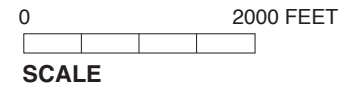
The coastal zone management program consistency review process is described in Title 15 Code of Federal Regulations (CFR) Part 930: Federal Consistency with Approved Coastal Management Programs, as amended, as well as in the WRP. Consistency review is required for any project that:

- Is in, or is expected to affect the resources or land or water uses of, the New York coastal zone; and
- Requires a state- or federal-listed permit; is federally, state, or locally funded; or is a direct activity of a federal, state, or local agency.

The proposed rezoning area is located within the coastal zone designated by New York City (see **Figure 12-1**), and the rezoning area requires approvals from City agencies and the State Legislature. Therefore, development pursuant to the proposed actions is subject to New York



-  Rezoning Area
-  West 25th Street Parking Site
-  Coastal Zone Boundary



City's coastal zone management policies, which are presented in the WRP. The New York City WRP Consistency Assessment form is provided in Appendix D.

B. CONSISTENCY OF PROPOSED ACTION WITH THE WATERFRONT REVITALIZATION PROGRAM POLICIES

New York City's WRP includes 10 principle policies designed to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among those objectives. Each policy and sub-policy is presented below, followed by a discussion of the policy's applicability to the proposed actions and the proposed actions' consistency with the policy.

Policy 1: Support and facilitate commercial and residential development in areas well suited to such development.

Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.

The rezoning area is located in Coney Island, adjacent to the Atlantic Ocean and Riegelmann Boardwalk. The 47-acre rezoning area contains amusement rides and related uses, a baseball stadium, vacant land and parking lots, some low-rise residential buildings, and retail uses. The surrounding area contains a mix of low- and high-rise residential buildings, institutional uses, and transportation facilities. Under the proposed actions, the rezoning area would be developed with a mapped amusement park, a neighborhood park, and a mix of open and enclosed amusements, hotels, retail uses, and residential buildings. The development of these uses in this location would be appropriate, as discussed in Chapter 2, "Land Use, Zoning, and Public Policy." As a result, the proposed actions would promote development that is consistent with the policy stated above.

Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.

The proposed actions would create a 9.39-acre mapped amusement park adjacent to the boardwalk and beach, along with a mix of amusement, hotel, retail, and residential uses. The amusement park and other uses would result in greater numbers of people coming to the area, would attract the public, and would enliven this area near the beach, much of which is currently occupied by parking lots and vacant land. In addition, the proposed actions would create new streets and pedestrian access corridors through the rezoning area to the beach and boardwalk. Therefore, the proposed actions would encourage non-industrial development that enlivens areas near the waterfront and attracts the public, and would be consistent with this policy.

Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.

The rezoning area has access to existing mass transit, highways, water and sewer lines, and health, educational, and social services. Two subway stations are located adjacent to the rezoning area, the Stillwell Avenue station that serves the D, F, N, and Q lines and the West 8th Street/NY Aquarium station that serves the F and Q lines. Water, sewer lines, and electricity serve the area and, as described in Chapter 13, "Infrastructure," the full build out of the rezoning area would occur in conjunction with the implementation of a proposed Amended Drainage Plan, which is currently being developed and is expected to be complete

in 2010. With implementation of the Amended Drainage Plan, the local stormwater and wastewater collection systems would have the capacity to meet the expected demand of the reasonable worst-case development scenario (RWCDs). Prior to the implementation of the proposed Amended Drainage Plan, development that would occur during the short-term period (immediately) would occur on sites with frontage to both sanitary and storm sewers, provided that the adjacent sanitary sewer and all downstream segments have adequate capacity to accommodate wastewater flows generated by the development, and that developed site stormwater would be managed through feasible detention facilities and stormwater Best Management Practices (BMPs); and incremental infrastructure improvements would allow for sites that are fronting on an existing storm sewer or a sanitary sewer with inadequate capacity to be developed during the interim period. For sites that are not located adjacent to an existing sanitary/storm sewer, development in the interim period would be required to obtain approval from the New York City Department of Environmental Protection (DEP) and construct a private sewer/drain system that would connect to an existing sanitary/storm sewer; developments on such sites would also be required to provide stormwater detention facilities and BMPs and discharge at a rate that would not exacerbate the surcharged condition of the downstream storm sewers. Therefore, development resulting from the proposed actions would be in an area where essential public services and facilities are adequate and will also be improved in the case of storm and sanitary sewers, and the proposed actions would be consistent with this policy.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

The rezoning area is not located in a Significant Maritime and Industrial Area. Therefore, this policy does not apply.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.

The rezoning area is located adjacent to the Riegelmann Boardwalk and Coney Island Beach, which are public recreational areas. Therefore, the rezoning area is not an appropriate location for working waterfront uses.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

As described above, the rezoning area is not an appropriate location for working waterfront uses. In addition, there are no working waterfront uses in the vicinity of the rezoning area for which infrastructure could be provided. Therefore, the rezoning area is not an appropriate area for providing such infrastructure.

Coney Island Rezoning

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

Policy 3.1: Support and encourage recreational and commercial boating in New York City's maritime centers.

The portion of Coney Island Beach near the rezoning area is not one of New York City's maritime centers, and currently, there are no plans or policies for recreational or commercial boating along this stretch of Coney Island Beach. Therefore, this policy does not apply.

Policy 3.2: Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

The RWCDs does not involve recreational, commercial, or ocean-going freight vessels. Therefore, this policy does not apply.

Policy 3.3: Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.

The proposed actions are not expected to result in commercial or recreational boating activities. Therefore, this policy does not apply.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes, and Significant Coastal Fish and Wildlife Habitats.

The rezoning area is not within or adjacent to any Special Natural Waterfront Areas, Recognized Ecological Complexes, or Significant Coastal Fish and Wildlife Habitats. Therefore, this policy does not apply.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

As described in Chapter 10, "Natural Resources," the rezoning area does not contain any New York State Department of Environmental Conservation (NYSDEC)-mapped wetlands or any USFWS National Wetlands Inventory-classified wetlands. In addition, the proposed actions would not result in any long-term significant adverse impacts to existing NYSDEC-designated littoral zone and coastal shoals and mudflats within the nearby Coney Island Creek or adversely affect tidal wetlands within Shell Bank Creek, which is located outside of the Coney Island peninsula. Therefore, this policy does not apply.

Policy 4.3: Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

As described in Chapter 12, "Natural Resources," the proposed actions would impact the plant communities present within the undeveloped portions of the rezoning area from activities such as grading, land clearing, and excavation. This loss of terrestrial habitat could also have the potential to adversely affect some individual birds and other wildlife currently using the limited wildlife habitat within the rezoning area should those individuals be unable to find suitable available habitats nearby. However, the plant and wildlife species expected to occur within this area are common to urban areas, and the loss of some individuals would

not result in a significant adverse impact on wildlife resources of the New York City metropolitan region and would not be inconsistent with this policy.

Two isolated areas of maritime dune and sand beach (two non-contiguous plots totaling less than 0.25 acres) present within the project site along the northern edge of Reigelmann Boardwalk would be removed as a result of the proposed actions. While the loss of these two areas of dune habitat would be adverse, these two areas represent about 0.02 percent of the maritime dune habitat present on Coney Island. Loss of these small areas of dune habitat would not represent a significant adverse impact to local (i.e., Coney Island) or regional maritime dune habitat resources.

In addition, the proposed actions would not result in significant adverse impacts to water quality, nor would they adversely affect aquatic habitat within the vicinity of stormwater outfalls receiving stormwater runoff generated within the rezoning area. Implementation of stormwater management measures that would occur as a result of the proposed actions may, in fact, result in water quality improvements that would benefit aquatic biota of Lower New York Harbor and Coney Island Creek. Further, landscaped vegetation within the proposed open spaces would provide habitat for urban tolerant birds and other wildlife found within the rezoning area.

Policy 4.4: Maintain and protect living aquatic resources.

The rezoning area is located inland from the Atlantic Ocean and is separated from the shoreline by Riegelmann Boardwalk and Coney Island Beach, which is one of the City's more vast waterfront recreational resources and one of the City's few swimming beaches. The development resulting from the proposed actions would not involve the harvesting of fish, spawning habitat, aquaculture, or fish stocking. Therefore, this policy does not apply.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

As described in Chapter 13, "Infrastructure," with the proposed actions, an Amended Drainage Plan is currently being developed for the rezoning area, and a new separate sewer system will be constructed to divert storm flows from the Atlantic Ocean to Coney Island Creek, provide storm sewers beneath streets that currently do not provide storm sewers, provide necessary sanitary sewer capacity to support the proposed rezoning, and provide sanitary and storm sewers beneath proposed streets that are to be constructed as part of the proposed actions. Stormwater attenuation and treatment mechanisms would be included in the City's design of the streets, parks, and development sites within the rezoning area, and the design of these systems would be guided by the City's sustainability initiatives described in PlaNYC, BMPs, and New York City Environmental Quality Review (CEQR) standards to ensure public and environmental health and safety. Additionally, all development would be required to manage site-developed stormwater through detention facilities and stormwater BMPs that would meet DEP's detention requirements. Through the use of detention facilities and stormwater BMPs, the peak stormwater discharge rate would be reduced and new development would not exacerbate the surcharged storm sewer system.

Stormwater discharged into Coney Island Creek and the Atlantic Ocean via separate storm sewers would be treated to ensure compliance with NYSDEC standards, including the requirement under the Stormwater Pollutant Discharge Elimination System General Permit for Construction Activity GP-0-08-001 for the development of a stormwater pollution

prevention plan (SWPPP) that would include post-construction stormwater management practices. The DEP would also review the SWPPP for consistency with DEP requirements related to sizing stormwater management controls based on the 10-year storm event. Therefore, the proposed actions would be consistent with this policy.

Policy 5.2: Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution.

As described above, all development would be required to manage site-developed stormwater through detention facilities and stormwater BMPs. Development would also be required to satisfy NYSDEC and DEP standards and requirements. Through the use of stormwater management and BMPs, the RWCDS would minimize the generation of any nutrients or pollutants or new contributions to nonpoint source pollution to the Atlantic Ocean or Coney Island Creek, and the proposed actions would be consistent with this policy.

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands.

The proposed actions would not entail excavation in navigable waters or in or near marshes, estuaries, tidal marshes, or wetlands, nor would excavation fill be placed in navigable waters or in or near marshes, estuaries, tidal marshes, or wetlands. Therefore, this policy does not apply.

Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

There are no streams or wetlands located on or adjacent to the rezoning area. The rezoning area is within the area designated for the Brooklyn Queens Sole Source Aquifer, but groundwater is not used as a potable water supply in this part of Brooklyn. Prior to development under the proposed actions, E-designations, Land Disposition Agreements, or Memorandums of Understanding (see Chapter 11, "Hazardous Materials") would require that a Phase I Environmental Site Assessment be conducted in accordance with American Society of Testing Materials E1527-05, a soil and groundwater testing protocol be prepared and implemented, and remediation be conducted where appropriate, to the satisfaction of the DEP. Additionally, construction-phase health and safety plans, which must also be approved by DEP, would be required and they would include procedures to address both any known concerns as well as contingencies should unexpected contamination be encountered. With the implementation of these measures, development under the proposed actions would not result in significant adverse impacts to groundwater resources. Further, any dewatering activities, if required for construction of the RWCDS, could require treatment of the groundwater before discharge to the municipal sanitary or storm sewer in accordance with DEP and NYSDEC requirements. Therefore, the proposed actions would be consistent with this policy.

Policy 6: Minimize loss of life, structures and natural resources caused by flooding and erosion.

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

The proposed actions would comply with this policy. They would not result in an alteration to the natural features of the shoreline or in any structural or non-structural flood or erosion

control measures. The rezoning area is set back from the shoreline behind the Riegelmann Boardwalk and would not be subject to any impacts from shoreline erosion.

The rezoning area is within the 100-year floodplain, with the floodzone designated at elevation 10 feet. The proposed mapped new streets would be constructed at elevations closer to the 100-year floodplain, thereby requiring a change in grade to the existing streets that will affect Surf Avenue between West 16th Street and West 21st Street, segments of West 17th Street, West 19th Street and West 20th Street north of Surf Avenue, West 21st Street between Surf Avenue and the public beach, Bowery between West 15th Street and Jones Walk, West 15th Street, Stillwell Avenue and West 12th Street. The grade of these existing streets would be raised to meet the elevation of the proposed new streets. Raising the grade of the streets would enable locating ground-floor commercial space close to, or at, the 100-year floodplain elevation. Raising the street grades would also create a cohesive streetscape throughout the rezoning area with a stronger physical and visual connection from Surf Avenue and the amusement area to the Boardwalk and beach. All structures would comply with applicable City and FEMA requirements on construction and occupancy.

Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

Public funding for flood prevention or erosion control measures is not part of the proposed actions. Therefore, this policy does not apply.

Policy 6.3: Protect and preserve non-renewable sources of sand for beach nourishment.

The rezoning area does not contain any non-renewable sources of sand for Coney Island Beach nourishment. Further, the proposed actions would not adversely impact Coney Island Beach.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution and prevent degradation of coastal ecosystems.

None of the uses envisioned under the proposed actions would involve the use or discharge of hazardous or toxic pollutants. All toxic or hazardous substances uncovered during construction will be handled and removed in accordance with the applicable City, State, and Federal standards to prevent impacts on surrounding areas. Solid waste generated by the proposed actions would be collected by the New York City Department of Sanitation (DSNY) and by private carters. Therefore, the proposed actions would be consistent with this policy.

Policy 7.2: Prevent and remediate discharge of petroleum products.

In the unlikely event that petroleum products are disturbed or discharged during construction under the proposed actions, they would be remediated in conformance with all applicable laws, rules, and regulations, as described in Chapter 11, “Hazardous Materials,” thereby complying with the goals of this policy.

Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

Coney Island Rezoning

Solid waste resulting from the proposed actions would be hauled by licensed private contractors and DSNY according to applicable laws and regulations, thereby complying with this policy. No hazardous substances are expected to be generated by the proposed actions, and they would not involve the siting of any solid or hazardous waste facilities.

Policy 8: Provide public access to and along New York City's coastal waters.

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

The proposed actions would not directly affect Coney Island Beach or Riegelmann Boardwalk. A new mapped West 20th Street through the rezoning area and two new pedestrian access corridors at West 16th and 19th Streets would provide new physical access through the rezoning area to the boardwalk and beach. The proposed actions would maintain existing visual access to the beach and would provide new view corridors along the new street and pedestrian access corridors. New views to the beach would also be provided from the new neighborhood park and the new mapped amusement park. Further, existing east-west views along Riegelmann Boardwalk would be preserved due to the height restrictions of buildings that could be developed along the boardwalk in the Coney West subdistrict and the openness of the amusement park in the Coney East subdistrict. Therefore, the proposed actions would be consistent with this policy.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

As described above, the proposed actions would create new public access through the rezoning area to the beach and boardwalk and would create two new, publicly accessible open spaces adjacent to the boardwalk. Therefore, they would be consistent with this policy.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

As described above, the proposed actions would create two new, publicly accessible open spaces adjacent to the boardwalk, and these open spaces would provide new, unobstructed views toward the beach and boardwalk. Further, views of Coney Island Beach from within the rezoning area would be enhanced due to the proposed grade changes in the Coney East and Coney West subdistricts. Due to the existing slight downward slope of the topography in the subdistricts and the elevated height of the boardwalk, the streets south of Surf Avenue in the rezoning area do not currently offer views of the beach or ocean, but instead terminate at the boardwalk. The proposed grade changes would elevate public views to the level of the boardwalk, thus creating new views to the beach. Therefore, the proposed actions would be consistent with this policy.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

The proposed actions include the acquisition of privately owned land for the creation of a new 1.41-acre publicly accessible, neighborhood park in the Coney West subdistrict and a new 9.39-acre publicly accessible, mapped amusement park in the Coney East subdistrict. Both of these public open spaces would be adjacent to the boardwalk, to which they would also provide access. Therefore, the proposed actions would be consistent with this policy.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the state and city.

The rezoning area does not contain any land or water held in public trust by the State and City. Therefore, this policy does not apply.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

As described in Chapter 8, "Urban Design and Visual Resources," the proposed actions would improve the visual quality of the area's urban context by redeveloping mostly vacant and underutilized land with new public open spaces and a mix of residential, amusement, hotel, and retail buildings. The proposed street plan within the rezoning area would create enhanced views to the beach and of the area's visual resources that include the Cyclone roller coaster, the Wonder Wheel, and the Parachute Jump. The new amusement park and low-rise commercial structures that would front on the boardwalk, and would largely replace vacant land, would improve the visual quality of the boardwalk and beach by creating a more visually interesting setting for the boardwalk and by adding active uses along its frontage through the rezoning area. Therefore, the proposed actions would be consistent with this policy.

Policy 9.2: Protect scenic values associated with natural resources.

Development that would result from the proposed actions would not affect the scenic value of Coney Island Beach. As mentioned above, the proposed actions would enhance views to the beach through the rezoning area. In addition, the openness of the beach and boardwalk would be maintained through the location of the open amusement park adjacent to the boardwalk in the Coney East subdistrict and the creation of height regulations that would mandate low-rise buildings along the boardwalk in the Coney West subdistrict. Therefore, the proposed actions would be consistent with this policy.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

Four designated New York City landmarks (NYCLs) would be retained and preserved under the proposed actions: the Childs Restaurant on the boardwalk, the Parachute Jump, the Wonder Wheel, and the Cyclone roller coaster. Each of these resources would be key features of the RWCDs, and their settings would be improved by the proposed actions. Further, new and enhanced views of the Parachute Jump, Wonder Wheel, and Cyclone would be created, as described in Chapter 7, "Historic Resources." In addition, the Childs Restaurant on Surf Avenue, which has been determined to appear eligible for Landmark designation and National Register listing, would be retained and preserved under the proposed actions.

One eligible resource, however, is expected to be redeveloped under the proposed actions: Nathan's Famous restaurant (S/NR-eligible). This historic resource is located on a potential development site. In the absence of NYCL designation for Nathan's Famous, which is located on a privately owned development site, there are no procedures in place that would

ensure pre-construction design review or preventative measures to minimize effects of construction and potential demolition or alteration.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

As described in Chapter 7, “Historic Resources,” the rezoning area is not considered sensitive for archaeological resources. Therefore, this policy does not apply.

C. CONCLUSIONS

The RWCDS anticipated as a result of the proposed actions would be consistent with the City’s 10 WRP policies. The RWCDS—with a 9.39-acre mapped amusement park, a 1.41 mapped neighborhood park, an additional 251,411 square feet of new amusement uses, about 494,359 square feet of new hotel space, 2.4 million square feet of residential space (approximately 2,408 new dwelling units), 333,253 square feet of enhancing uses, and 320,951 of retail and commercial uses—would be consistent with the WRP’s policies of supporting and facilitating residential and commercial development where appropriate; protecting and improving water quality in the coastal area; avoiding adverse effects to the coastal area as a result of solid waste and hazardous substances; providing public access to and along the City’s coastal waters; protecting scenic resources that contribute to the visual quality of New York City; and avoiding adverse effects to historic and cultural resources. Policies that are not applicable to the proposed actions or where the proposed actions would have no adverse impact include policies regarding maintaining commercial boating; a working waterfront; and protecting coastal ecological systems. *