

3.26 Responses to Public Comments on the DEIS

Introduction

This chapter summarizes and responds to all substantive comments on the Draft Environmental Impact Statement for the proposed 125th Street Corridor Rezoning and Related Actions made during the public review period.

On September 28, 2007, the New York City Department of City Planning (DCP), on behalf of the City Planning Commission (CPC) as lead agency, issued a Notice of Completion for the DEIS for 125th Street Corridor Rezoning and Related Actions. The public, interested agencies, Manhattan Community Boards 9, 10 and 11, and elected officials were invited to comment on the DEIS. Written comments were accepted on the DEIS from the time of issuance of the Notice of Completion until the closing of the comment period on February 11, 2008. In addition, a public meeting was held on January 30, 2008, at the City College of New York, in Aaron Davis Hall, located at 138 Convent Avenue at West 135th Street, in Manhattan to afford the interested public the opportunity to provide oral comments on the DEIS.

Draft Environmental Impact Statement Comments and Responses

This section lists and responds to comments on the Draft Environmental Impact Statement (DEIS). The comments include those made during the public hearing, as well as written comments received through the close of the comment period. The comments are organized by subject area, following the organization of the draft scope of work. The organization and/or individual that made the comment is identified next to each comment. The first 78 individuals listed below represents the order of appearance of the public speakers at the public meeting on the Draft Environmental Impact Statement.

Comments were received from the following individuals and organizations:

1. Richard Bass, Herrick Feinstein, LLP (oral statement at public hearing on Kingsgate House and 125th Street Plan)
2. Paul Freitag, Jonathan Rose Companies (oral statement at public hearing on Kingsgate House and 125th Street Plan)
3. Mark Alexander, Urban Builders Collaborative (oral statement at public hearing on Kingsgate House and 125th Street Plan)
4. Mylinda Lee (oral statement at public hearing on Kingsgate House and 125th Street Plan)
5. Anthony Borelli, Director of Land Use, Manhattan Borough President's Office (oral statement at public hearing on Kingsgate House and 125th Street Plan)
6. Inez Dickens, Council Member 9th District (oral statement at public hearing and written statement dated January 30th, 2008)
7. Melissa Mark-Viverito, Council Member 8th District (oral statement at public hearing)

8. Jonell Procope, Apollo Theater Foundation (oral statement at public hearing and written statement dated January 30th, 2008)
9. Katheryn Wylde, Partnership for New York City (oral statement at public hearing and written statement dated January 30th, 2008)
10. Walter Cooper (oral statement at public hearing)
11. Pedro Llanos, Trade Council of Hotel Workers (oral statement at public hearing)
12. David Coutier, Homeowner's Association of Harlem (oral statement at public hearing)
13. Derek Johnson, Integrated Holdings (oral statement at public hearing and written statement dated January 30th, 2008)
14. Franc Perry, Chair, Community Board 10 (oral statement at public hearing)
15. Eugene Giscombe, 125th Street Business Improvement District (oral statement at public hearing)
16. Willie Walker (oral statement at public hearing)
17. Loren Schoenberg, Director, National Jazz Museum (oral statement at public hearing)
18. Nicholas Ronderos, Regional Plan Association (oral statement at public hearing and written statement dated January 30th, 2008)
19. Thelma Golden, Studio Museum in Harlem (oral statement at public hearing)
20. Susanna Schaller, Municipal Arts Society (oral statement at public hearing and two written statements, one dated January 30th, 2008 and the second dated February 11, 2008)
21. Luther Gales, United Harlem Growth (oral statement at public hearing)
22. Bill Perkins, State Senator, 30th District (oral statement at public hearing)
23. Joseph Aliotta, Swanke Hayden Connell Architects (oral statement at public hearing and written statement dated January 30th, 2008)
24. Nelly Hester Bailie, Harlem Tenant's Council, Coalition to Save Harlem (oral statement at public hearing)
25. Marie Littlejohn (oral statement at public hearing)
26. Carlton Gregory Powell (oral statement at public hearing)
27. Lizzy Brock (oral statement at public hearing)
28. Robert Rodriguez, Chair, Community Board 11 (oral statement at public hearing)
29. Robert Ezrapoure (oral statement at public hearing)
30. Mark Irgang (oral statement at public hearing and written statement dated February 15th, 2008)
31. Charles Shorter (oral statement at public hearing)
32. Brenda Levin, American Planning Association, Metro Chapter Zoning Committee (oral statement at public hearing)
33. Kenneth Brown (oral statement at public hearing)
34. Gorman Riley, CIVITAS (oral statement at public hearing and written statement dated January 30th, 2008)
35. Craig Schley, 123rd Street Block Association (oral statement at public hearing)
36. Erica Razook, Vote People (oral statement at public hearing)
37. Barbara Smith Graves (oral statement at public hearing)
38. Danny Perez (oral statement at public hearing and written statement dated January 30th, 2008)

39. Pattie Jacobs (oral statement at public hearing)
40. Diane Eamtrakul (oral statement at public hearing and two written statements, one dated January 30th, 2008 and the second dated February 1st, 2008)
41. Hope Knight, Upper Manhattan Empowerment Zone (UMEZ) (oral statement at public hearing and written statement dated January 30th, 2008)
42. Carmen Vasquez, Hope Communities (oral statement at public hearing and written statement dated January 30th, 2008)
43. Sharifa Rhodes-Pitts, Vote People (oral statement at public hearing and undated written statement)
44. Evan Blum (oral statement at public hearing)
45. Kathy Heru (oral statement at public hearing)
46. S. Guinier (oral statement at public hearing)
47. Leroy Dickson (oral statement at public hearing)
48. Carlton Berkeley, 100 Blacks in Law Enforcement (oral statement at public hearing)
49. Peter Anderson (oral statement at public hearing)
50. Cristabell Gough, Society for the Architecture of the City (oral statement at public hearing and written statement dated January 30th, 2008)
51. Michael Henry Adams (oral statement at public hearing)
52. Regina Smith, Harlem Business Alliance (oral statement at public hearing and written statement dated December 4th, 2007)
53. Pamela Gibson (oral statement at public hearing)
54. Calvin Hunt (oral statement at public hearing)
55. Timothy Greene (oral statement at public hearing)
56. Juanita Thomas (oral statement at public hearing)
57. Walter South (oral statement at public hearing and written statement dated January 22nd, 2008)
58. Akua Weeks (oral statement at public hearing and written statement dated January 30th, 2008)
59. Imee Jackson, Community Board 10 Economic Development Committee and Housing Committee (oral statement at public hearing)
60. Gloria Swanson (oral statement at public hearing)
61. Melinda Lee (oral statement at public hearing)
62. Iesha Sekou, 136th Street Block Association (oral statement at public hearing)
63. Beatrice Sibblies, Community Board 10 Economic Development Committee and Housing Committee (oral statement at public hearing)
64. Dolina Duzant (oral statement at public hearing)
65. Sandra Rivers, Coalition to Save Harlem (oral statement at public hearing and written statement dated January 30th, 2008)
66. Julius Tajiddin, Community Board 10 Economic Development Committee and Housing Committee (oral statement at public hearing and written statement dated February 10th, 2008)
67. Deborah Gilliard, Community Board 10 Parks and Recreation Committee (oral statement at public hearing and written statement dated January 30th, 2008)
68. Carol Cumberbatch (oral statement at public hearing)
69. Carol Nelson, Coalition to Save Harlem (oral statement at public hearing)

70. Dr. Vicky Gholson (oral statement at public hearing)
71. Monique Ndigo Washington (oral statement at public hearing)
72. Vee Lee (oral statement at public hearing)
73. Sikhulu Shange, Coalition to Save Harlem (oral statement at public hearing)
74. Stanley Gleaton, Community Board 10 Economic Development Committee and Land Use Committee (oral statement at public hearing and written statement dated January 30th, 2008)
75. Kay Samuels (oral statement at public hearing)
76. Charles Calloway, We Act for Environmental Justice (oral statement at public hearing and undated written statement)
77. Edward Hiller (oral statement at public hearing)
78. Joy Algood (oral statement at public hearing)
79. Fatima Faloye (written statement dated January 30th, 2008)
80. Real Estate Board of New York (written statement dated January 30th, 2007)
81. Richard T. Anderson, New York Building Congress (written statement dated January 29th, 2008)
82. Patricia Jones, Community Board 9 (written statement dated January 16th, 2007)
83. Judy Shepherd-King (written statement dated November 15th, 2007)
84. Linda Banton (written statement dated November, 2007)
85. Darlene C. DeFour (written statement dated December 8th, 2007)
86. Joan Green (written statement dated December 10th, 2007)
87. Sharon M. Bowie (written statement dated February 8th, 2008)
88. Kim D. Holmes (written statement dated February 10th, 2008)
89. Valerie Strawn (written statement dated February 10th, 2008)
90. Paulette Tucker (written statement dated February 10th, 2008)
91. Abdul Kareem Muhammad (written statement dated February 11th, 2008)
92. Elloheim K Tucker (written statement dated February 10th, 2008)
93. Carla McIntosh and Brenda Venable (written statement dated February 7th, 2008)
94. Bill Rohlfing (written statement submitted February 6th, 2008)
95. Mary Habstritt, Society for Industrial Archaeology, Roebling Chapter (written statement dated February 11th, 2008)
96. J. David MacCartney, Jr. Feerick, Lynch and MacCartney, LLC (written statement submitted February 5th, 2008)
97. Anhthu Hoang, We Act (written statement dated February 11th, 2008)
98. Edward F. Ott, Executive Director of NYC Central Labor Council (written statement dated January 30th, 2008)
99. Queen Mother Dr. Delois Blakely (written statement dated January 30th, 2008)
100. David Greenbaum, Vorando Realty Trust (written statement dated February 8th, 2008)
101. Ethel Sheffer, President, APA New York Metro Chapter (written statement dated February 20th, 2008)
102. James F. Janeski, President SFDS Development Corporation, DBA Lott Community Development Corporation (written statement dated February 5th, 2008)
103. Richard Roberts, TDF Real Estate and Property Services, Inc. (written statement dated February 7th, 2008)

104. Ron Moelis, C&C Affordable Management LLC (written statement dated February 7th, 2008)
105. Louis L. Levine, New York College of Podiatric Medicine (written statement dated February 8th, 2008)

A. General Comments on the Proposed Action

Comment A1: Growth must be managed along this corridor. (6)

Response: As noted in the DEIS, DCP's rezoning strategy encourages reasonable growth within appropriate areas of the corridor. The proposed rezoning seeks to sustain and enhance the ongoing revitalization of 125th Street as a unique, diverse Manhattan main street by expanding the extent and range of uses permitted along the street. The proposed rezoning seeks to encourage new mixed-use development through a balanced zoning strategy that encourages new development where appropriate while maintaining the scale and character of existing predominantly residential areas. The proposed rezoning seeks to balance new development in response to existing neighborhood character and scale establishing urban design controls that reflect the special context of 125th Street. The proposed rezoning seeks to create opportunities for new housing including affordable housing.

Comment A2: This is an important role for 125th Street and we are eager to participate in this effort. (9)

Response: Comment noted.

Comment A3: I am opposed to the plan. (14, 35, 37, 39, 43, 46, 47, 48, 49, 51, 52, 53, 54, 56, 59, 60, 61, 62, 63, 69, 71, 72, 74, 78, 79, 87, 89, 90, 92). I am in strong opposition to this plan, as it ignores the needs of the community. (22). This plan does not reflect the needs of the community. (74). The community does not want this plan. (75).

Response: Comment noted.

Comment A4: I am opposed to this plan because it attempts to turn 125th Street in Harlem into Midtown's 42nd Street. (57)

Response: The proposed rezoning includes zoning districts to catalyze development where appropriate together with zoning districts that would protect the existing scale and built character of predominately residential areas of the corridor. The proposed rezoning would establish maximum building height limits to ensure that future building forms are compatible with the surrounding neighborhood's built character. The overall densities and maximum building heights proposed are substantially lower than the densities and building heights allowed in the Special Midtown District and on 42nd Street.

Comment A5: Residential development does not belong on the 125th Street corridor. (40, 52). We do not need residential development for vibrancy. Residential development is not needed along 125th Street. (63). We are not opposed to development, but this is disrespectful to current residents. (71)

Response: **New mixed-use development that includes housing on 125th Street would contribute to the proposal's goals and objectives adding vitality to the street during the day and evening times.**

Comment A6: We are generally in favor of the proposal, but without the residential development. (15)

Response: **As noted in the Project Description chapter of the DEIS (page 2.0-5), new mixed-use development that includes housing on 125th Street would contribute to the proposal's goals and objectives adding vitality to the street during the day and evening times.**

Comment A7: We support the proposed action. (1, 2, 3, 18, 81, 100, 102, 103, 104, 105). We believe this effort is critical to jump-starting the long-awaited renaissance of this important commercial corridor. (102, 103, 104, 105). We support the upzoning of 125th Street between Park and Madison avenues. (30)

Response: **Comment noted.**

Comment A8: I support this project and the cultural bonus which is a part of it. The people of African descent should be represented in the new arts uses. (19).

Response: **Comment noted.**

Comment A9: We are in general support of this plan. Several important aspects include the strengthening of the character of 125th Street and increasing the density to encourage affordable housing. Also, the promotion of arts and retail along 125th Street is commendable. Mostly, these goals are met by the proposal. (34)

Response: **Comment noted.**

Comment A10: I support this rezoning, and the 125th Street corridor is one of the city's greatest thoroughfares. (41)

Response: **Comment noted.**

Comment A11: The necessities of this rezoning proposal ties in directly with the cost of construction. The area must be able to revitalize and grow. This allows cultural institutions to grow and flourish. A positive economic impact will be experienced if arts institutions locate along 125th Street. (31)

Response: **Comment noted.**

Comment A12: The APA Metro Chapter encourages the commission to adopt this rezoning. (32)

Response: Comment noted.

Comment A13: Affordable housing and efforts to retain local business is a welcome idea along 125th Street. (33, 40)

Response: Comment noted.

Comment A14: Income-targeted housing is what is needed in this plan. (45, 91). I conditionally approve the proposal. Affordable housing is a very important part of this plan, and needs to be expanded. The inclusionary housing component of this plan should be expanded. (28)

Response: As described in the Project Description chapter of the EIS, the proposed rezoning would make the Inclusionary Housing program applicable through out the special district in the proposed C4-7, C6-3 and C4-4D zoning districts. The Inclusionary Housing program provides incentives for the creation of affordable housing by allowing a 33 percent density bonus in exchange for the provision of at least 20 percent of the development total floor area (excluding ground floor non-residential floor area) to housing that will remain permanently affordable to lower income households. According to the Inclusionary Housing program, residents of the community board where the created affordable housing is located would have 50% preference in the assignment of the affordable units.

Comment A15: We agree with the positions of Community Boards 10 and 11, and the Manhattan Borough President. More affordable housing needs to be created than is currently allocated under this plan. (42)

Response: Comment noted.

Comment A16: Any plan has to represent the full range of diversity in the existing community. (44)

Response: Comment noted.

Comment A17: There are inconsistencies in the DEIS. The land use process is not working and needs to be changed. (70)

Response: Comment noted.

Comment A18: We need more community-based businesses in Harlem. (73)

Response: Comment noted.

Comment A19: There is a relation between this rezoning and the Columbia University expansion. (24, 65, 73, 76)

Response: The western boundary of the proposed rezoning is adjacent to the recently adopted Special Manhattanville Mixed Use District. Both rezoning areas are connected by 125th Street and acknowledge the street's character through requirements for active uses and other mechanisms to improve the pedestrian experience along 125th Street. The effects of Phase I of the Manhattanville rezoning (2015 build year) are included in this EIS as part of the baseline future without the proposed action conditions.

Comment A20: Hotels belong on the 125th Street corridor because they generate business, which is an important aspect of this plan. (40)

Response: In the Reasonable Worst Case Development Scenario (RWCDS), it is projected that an additional 12,000 square feet of hotel space will be developed in the future with the proposed action.

B. Project Description

Comment B1: The housing options offered under this plan are still unaffordable to local residents. There is not enough affordable housing in this plan, especially for those with very low income. (10)

Response: A total of 498 affordable units are expected to be created in the future with the proposed action. Lower-income units must be affordable to households at or below 80 percent of Area Median Income (AMI), and must remain affordable for the life of the development receiving the bonus. Lower-income housing units used to earn the inclusionary housing bonus may be new units on the same site as the development receiving the bonus, or new or preserved units in a separate building off-site. Off-site affordable units must be located in the borough of Manhattan within the same community district, or in an adjacent community district on a site within a half-mile of the site receiving the bonus.

Developments using the floor area bonus in the new program may also use various city, state and federal housing subsidy programs and tax incentives to finance affordable units. The Department of Housing Preservation and Development must approve a Lower Income Housing Plan for all developments in the Inclusionary Housing Program.

Comment B2: No as-of-right upzoning should be allowed under this plan. (12, 14)

Response: To achieve the project's goal of sustaining and enhancing the ongoing revitalization of 125th Street, the proposed action would encourage significant new commercial, residential and mixed-use development through an increase in permitted densities where appropriate. Application of the Inclusionary Housing program in

conjunction with an increase in permitted density promotes the inclusion of affordable housing in these new developments.

Comment B3: An FAR of 4.0 should be maintained. (12)

Response: The EIS analyzes a no-action alternative which would, in the absence of the proposed action, maintain the allowed 4.0 FAR in the existing C4-4, C4-5 and R7-2 zoning districts. The effects of the no-action alternative are described in Chapter 3.21, “Alternatives”.

Comment B4: The arts condition that is a part of this plan should be made a permanent addition to all rezoning actions in Harlem and elsewhere in New York. (12)

Response: Comment noted.

Comment B5: We support the proposed rezoning of the 125th Street corridor and the establishment of the special 125th Street district. We believe the plan provides for appropriate development including significant amounts of new retail, office, hotel, and visual and performing arts space and over 2000 units of housing, including affordable housing. These zoning changes reinforce the commercial and cultural character of the street and will bring new investment and new job opportunities into the neighborhood. We support the zoning districts proposed along the corridor and believe the floor area ratios (FAR) are sufficient to stimulate development. However, we do not support height limits for commercial buildings in the C4-7 district. Given the practical needs of commercial buildings, we do not think a rigid height limit is appropriate. (80)

Response: Comment noted. Maximum height limits would be introduced for all the proposed new mapped districts ensuring the overall massing and scale of new development responds to the particular characteristics of the different areas within the corridor.

Comment B6: I am generally in support of rezoning, but in opposition to the height limit, which I feel is too restrictive. (13, 100). The proposed 60 to 85 foot streetwall requirement should also be reviewed as this impedes efficient design of apartments and adds to costs. (80)

Response: Comment noted. Please see response to comment B5.

Comment B7: The development of new space suitable for small businesses and local non-profits should be encouraged. (15, 34). There must be bonus space allotted and targeted for preservation and sustenance of indigenous cultural organizations. The arts bonus benefit must be directed to local institutions with local civic involvement. (6)

Response: The proposed action would provide a bonusing mechanism that would encourage new arts and entertainment space in new

development space. The DEIS analyzes the impact of the proposed action and the provision of new arts and entertainment bonus in the 125th Street Special District but it is outside the scope of the DEIS to consider the individual organizations that would occupy the space. The proposed zoning allows for a diversity of arts uses and retail businesses, and would accommodate existing Harlem businesses. A preference for existing businesses is not proposed as part of the Special District.

Comment B8: We are concerned that not enough space will be available to local businesses and arts uses. (28)

Response: Please see response to B7.

Comment B9: The area is too truncated, and should span 125th Street river to river. (15, 57). Rezoning should expand north and south, and is geographically too limited. (34). The block of 125th Street and Broadway should be included in the rezoning proposal. (30) The plan had originally been promoted as the 125th Street “River to River,” which had the promise of providing access to both the Hudson and Harlem Rivers and linking them through the 125th Street corridor. While there are separate plans for the waterfront to the west, this plan fails to address waterfront access to the east. (20)

Response: The proposed action covers the majority of the 125th Street corridor, generally between Broadway, 2nd Avenue, 124th and 126th Streets. The portion of the 125th Street corridor west of Broadway was subject of a separate action (the Manhattanville rezoning) and the portion east of Second Avenue contains transportation infrastructure that differs in character to the rest of the corridor. However, the study areas of several of the technical chapters of the EIS cover the portions of the corridor between the rezoning area and the waterfront and consider the potential for impacts at these locations.

Comment B10: The plan should consider more of Harlem, and the current scope is too limited. (40) A rezoning, such as proposed here, will have impacts well to the north and south of 125th Street. CIVITAS also finds merit in the urgings made by the Manhattan Borough President, among others, that DCP address much larger areas of the three impacted communities – West Harlem, Central Harlem and East Harlem. (34)

Response: The plan for 125th Street was developed in response to recent and anticipated development in Harlem, and most specifically along 125th Street. The proposed rezoning is a targeted rezoning with goals and objectives that relate to the specific conditions of the 125th Street corridor. The effects of the rezoning on areas beyond the rezoning area are analyzed in the EIS, many of the technical study areas are identified and studied beyond the rezoning area.

Comment B11: We support the proposed action, and the commensurate densities are appropriate to the context of 125th Street. Further, there will be a multitude of commercial opportunities expected to arise as a result of this action. (18)

Response: **Comment noted.**

Comment B12: We believe the special subdistrict is a good opportunity to highlight Harlem's legacy of the arts, but also believe the boundaries should be expanded. It is too small and does not take advantage of the potential to create a continuous arts and cultural corridor connecting to the New Amsterdam Special District proposed in CB 9's 197-a plan to the west and to the 5th Avenue Museum Mile. (20)

Response: **The Core Subdistrict includes the contiguous areas where the highest densities would be allowed under the proposed rezoning and imposes additional requirements on new developments above 60,000 square feet of floor area. Such requirements are not feasible in those areas of the corridor where lower densities are proposed. In addition, the area of the Core Subdistrict is the area where most of the existing arts institutions are located. .**

Comment B13: The density of commercial and residential uses is necessary for the long-term economic viability of the 125th Street corridor. (29)

Response: **Comment noted.**

Comment B14: We request that the current plan be amended to include on-site housing at more affordable rates. (42). We need affordable middle-income housing with a very low-income component. This will more accurately reflect the population of Harlem. (57). I think the current split of affordable and market-rate housing is inequitable. A ratio of 80% affordable and 20% market-rate housing is fairer to the people of Harlem. (51). We need income-targeted housing, not luxury housing in Harlem. Additionally, an area median income (AMI) of 56,000 is twice the income of CB 10 residents. (59). I think the current split of affordable and market-rate housing is inequitable. A ratio of at least 50% affordable to 50% market-rate housing would be more realistic for the people of this neighborhood to afford. (68).

Also, the proposed arts and culture bonus is to be extended to cover the area of the rezoning west of Convent Avenue/Morningside Avenue to Broadway in order that the entire 125th Street corridor serve as an arts and culture district. The arts and culture bonus should give a bonus to indigenous businesses and individuals who own property.

Within the special district, anti-harassment and cure provisions should be instituted within the special district. These provisions can be

modeled on Article IX: Special Purpose Districts, Chapter 6: Special Clinton District, Section 96-110 in order to prevent displacement of long-time residents. All housing developed in the 125th Street Special District should contain affordable housing on-site and only within the site of rezoning that is targeted to the income levels of Community Board 9, as periodically adjusted, according to the following guidelines:

- 20% at 60% or less than area median income (AMI)
- 40% at 60-100% AMI
- 40% at 100-120% AMI (82)

We support CB 11's proposal for 125th Street corridor. This proposal provides real opportunity for affordable housing, unlike the city's rezoning plan. (93)

Response: **The standards for affordability are based on the methodologies in the *CEQR Technical Manual* and standards developed by the U.S. Department of Housing and Urban Development (HUD). According to HUD, affordability standards are set in relation to the median family income for the primary metropolitan statistical area (PMSA) rather than the borough or city. The housing subsidy programs available through the City and State, which would be coupled with the proposed zoning bonus to produce affordable units, are based on these standards established by HUD.**

The Inclusionary Housing program is designed to provide a 33% bonus in exchange for 20% affordability, in order to ensure that an incentive exists for the provision of affordable housing. The combination of the Inclusionary Housing program with various subsidy programs results allows a range of income levels to be reached. Many subsidy programs are directed at income levels lower than 80% of AMI. Where programmatic requirements are stricter than the zoning requirements, the stricter limit applies.

The socioeconomic analysis presented in the EIS concludes that the proposed action would not result in significant adverse residential displacement impacts. The anti-harassment and cure provisions requested are not warranted by this analysis.

Comment B15: We do not want the city to use eminent domain to acquire properties necessary for this development. There must be a public commitment by government officials not to invoke eminent domain for private gain. (43)

Response: **The use of eminent domain is not a part of this plan.**

Comment B16: We support the city's effort to maximize the potential of this transit-rich corridor. By placing this action at transit hubs and major thoroughfares,

a foundation is laid to enhance 125th Street as a regional business district and stimulate residential development to help meet the city's increasing demand for housing. This plan maintains and improves its lively pedestrian environment through regulations aimed at ensuring that ground floors are dominated by active uses, such as retail, entertainment, and restaurants. (81)

Response: **Comment noted. The proposed rezoning promotes pedestrian activity on 125th Street, particularly during off-peak hours.**

Comment B17: We request that the Department of City Planning expand its current rezoning plan to include the "New Amsterdam Special District", which will cover the area from the south side of 126th Street to 130th Street between Amsterdam and Morningside/Convent Avenues, and be zoned C6-3 (with a base of 4 FAR, and 4 FAR bonus for inclusionary housing or arts/cultural uses, totaling a maximum of 8 FAR) with height limits of 160 feet. The rezoning plan for both sides of 125th Street from St. Nicholas to Broadway be changed to C6-2A designation (with a base of 4 FAR, and a 3.2 FAR bonus for inclusionary housing or arts/cultural uses, totaling a maximum of 7.2 FAR) with a height limit of 120 feet instead of the current C4-4D, R7A, and R7-2 (with C2-4 commercial overlays).

Consistent streetscape design for the entire 125th Street corridor is needed to visually unify the affected districts. The rezoning should include building code requirements that meet or exceed LEED Silver standards as specified by the U.S. Green Buildings Council. Further, the proposed Arts & Entertainment requirement should be changed to a local business requirement. (82)

I support the inclusion of Community Board 9's New Amsterdam Mixed-Use Subdistrict, as outlined in their 197-a plan, as a part of this rezoning. This would generate viable creative jobs in design, production, and related services. (83, 84, 85, 86)

Response: **The extension of the proposed Special 125th Street District to include a New Amsterdam Special District is outside of the scope of the proposed action, and inconsistent with the goals and objectives of the proposed special district. It should be noted, however, that the Department of City Planning has committed to explore the possibility of such a district in connection with a proposal for the study of a West Harlem Rezoning proposed by the Manhattan Borough President.**

Regarding the recommended C6-2A zoning district, this district would allow a base residential FAR of 4.0, bonusable up to 7.2 through an Inclusionary Zoning bonus. Commercial and community facility uses would remain at 4.0 FAR, as allowed in the existing C4-

4 zoning district. While this recommendation would encourage some new mixed-use development it falls significantly short of expanding the extent and range of uses permitted under the proposed action and it is therefore not consistent with the goals and objectives of the proposed action.

Consistent streetscape design is not within the scope of the proposed action.

Comment B18: In the Future No-Action scenario, anything can be built without an advance zoning amendment. (66)

Response: As described in the Land Use, Zoning and Public Policy Chapter of the EIS, the existing zoning in the rezoning area permits a wide range of land uses, but does not include specific height limits. Under the future no action scenario 26 of the projected development sites and 22 of the potential development sites could be redeveloped under existing zoning controls.

Comment B19: Developers may not think it is worth creating inclusionary housing in an unregulated fair housing market. (66)

Response: The proposed action includes increased densities in appropriate locations, with an inclusionary zoning bonus to expand and enhance the opportunities for affordable housing development. With this inclusionary zoning bonus it can be reasonably assumed that, under the Reasonable Worst Case Development Scenario, 498 units of affordable housing will be created.

Comment B20: The majority of the Harlem population does not want Harlem's Main Street to be a 24 hour destination. (66)

Response: Comment noted.

Comment B21: In order to ensure appropriate monitoring and enforcement of the space dedicated to arts uses, we recommend the following measures. Property owners should be required to obtain a certification letter from the Department of Consumer Affairs pursuant to Section 97-423(d) every year (rather than only when the space is first occupied or if there is a change of operator). Property owners should also be required to provide an engineer's inspection pursuant to Section 97-423(d) every two years (rather than every 5 years). Property owners should be required to submit a copy of the required certification and inspection reports to the Borough President, Community Board, and City Council Member to ensure that local stakeholders are informed about the status of the arts spaces and can follow up as appropriate. We urge the Department of Cultural Affairs to create a specific staff position with the responsibility to oversee the arts bonus program and to facilitate matching

organizations with available space. We further recommend that the Department of City Planning perform follow-up studies to collect data on the usefulness of the bonuses – looking at, for example, in what situations developers are likely to take advantage of bonuses, what types of uses are appropriate for bonuses, and the appropriate process for determining priorities in different areas of the city. (101)

Response: **The Department of City Planning is continuing to consult with the Department of Cultural Affairs and others with respect to the implementation of the proposed regulations and is developing proposals for enhanced enforcement. At this time, however, no specific changes to the proposed text have been made.**

Comment B22: The arts bonus should be monitored closely to ensure its long-term viability. (32) We also appreciate the use of floor area bonuses for cultural uses. Having a well-known physical location will only increase the viability of non-profit cultural groups. Currently, however, the plan does not allow basement space to be bonused. However, some uses like theaters and museums can make good use of below-grade spaces. Further, different arts uses need different spaces. Sound studios require double height column free space and dance studios also need high ceilings. The amount of bonus per square foot of cultural space must be tested to ensure economic viability. (80)

Response: **In response to several comments received during the public review process, the Department of City Planning is considering several possible refinements to the proposed text which would address matters cited in the comment. At this time, however, no specific changes to the proposed text have been made..**

Comment B23: A restriction on the width of retail store fronts rather than on the buildings themselves may achieve the goal of substantially reinforcing the 125th Street corridor's major mixed-use character by creating a more variegated street level retail environment. (20)

Response: **In order to promote ground floor uses that enliven the street and contribute to an active pedestrian environment bank, hotel office and residential uses would be restricted from fully occupying the ground floor of any new development or enlargement with 125th Street frontage. Such uses would be allowed to locate on floors other than the ground floor and would be allowed to have a limited ground floor frontage on 125th Street for the purpose of access through entrances and lobbies. Buildings with offices or hotels would have to have active uses such as restaurants, retail and entertainment venues located at the ground floor level.**

The Department of City Planning believes that the special district provisions as proposed would achieve the goal of enlivening the

street, and that limiting the width of all retail storefronts would unnecessarily restrict retail opportunities

Comment B24: Development should not be concentrated in Community Board 10. Community Boards 9 and 11 want more density, and therefore this should be spread out. (63).

Response B24: As discussed in the DEIS, the proposed action is designed to allow for new development that will enhance and preserve the scale and character of the surrounding area. The Department of City Planning believes that the proposed densities in the areas mentioned are appropriate to their location in terms of relevant planning factors.

C. Land Use, Zoning, and Public Policy

Comment C1: The APA Metro Zoning Committee applauds the work of the City Planning Commission, as the proposed zoning is tailored to the area, and is not a broad-brush zoning approach. (32)

Response: Comment noted.

Comment C2: Further contextual zoning is necessary to make this rezoning plan fit within the existing 125th Street corridor and greater Harlem neighborhood. (38)

Response: A key principle of the rezoning proposal for 125th Street is the creation of a balanced rezoning approach that includes opportunities to catalyze future development, while preserving those areas with a strong, definable built context. The proposed Special 125th Street District has a mix of contextual (e.g., C4-4A, C4-4D) and non-contextual (e.g., C4-7, C6-3) districts. However, the special district regulations require street wall and height limits that are similar to those found in contextual districts.

Comment C3: Commercial zoning on the side streets should be increased to accommodate additional garden-level commercial space. (94)

Response: As discussed in the Project Description chapter of the EIS, the proposed action would map commercial districts on side streets only in areas characterized by existing commercial uses; it does not propose commercial districts in areas characterized predominantly by residential use. Mapping commercial districts in these areas would be inconsistent with the goals and objectives of the rezoning.

Comment C4: The action talks about uses not the actual businesses and residency that's currently there. In a RWCDS those actual businesses and residences spaces will likely be gone and new businesses and residential spaces will take their places that are more expensive to lease or buy.

This will result in significant adverse land use impacts in the rezoning area. (66)

Response: **The land use analysis in the EIS considers the potential effects of the proposed action using standard CEQR Technical Manual methodologies. The effects of the proposed action on commercial and residential real estate market conditions are included in the assessment of socioeconomic conditions, and are considered in that chapter, but they are not a factor in the analysis of land use. As described in Chapter 3, “Socioeconomic Conditions,” the proposed action would not result in any significant adverse impacts related to direct or indirect business or residential displacement.**

D. Socioeconomic Conditions

Comment D1: The residents of the 125th Street area should be protected, and local businesses should be safeguarded. An attempt needs to be made to ensure the money spent by the community stays within the community. (6). Harlem’s long term residents, business men and women deserve to also benefit economically from this plan. Increase opportunities to rent, shop and be entertained will not suffice. (52)

Response: **Comment noted.**

The DEIS discloses that there are approximately 500 residents in 190 units in five census tracts that could be vulnerable to secondary displacement if rents rise as a result of the proposed action. It is also noted that of the 4,400 renter occupied housing units in the primary study area, almost 92 percent are subject to some form of rent-stabilization, with most of them located in public housing and mid-rise tenement or mixed-use buildings. It is also acknowledged that the proposed actions would potentially directly displace approximately 71 firms and 975 employees, with the principal category of business displacement occurring in the retail sector.

Comment D2: The displacement of 71 businesses is a very significant number. (6, 27, 39, 52, 66, 88)

Response: **Under CEQR, displacement of a business or group of businesses is not, in and of itself, an adverse environmental impact. Rather, the CEQR Technical Manual provides a framework to analyze the effects of displacement by asking whether the businesses in question have “substantial economic value to the City or region” or “contribute substantially to a defining element of neighborhood character”. While all businesses contribute to neighborhood character and provide value to the city’s economy, CEQR seeks to**

determine whether displacement of a single business or group of businesses would rise to a level of significance in terms of impact on the City's or the area's economy or the character of the affected neighborhood.

As described in the Direct Business Displacement section of Chapter 3, "Socioeconomic Conditions", the goods and services provided by the displaced businesses are commonly found on commercial streets in the area and in New York City. They consist primarily of clothing and food retailers, housewares, beauty supply stores, and services such as salons and social service providers. Although the potentially displaced firms each contribute to the City's economy and therefore have economic value, the products and services they provide are widely available in the area and the city; the locational needs of these firms could be accommodated in the area and in other commercial districts, which are widely mapped throughout the city; and the products and services provided by these companies would still be available to consumers as many other existing businesses would remain and firms providing similar products and services would still be available on 125th Street or in the surrounding area.

Therefore, the potential displacement of the 71 businesses identified in the EIS is not considered a significant adverse impact under CEQR.

Comment D3: No building should have market-rate housing units without providing on-site affordable units. (6)

Response: The proposed Special 125th Street District incorporates the City's inclusionary housing program and is projected to generate 498 affordable housing units on the 26 projected development sites. This program does not include a requirement. Such a requirement would be inconsistent with the citywide policy promoting affordable housing that targets low-, moderate-, and middle-income households. Inclusionary housing is a citywide program with a consistent set of rules that are easily administered by HPD.

In addition to the density bonus provided by inclusionary zoning as proposed under the proposed action, subsidy programs are typically used to foster the development of affordable housing. Many of these programs target families with incomes of 50 percent and 60 percent below Average Median Income (AMI). However, it is not possible to predict whether developers will opt to participate in such subsidy programs; accordingly, the FEIS conservatively does not analyze subsidized affordable housing development in the future.

Comment D4: Aggressive displacement of local firms and residents should be avoided, and new space should be made affordable to existing businesses and residents. (7, 93)

Response: **The DEIS concluded that the proposed action is not expected to result in significant adverse impacts as a result of direct or indirect business or residential displacement.**

The provision of affordable housing is a key component of the proposed action, as discussed in Chapter 2 of the EIS. The proposed action is projected to generate 498 affordable housing units on the projected development sites.

While some portion of the projected displaced firms would be local businesses, it is reasonable to assume that a similar proportion of the approximately 6,600 jobs generated by the proposed actions, as discussed in Chapter 3 of the EIS, would be held by local residents. And given that the proposed actions would result in a net increase of over 2,000 jobs (including a net increase of approximately 626 retail jobs), it is reasonable to assume that there would be a net increase in jobs held by local residents in the future with the proposed actions. It is outside the scope of the EIS to evaluate hiring practices of businesses that would construct or operate on projected or potential development sites in the future with the proposed actions.

Comment D5: Housing and economic benefits should stabilize community. With this zoning in place, Harlem is likely to attract international investment to fuel continued economic development that will be an ongoing source of jobs, housing and business activity. Absent this initiative, national economic conditions could put a break on the positive momentum of renewal in Harlem. (9)

Response: **Comment noted.**

Comment D6: Affordable housing is needed. (10)

Response: **The provision of affordable housing is a key component of the proposed action, as discussed in Chapter 2 of the EIS. The proposed action is projected to generate 498 affordable housing units on the projected development sites.**

Comment D7: On-site, income-targeted housing should be for made available for Harlem's families who make \$30,000 or less. Under the current scenario the majority of units will not be available to local residents, and modifying the affordability levels will enable more local residents to purchase housing. (14)

Response: The standards for affordability are based on the methodologies in the *CEQR Technical Manual* and standards developed by the U.S. Department of Housing and Urban Development (HUD). According to HUD, affordability standards are set in relation to the median family income for the primary metropolitan statistical area (PMSA) rather than the borough or city. According to the Inclusionary Housing program, residents of the community board where the created affordable housing is located would have 50% preference in the assignment of the affordable units.

Comment D8: We are in support the proposed action, and feel as though affordable housing is an important part of this plan. (18)

Response: Comment noted. Please see response to comment D6.

Comment D9: More affordable housing is needed to meet the community's needs, as it fails to respond to the dual reality that the area is generally losing affordable units and that local median income levels are much lower than the rest of the city.. We recommend that income-targeted affordable housing provisions that would ensure more lower-income households receive the benefits of new development. (20, 75)

Response: Comment noted. Please see response to comment D7.

Comment D10: Affordable housing and preservation are important to the community. Displacement will occur and will terrorize the neighborhood. (22)

Response: In accordance with the *CEQR Technical Manual*, the analysis of indirect residential displacement discusses existing conditions and expected conditions in the future without the action, but the primary purpose of the analysis is to identify impacts resulting from the proposed action.

The DEIS concluded that the proposed action is not expected to result in significant adverse impacts as a result of direct residential displacement. No residential units would be directly displaced by development occurring on Reasonable Worst Case Development Scenario (RWCDS) sites. It is estimated that there are approximately 500 residents in 190 units in five census tracts that could be vulnerable to secondary displacement if rents rise as a result of the proposed action. However, these units represent less than one percent of the study area population.

New opportunities for affordable housing will be created as a result of the proposed action through an inclusionary housing bonus, which is expected to provide an additional 498 units of affordable housing in the study area. Therefore, the DEIS concluded that the limited displacement that might potentially occur as a result of the

proposed action is not expected to result in significant adverse impacts from indirect residential displacement.

Comment D11: All new housing created under this plan must be made affordable to local residents. (26)

Response: The 125th Street Rezoning Plan provides incentives to create affordable housing through the Inclusionary Housing Program (IHP). Under IHP, 50 percent of the affordable units created would be set aside for local residents.

Comment D12: The creators of this plan need to ensure that 421a benefits are utilized, which have an affordability component. (29)

Response: The Section 421a Program is administered by the NYC Department of Housing Preservation and Development (HPD) to promote multi-family residential construction by providing a declining exemption on the new value that is created by the improvement. HPD determines eligibility for this program and the NYC Department of Finance implements the benefits once HPD approves the application.

Comment D13: The small businesses of 125th Street should be retained and assisted. (5). Indigenous business retention along 125th Street must be considered. (33). We are concerned that the scale of the projected development as a result of the proposed rezoning will further erode the urban retail diversity unless safeguards are developed. Consequently, the Core Subdistrict rules should be created that could serve as incentives to the preservation of local arts and cultural organizations as locally-owned small business. The use-groups eligible for these arts and entertainment spaces must be refined to prevent their appropriation by restaurants and formula businesses. (20). The current plan should be amended to include financial incentives and assistance targeted to local businesses at risk of displacement. (42)

Response: As discussed in the EIS, the 125th Street Special District would allow a wide range of retail, arts, entertainment and cultural uses to physically and economically activate the street. The proposed Special District would allow those uses that promote a vibrant pedestrian environment to locate at ground floor level while limiting the ground floor location and frontage on 125th Street of uses that do not contribute to this goal.

Comment D14: Affordable housing that would be provided would be out of reach for most of the community. Furthermore, the addition of market-rate housing along the 125th Street corridor would drive up the AMI, thereby making the affordable units even less attainable to local residents. (36)

Response: Lower-income units provided through the Inclusionary Housing program are required to be affordable to households at or below 80 percent of Area Median Income (AMI), and must remain affordable for the life of the development receiving the bonus. The standards for AMI are developed by the U.S. Department of Housing and Urban Development (HUD), and are set in relation to the median family income for the primary metropolitan statistical area (PMSA) rather than the neighborhood or city.

Comment D15: The rent increases will be extensive and I will not be able to afford the rents. (37)

Response: Comment noted. Please see response to comment D10.

Comment D16: The city's rezoning plan brings new development to the area along with new jobs and economic activity. However, it must be noted that the scale of development could potentially displace longtime residents and businesses. This effect should be studied further and mitigated if at all possible. Further, this plan's affordable housing component is misguided and out of reach for most residents. Therefore the affordability of housing should be increased and targeted to local residents. (5)

Response: Comment noted. Please see response to comment D10.

Comment D17: Tenant harassment and forced evictions are occurring in Harlem and will increase after the plan is adopted. Instead, the City should ensure that housing development meets the needs of the current community. (43) The city should include anti-harassment/anti-displacement provisions for renters as part of the zoning action similar to the ones included in the Greenpoint/Williamsburg and Clinton/Hells Kitchen rezonings. (20) Although tenant harassment is regulated by the New York Penal Law, we support inclusion of such provisions in the Zoning Resolution to create awareness and provide an extra layer of protection in areas that may be undergoing economic changes as a result of rezoning. These provisions are currently provided in the Special Clinton District and the Greenpoint-Williamsburg Special Mixed-Use District. (101)

Response: The EIS analyzes the potential for primary and secondary displacement. In accordance with the *CEQR Technical Manual*, the analysis of indirect residential displacement discusses existing conditions and expected conditions in the future without the action, but the primary purpose of the analysis is to identify impacts resulting from the proposed action. The DEIS concluded that the proposed action is not expected to result in significant negative impacts as a result of direct residential displacement.

Comment D18: This rezoning action has the possibility to compartmentalize the existing businesses and culture of 125th Street and Harlem. (44)

Response: **Comment noted. Please see response to comment D2.**

Comment D19: Rent is too high in Harlem as it is, and will only become higher with this proposal. (48)

Response: **Comment noted. Please see response to comment D10.**

Comment D20: Luxury housing will push housing costs all over Harlem. The affordable housing would not be for the people who already live in Harlem and make below \$25,000/year. Further, with the current housing crisis in this country, I am not convinced people will want to buy luxury housing in 2017. (58)

Response: **Comment noted. Please see response to comment D10.**

Comment D21: Market-rate housing will be expensive and out of reach for most residents of Harlem. (65)

Response: **Comment noted. Please see response to comment D10.**

Comment D22: This DEIS should note where the dislocated businesses are expected to go after the plan is implemented. (73)

Response: **Comment noted. Please see response to comment D2. As the DEIS does not conclude that significant adverse impacts due to business displacement are expected as a result of the action, a discussion of mitigation measures is not included as part of the DEIS.**

Comment D23: We recognize that the rezoning may have an adverse impact on the business community along 125th Street. We (the Upper Manhattan Empowerment Zone) are working on several initiatives to assist the businesses that face displacement as a result of the proposed action. We believe that our previous experiences, combined with our new programs, will allow us to assist those businesses that face displacement due to the 125th Street rezoning. (41)

Response: **The DEIS concluded that the proposed action is not expected to result in significant adverse impacts as a result of direct or indirect business displacement.**

Comment D24: The upward pressure on retail prices and property values would force long-time residents of Harlem to move to more affordable communities. Protections must be ensured for public housing tenants and other low- and moderate-income tenants. (91)

Response: **Please see response to comment D10.**

Comment D25: Under this plan, Harlem will no longer be affordable for small businesses or existing residents. (75)

Response: **Please see response to comments D24.**

Comment D26: All small businesses would be eliminated under this plan and no new small business would even be allowed to come on 125th Street. (66)

Response: Please see response to comment D2.

Comment D27: The DEIS does not include a number of housing units directly displaced. (66)

Response: Please see response to comment D10. No residential units would be directly displaced by development occurring on Reasonable Worst Case Development Scenario (RWCDS) sites.

Comment D28: The proposed action would indirectly and directly reduce employment or impair the economic viability of a specific business category because it would be assisting in the closing of African clothing and art stores. (66)

Response: Field work, interviews, and the DEIS public scoping process did not reveal any cluster of specific industries within the primary or secondary study areas. Businesses subject to direct displacement are typical of the retail and service uses and comparative goods shopping that exist along 125th Street and on north-south running avenues. The approximately 286,218 square feet of retail use that would be directly displaced consists primarily of stores that sell retail goods such as apparel, electronics, jewelry, beauty goods, hardware, and household goods. Service uses that would be directly displaced include establishments including hair and nail salons, shoe repair, and social service establishments. The industry sector most affected by displacement is retail, followed by service sector uses. However, the displacement of these businesses would in no way diminish the viability of these sectors, with substantial numbers of these types of businesses remaining along the corridor. Jobs in the sectors that would be displaced would also be replaced with new jobs generated in similar industries by the projected new development in most cases. The goods sold at these establishments, such as clothing and clothing accessories, or convenience goods, would still be available at remaining stores in the area. The action would neither affect a particular industry nor the economic viability of an industry or category of businesses. Nearly all of the jobs that would be directly displaced by the proposed action's projected development are part of the retail and service sectors, and are not within categories of businesses or institutions that are the subject of other regulations or publicly adopted plans to preserve, enhance or otherwise protect them.

Furthermore, the additional buying power of new residents and workers that would be introduced to the area from development occurring as a result of the proposed action would benefit many of the area's existing businesses, and the proposed action would likely stimulate growth in the project area's retail sector, in terms of both employment and the number of firms. Because the goods and services provided by businesses subject to displacement are diverse

and none of these businesses provide inputs that are crucial to the survival of some particular class of business, the proposed action would not have a significant adverse impact on any specific industry within or outside of the study area.

Comment D29: One community concern was that the income levels targeted by the Inclusionary Housing program are above the income levels in the local area. We recognize that the Department of City Planning does not have control over the existing subsidy programs and funding sources for affordable housing. To address the community's concerns, APA encourages the local Council Delegation and Borough President to find a way to allocate capital funds to support the creation of housing units aimed at citizens with a lower AMI than is targeted by existing programs. Such funds would be earmarked through HPD to developers utilizing the Inclusionary Housing bonus and could help to accommodate local residents earning below-the-target AMI levels. (101)

Response: Comment noted.

Comment D30: A general concern in developing areas is that rising rents often result in turnover of commercial tenancies. APA encourages City Planning to work with the Community Boards, Council Members, and Borough President to make sure that resources are available to help existing business owners adapt to a changing neighborhood and stay in business. One idea is to create a local not-for-profit organization to acquire commercial condominium space in new buildings to be rented to locally based entrepreneurs. Potential resources for assistance with such efforts include the Division of Small Business Services at the Economic Development Corporation and the Empire State Development Corporation. (101)

Response: Comment noted.

Comment D31: A restriction on the width of retail store fronts rather than on the buildings themselves may achieve the goal of substantially reinforcing the 125th Street corridor's major mixed-use character by creating a more variegated street level retail environment. (20)

Response: The proposed rezoning includes a series of recommendations aimed at enlivening the street and the pedestrian experience through regulations for the ground floor of new development fronting on 125th Street. The proposed rezoning would require the ground floor of new development fronting on 125th Street to be occupied with active retail or arts and entertainment uses to activate the street. In addition, the proposed rezoning includes specific restrictions on the amount of frontage that banks, residential entrances and office entrances can occupy on the 125th Street frontage. The size of the existing and future structures along 125th Street that can accommodate retail and other active uses is very diverse and

includes buildings with varied frontages. Limiting the width of all retail storefronts would unnecessarily restrict retail opportunities. The proposed rezoning would catalyze new mixed-use development and would also protect the character and scale of different portions of the corridor effectively providing a wide range of frontages for retail, entertainment and arts uses of a varied size fronting along 125th Street.

E. Community Facilities

Comment E1: We need further discussion on community facilities. Existing community facilities are too large, and are ruining 124th Street and Lennox Avenue between 124th and 126th Street. There are also many problems with existing community facilities along 125th Street. The City Planning Commission should meet with each community board to negotiate uses of community facilities within the respective board's boundaries. (38)

Response: Comment noted. The DEIS community facility discussion focuses on services that the community facilities provide and how the proposed action will affect the delivery of these services. The proposed rezoning includes reductions in the allowable maximum community facility FAR from what can be achieved under the existing zoning.

Comment E2: The DEIS did not factor in charter schools. (66)

Response: As noted in Chapter 3.3, Community Facilities, the DEIS included all schools within the community facility study area, including charter schools.

Comment E3: The proposal has failed to analyze the deficiencies in the "quality" of local schools and how they may be adversely impacted even more so by the increase in residential units as a result of the proposed action. (43)

Response: The DEIS analyses have been prepared in accordance with CEQR Technical Manual guidelines. The evaluation of local schools falls outside the scope of this DEIS.

F. Open Space

Comment F1: This DEIS presumes an overreliance on passive open space. The majority of parks within the study area do not provide passive recreation. (66)

Response: The open space analysis in the DEIS was conducting in accordance with CEQR Technical Manual guidelines.

According to the 2001 *CEQR Technical Manual*, open space that is used for relaxation, such as sitting or strolling, is classified as "passive." Facilities may include the following: plazas or medians with seating, a percentage of beach areas (sunbathing), picnicking areas, greenways and esplanades (sitting, strolling), paths, accessible restricted use lawns, gardens, church yards or cemeteries with seating, and publicly accessible natural areas used, for example, for strolling, dog walking, and bird watching. Studies have shown that non-residents, specifically workers, tend to use passive open space.

For the DEIS, all publicly accessible open spaces and recreational facilities within the residential and nonresidential study areas were inventoried to determine their size, character, and condition. Public spaces that do not offer useable recreational areas, such as spaces where seating is unavailable, were excluded from the survey, as were open spaces that are not easily accessible to the general public. However, some of these open spaces are noted in the qualitative analysis. The information used for this analysis was gathered through field studies conducted in January 2007 on weekdays; and acquired from the New York City Department of Parks and Recreation (NYCDPR) and other agencies. For each open space, active and passive recreational spaces were noted. Active open space facilities are characterized by activities such as jogging, field sports, and children's active play. Such open space features might include basketball courts, baseball fields, or play equipment. Passive open space facilities are characterized by activities such as strolling, reading, sunbathing, and people-watching. Some spaces have both active and passive recreation uses.

Comment F2: There will in fact be a negative impact to open space if this plan is adopted. The proposed action will result in a reduction in the open space ratio (OSR) by 2017. The open space ratios in the residential and non-residential study areas would continue to be below city guidelines. Residential development, therefore, does not belong along 125th Street due to the impacts to the OSR. Instead, the OSR should be increased, with particular attention paid to passive open space. We propose an increase in the present open space allotment be included along central 125th Street. (67)

Response: The impact conclusions presented in the DEIS are based on CEQR Technical Manual guidelines. According to the *CEQR Technical Manual*, a five percent decrease in open space ratio is considered a substantial change. For both the non-residential and residential study areas, the passive open space ratios for the combined resident

and non-residential populations would have the potential to decrease by five percent or more as a result of the proposed action. Therefore, a detailed analysis of potential impacts on active and passive open space resources within the study areas was performed. Based on the analysis, the DEIS showed that a decrease of more than five percent in the future with-action condition would only occur for the non-residential population in the non-residential study area would meet DCP guidelines. The proposed project would not result in significant adverse impacts within the residential and non-residential study areas. No additional open space would be generated as a result of the proposed action and is not included in the open space analysis scope of the DEIS.

Comment F3: The Harlem community's interpretation of open space is what counts, and sidewalks are considered active open space to the majority of people in Harlem. (66)

Response: According to the *CEQR Technical Manual*, a sidewalk is considered private and not publicly accessible. Therefore it is not counted in the inventory of public open space.

Comment F4: Marcus Garvey Park should be revitalized (6).

Response: Comment noted. Open space revitalization falls outside the scope of the DEIS.

Comment F5: According to the report, “the availability of open space resources located outside the area would offset any negative deficiencies in the area open space.” This statement is false because open space outside the area is already heavily utilized from residents in the outside area. (67).

Response: While an open space analysis was not performed to determine open space utilization outside the study area, the proximate location of several large regional open space resources would nonetheless serve to moderate the shortfall of active open space resources identified in the residential study area. The large regional open space resources that are nearby with active open space resources available to residents of the residential study area include: Central Park, located to the south of the study area boundary; Morningside Park, located to the southwest of the study area; Randall’s Island Park, located to the east of the study area; and Riverside Park, located to the west of the study area.

G. Shadows

Comment G1: I am opposed to this plan due to the shadows that will be generated as a result. (58). While the DEIS admits that the proposed action would result in significant adverse shadow impacts it offered no mitigating plan. (66)

Response: Comment noted. The proposed action would result in significant adverse shadow impacts. Shadows impacts would occur on two historic resources: the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church, and two open resources: Dream Street Park and the Adam Clayton Powell Jr. State Office Building Plaza.

The Department of City Planning, in consultation with the NYC Landmark Preservation Commission and NYC Department of Parks and Recreation, has explored potential mitigation measures between the Draft and Final EIS, and the FEIS has been updated to reflect the conclusions of this work. With respect to the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church, a potential mitigation measure for the identified impact on these two resources includes the use of artificial lighting to simulate the sunlit conditions. The provision of indirectly mounted lighting could simulate lost sunlight conditions at the affected stained glass windows of each resource. After the issuance of the DEIS, the Department of City Planning, in consultation with the NYC Landmark Preservation Commission, concluded that the mitigations measures described above are not feasible and that there are no other feasible or practicable mitigation measures that would eliminate or reduce the impacts. Therefore, the significant adverse shadow impacts on these two resources remain unmitigated.

Since the issuance of the DEIS, the Department of City Planning consulted with the NYC Department of Parks and Recreation (DPR) regarding the feasibility of implementing the potential mitigation measures identified. Based on these discussions, DPR concluded that relocating seating areas and replacing plant material was feasible and would allow for partial mitigation of the shadow impacts. If DPR funding becomes available to implement these improvements prior to the project's build year of 2017, the impacts could be partially mitigated. Absent available funding for the improvements, the significant adverse shadow impacts would remain unmitigated.

The proposed action would result in significant adverse shadow impacts to the Adam Clayton Powell, Jr. State Office Building Plaza. Mitigation measures for these shadow impacts include redesigning the plaza to relocate sun-light sensitive features to avoid sunlight loss, or the provision of new passive facilities on other nearby open spaces to supplement those affected by the action generated shadows. After the issuance of the DEIS, the Department of City Planning became aware of a proposal for redesigning and

reconstructing the Adam Clayton Powell, Jr. State Office Building Plaza. Given this opportunity, the Department of City Planning has extended an offer to work closely with the State to ensure that the redesign of the plaza takes into consideration these potential impacts and minimizes their significant adverse nature. However, because the redesign plans for the plaza had not been finalized by the time of the FEIS, the significant adverse impact remains unmitigated.

Comment G2: New buildings should not cast excessive shadows on local streets, which are currently appreciated for their lack of excessive shadowing. (40)

Response: In general, shadows on City streets and sidewalks or on other buildings are not analyzed under CEQR guidelines. An adverse shadow impact is considered to occur when the shadow from a proposed project falls on a publicly accessible open space, historic landscape or other historic resource if the features that make the resource significant depend on sunlight, or important natural feature and adversely affects its use and/or important landscaping and vegetation or, in the case of historic resources, obscures the features or details that make that resource significant.

H. Historic Resources

Comment H1: A lot of revitalization has occurred in Harlem during the past ten years. Landmarked buildings should be protected and restored. (8)

Response: Pursuant to CEQR, all designated and eligible historic structures within the rezoning area and surrounding study area were analyzed as part of the Historic Resources chapter of the DEIS. The historic resources assessment that was included in the DEIS sought to answer two major questions: 1) will there be a physical change to the property or its setting as a result of the proposed action? If so, 2) is the change likely to diminish the qualities of the resource—including non-physical changes, such as context or visual prominence—that make it important? Potential impacts to eligible and designated resources were discussed in the DEIS and the potential for construction protection plans that would be used to mitigate potential threats to existing historic resources. Restoration of these buildings falls outside the scope of this report.

Comment H2: The majority of significant buildings are unprotected by landmark designation. Further, the McDermott-Bunger Dairy was found to be eligible for city landmark designation and was not included in this EIS. (20, 95). Other important historic resources worthy of consideration include the residential building at 28-30 E. 125 St, the former Sheffield Farms Stable, the New York Public Library George Bruce Branch, the former Sheffield Farm Dairy, and the former Engine Company No. 37. We urge the City to reach out to the State Historic Preservation Office to identify all National Register-eligible buildings, and to seek their determination of eligibility for the National Register. (20)

Response: A thorough list of resources, which includes listed, eligible, and potentially-eligible historic resources, was developed for the DEIS. This list was reviewed and approved by the New York City Landmarks Preservation Commission and New York State Historic Preservation Office.

The specific buildings mentioned in the comment were forwarded to the New York City Landmarks Preservation Commission for review. The Sheffield Farms Stable, the NYPL George Bruce Branch, the Sheffield Farm Dairy and former Engine Company No. 37 were identified and discussed in the Historic Resources Chapter of the DEIS. The Historic Resources Chapter of the FEIS was updated to include analysis of two additional resources identified by the commenter. The McDermott-Bunger Dairy, located at 527-535 West 125th Street (Block 1982, Lot 10), between Broadway and Amsterdam Avenue, is an S/NR-eligible resource. In addition, a residential building at 28-30 East 125th Street (Block 1749, Lot 56) was determined to be S/NR eligible. For further information, please refer to LPC correspondence dated February 24th, 2008 in Appendix B. Neither the McDermott-Bunger Dairy, located at 527-535 West 125th Street, nor the residential building located at 28-30 East 125 Street are expected to be subject to direct effects as a result of the proposed action.

Comment H3: Certain buildings which are considered “historic” have not received landmark designation, yet still contribute to the historic nature of Harlem, and are in danger of being destroyed. (40)

Response: Please see responses to comments H1 and H2.

Comment H4: Neighborhood preservation of historic architectural structures is not properly addressed in this plan and should take a more central role. (42, 51). The current plan should be amended to include neighborhood preservation of local historic architectural structures. (42)

Response: Please see responses to comments H1 and H2.

Comment H5: As noted in the DEIS, Mart 125 and the Victoria Theater should be protected. (43)

Response: Mart 125 is not a designated or eligible historic resource. The NYC Landmarks Preservation Commission has indicated that, in accordance with the LPC Harlem Survey, the Victoria Theater is not a structure of interest. Please see LPC correspondence letter, dated February 24th, 2008, in Appendix B. The DEIS analysis concludes that the Victoria Theater will experience no direct effect, indirect effect, construction impact or shadow impact as a result of the proposed action.

Comment H6: There are possible unmitigatable significant adverse impacts to landmarks in Harlem, including the Apollo Theater. Other potential historic resources will be impacted through the demolition and construction process. Significant adverse impacts to historic resources are very possible. The DEIS should note limitations inherent to the NYC Department of Building's TPPN 10/88 as it relates to the protection of historic resources, especially in conjunction with self-certification. TPPN 10/88 has not, historically, protected resources from construction-related damage. (50)

Response: TPPN 10/88 is the city's primary method of ensuring historic resources receive a reasonable level of protection during the construction processes on adjoining parcels of land.

Comment H7: Sukulu's Harlem Record Shack should receive landmark designation. (69)

Response: Landmark designation is limited to structures and districts, specific businesses are not designated by LPC for landmark status. Please see responses to comments H1 and H2.

Comment H8: The entire community of Harlem should be preserved, as it has a rich culture. (76)

Response: As discussed in the DEIS, the proposed action encompasses a balanced rezoning strategy that encourages new development where appropriate while maintaining the scale and character of existing predominantly residential areas.

Comment H9: Harlem should be viewed within the context of community and the culture that has come out of it historically. (77)

Response: Please see response to comment H1. A number of historic and cultural resources are acknowledged in the DEIS as contributing to the neighborhood character of Harlem and 125th Street.

Comment H10: The historic and cultural resources of the Harlem community must be leveraged to fortify 125th Street as one of this country's greatest streets. (79)

Response: Please see responses to comments H1 and H2.

Comment H11: The proposed plan to rezone the 125th Street corridor is inappropriate. This is due largely to the fact that Harlem should be designated as a Special District, which would preserve the important elements of this neighborhood. (87)

Response: As discussed in the DEIS, The Department of City Planning is proposing a zoning text amendment to establish the Special 125th Street District and zoning map amendments to map the Special 125th Street District. The proposed action would serve to enhance the 125th Street corridor through a balanced strategy which provides new opportunities to catalyze future mixed-use commercial and residential development, including affordable housing, while protecting the scale and character of predominately residential portions of the corridor with a strong built context. The Special 125th Street District boundaries coincide with the rezoning area boundaries, which is generally bounded by 124th and 126th Streets, Broadway and Second Avenue.

Comment H12: Several structures of significant industrial heritage have been excluded from the DEIS. These include the Quonset hut at 233 East 124th Street, a masonry building at 166-172 East 124th Street, a structure at 124-126 East 124th Street, a structure at 120 East 124th Street, a brick and stone structure at 119-125 East 124th Street, and a structure at 264 West 124th Street.

Response: The NYC Landmarks Preservation Commission has indicated that, in accordance with the LPC Harlem Survey, these are not structures of interest. Please see LPC correspondence letter, dated February 24th, 2008, in Appendix B.

Comment H13: The buildings on the four corners of St. Nicholas Avenue and 125th Street are key buildings that have historical and architectural value and could advance the designation of 125th Street as a historic district..(66)

Response: Comment noted. Please see response to comment H1 and H2.

Comment H14: LPC reviewed sites in the proposed action area and have determined that the impact area is not archaeologically sensitive for prehistoric and historic archaeological resources. It has yet to be determined if there is such a report.

Response: Please see Appendix B: NYC Landmarks Preservation Commission Correspondence, which includes correspondence dated 1/23/07 noting the absence of significant archaeological resources within the study area.

I. Urban Design/Visual Resources

- Comment I1: No building taller than Theresa Hotel should be built along the 125th Street corridor. The scale and character of the neighborhood should be protected. (6, 14) Height restriction takes its cue not from the historic Theresa Hotel but from the State building, which is an anomaly on the corridor. (20)
- Response:** **The DEIS concludes that the building heights as proposed would not result in significant adverse impacts with respect to urban design and visual resources. The DEIS includes a C6-3 Alternative, in which maximum building heights would be limited to 160 feet, the height of the Theresa Hotel.**
- Comment I2: Churches and schools should not be able to sell air rights. (38)
- Response:** **Comment noted. This is outside of the scope of the proposed action.**
- Comment I3: We would suggest that the modification of height limits should be considered to reduce tall buildings that are possible under this plan. (5)
- Response:** **Please see response to comment I1.**
- Comment I4: The allowable height is excessive under this plan. (38, 64)
- Response:** **Please see response to comment I1.**
- Comment I5: For new buildings along 125th Street, there should be a height limit of 29 stories. (40)
- Response:** **Please see response to comment I1.**
- Comment I6: If a developer were to give up some bulk per floor then he could go higher creating more floors. The more bulk that is sacrificed per floor area, the higher the building can go using that bulk upward. Would it be feasible to build the size space of a closet per floor just to build 29 stories? (66)
- Response:** **As described in the DEIS, the proposed changes to the existing zoning regulations include bulk controls that will require all new development to provide street walls and setbacks for the upper portion of the buildings above the street wall to reduce their visual impact from the street level. Maximum height limits would be introduced for all the proposed new mapped districts ensuring the overall massing and scale of new development responds to the particular characteristics of the different areas within the corridor.**

J. Neighborhood Character

- Comment J1: A sense of place important in Harlem, and banks and pharmacies are not desired along the 125th Street corridor. The vitality of community should be nurtured. (7)

Response: As discussed in the DEIS, the proposed Special District would modify use requirements of the underlying zoning to ensure appropriate “active” uses such as retail, arts and entertainment have sufficient frontage on 125th Street at the ground floor level. It would also include building frontage and ground floor location restrictions for certain uses such as banks, offices and hotels.

Comment J2: Diversity should be celebrated, and we want to be a leader in this effort. Restaurants, hotels, and shops are needed to make 125th Street a destination for entertainment, and should be representative of the current community. We are in desperate need of an environment that beckons people both into our storefronts and onto our sidewalks: more spaces for cultural expression and exploration; table-service restaurants with the ability to draw and accommodate wide arrays of international clientele; hotels that solidify 125th Street as a place to visit and to stay; shops that appeal to many different types of consumers; and, an environment up and down the 125th Street corridor that is exciting, beautiful, and safe. (8)

Response: As discussed in the DEIS, new mixed-use development that includes housing on 125th Street would add vitality to the street both at day and night times by increasing the residential population. To encourage new mixed-use development that includes housing, DCP proposes increased densities in appropriate locations, with an inclusionary zoning bonus to expand and enhance the opportunities for affordable housing development. In order to promote a vibrant pedestrian environment the Special District would require that new developments or enlargements locate active uses at ground level fronting on 125th Street and to provide continuity of these uses within the 125th Street frontage. Uses locating on the ground floor, fronting on 125th Street would be limited to “active” uses that include retail, and uses that qualify as arts and entertainment-related uses as described below. Such uses would be required to be located along the majority of the 125th Street frontage of any new development or enlargement.

Comment J3: 125th Street an important part of history and a center of the Harlem community. This plan can turn it into a place for international tourism and make 125th Street glorious again. (9)

Response: Comment noted.

Comment J4: This rezoning will reshape Harlem. Historically, 125th Street has been the commercial center of diversity and community. I fear that after this plan is implemented this will no longer be the case. (10)

Response: The neighborhood character analysis in the DEIS concludes that the proposed action would not result in significant adverse impacts

to neighborhood character. As discussed in the DEIS, the proposed action is expected to positively bolster new development activity, and activate and reinforce 125th Street as a major mixed-use corridor and a local and regional destination for arts, entertainment and retail.

Along most of 125th Street, mid-blocks and intersecting avenue frontages, current zoning regulations allow tower-in-the park development that is inconsistent with the surrounding context of street wall buildings. Portions of the corridor within the rezoning area are characterized by four to five-story rowhouses with street walls built to the street line; prominent examples of these areas include portions of 124th and 126th streets between Malcolm X Boulevard and Park Avenues, and along portions of 125th Street between Fifth and Madison Avenues.

To address these issues, DCP is proposing zoning districts to catalyze development and to ensure that future building forms are compatible with the surrounding neighborhood's built character. The proposed changes to the existing zoning regulations include bulk controls that will require all new development to provide street walls and setbacks for the upper portion of the buildings above the street wall to reduce their visual impact from the street level. Maximum height limits would be introduced for all the proposed new mapped districts ensuring the overall massing and scale of new development responds to the particular characteristics of the different areas within the corridor.

Comment J5: Change is inevitable for a neighborhood's survival, but this change is not positive. Commercial character should be protected, and 125th Street is not, and should not be a residential enclave. (14)

Response: **The neighborhood character analysis in the DEIS concludes that the proposed action would not result in significant adverse impacts to neighborhood character. As discussed in the DEIS, new mixed-use development that includes both commercial and housing on 125th Street would add vitality to the street both at day and evening times by increasing the residential population. To encourage new mixed-use development that includes housing, DCP proposes increased densities in appropriate locations, with an inclusionary zoning bonus to expand and enhance the opportunities for affordable housing development.**

In addition, the Arts Bonus Alternative analyzed in the DEIS would encourage the creation of space for visual or performing arts.

Comment J6: The commercial character should be preserved, and residential development is not desired along 125th Street. Further, we need to strengthen the African-American and Latino culture of 125th Street. Preserving local businesses should be the primary concern of this rezoning proposal. 125th Street has been successful because of unique small businesses over the last 70 years. (15)

Response: **Comment noted. Please see response to comment J5 above.**

Comment J7: This will allow Harlem to fulfill its role as a historically art-based center. (18)

Response: **The proposal seeks to reinforce 125th Street as a local and regional destination for arts, entertainment and retail.**

Comment J8: This plan should respect the existing neighborhood and promote integrated new development on 125th Street. (20)

Response: **As discussed in the DEIS, the proposed action would not result in significant adverse impacts related to neighborhood character. The proposed rezoning is intended to map varying zoning districts and implement urban design controls that reflect the special context of 125th Street.**

Comment J9: This project contributes to changing the neighborhood in a very significant way. (22) This plan does not respect the neighborhood character. (25, 66, 93) The diverse culture of Harlem and 125th Street should be preserved. (26, 28, 74)

Response: **As discussed in the DEIS, the proposed action would not result in significant adverse impacts related to neighborhood character. It is intended to map varying zoning districts and implement urban design controls that reflect the special context of 125th Street and positively bolster new development activity, and activate and reinforce 125th Street as a major mixed-use corridor and a local and regional destination for arts, entertainment and retail.**

Comment J10: The diverse culture of Harlem and 125th Street should be preserved. (26, 28, 74)

Response: **As discussed in the DEIS, the proposed action would not result in significant adverse impacts related to neighborhood character. The proposed action seeks to preserve and enhance the diverse mix of commercial, institutional, retail and arts uses along the 125th Street corridor.**

Comment J11: A major impact is the damage to the ethnic identity of Harlem. (59)

Response: **Comment noted.**

Comment J12: The plan's proposed zoning changes would preserve the scale and character of areas to complement existing building patterns. (81)

Response: **Comment noted. See response to Comment J9.**

Comment J13: The DEIS omits altogether that the scale and character of 125th Street's remaining historical landscape will not be protected if high rise condos are allowed to be on 125th Street. (66)

Response: **See responses to comments J4 and J9.**

Comment J14: Wouldn't the neighborhood character of the area be significantly impacted by noise increase resulting from the increase of residency by 900%? Wouldn't the neighborhood character of the area also be significantly impacted by noise resulting from excessive construction for the next ten years? (66)

Response: **As discussed in Chapter 3.18, noise increases as a result of construction and additional traffic that would accompany the proposed mixed-use development are expected to be imperceptible in the vast majority of locations throughout the proposed rezoning area. These noise increases are not expected to result in a significant adverse impact to neighborhood character.**

Comment J15: The Harlem community has expressed concern with the bulk and density of the proposed rezoning. We suggest that the Department and the Commission study whether future downzonings or contextual zoning in surrounding neighborhoods can help to address such community concerns. (101)

Response: **Comment noted.**

Comment J16: Growth should be encouraged along the 125th Street corridor as long as it is carried out in a way that respects the low-rise scale of the neighborhoods to the north and south.

Response: **As discussed in the DEIS, the proposal recognizes the built context of 124th and 126th Streets, which are predominantly residential in character and clearly distinct from 125th Street and proposes compatible zoning districts accordingly.**

Comment J17: Arguably, if the [indirect residential] displacement removes a group from a specific race and replaces it with a group of another race, especially exceeding the percentage of displaced residents, such a displacement, as implied, would have a significant impact on the socioeconomic conditions of Black people and result in a change to neighborhood character.

Response: **While changes in population characteristics relating to race or ethnicity can affect neighborhood character, they are not in and of themselves beneficial or adverse under CEQR.**

Comment J18: When the DCP speaks of the general neighborhood character and states “the proposed action would result in an overall change . . . with respect to historic resources” doesn’t that mean that the proposed action would affect historic resources in ways that would affect neighborhood character? (66)

Response: As stated in the DEIS, the threshold for changes to historic resources to potentially result in a significant adverse impact to neighborhood character would be if an action would result in substantial direct changes to a historic resource or cause substantial changes to public views of a resource. For the proposed action, the analysis found that it would not result in direct significant adverse impacts to historic resources on projected development sites nor would the visual context of the historic resources experience significant adverse impact as a result. Therefore, neighborhood character would not experience a significant adverse impact due to potential change to historic resources within the study area of the proposed action

K. Hazardous Materials

Comment K1: The DEIS acknowledges that hazardous materials are known to exist on some of the 55 identified development sites, and has agreed to place an “E” designation on them. These sites may contain petroleum contamination and volatile organic compounds. Instead, the CPC should develop a clean-up and management plan to ensure the toxic effects will not spread to nearby residents. (76)

Response: By placing (E) designations on sites where there is a known or suspect environmental concern, the potential for an adverse impact to human health and the environment resulting from the proposed action is avoided. The (E) designation provides New York City Department of Environmental Protection (DEP) with a mechanism for addressing environmental conditions so that significant adverse impacts do not occur as a result of site development. The (E) designation requires that pre-development activities at each site include a Phase 1 environmental site investigation, and, if necessary, a sampling protocol and remediation to the satisfaction of DEP before the issuance of a building permit. Appendix D presents the complete list of privately-owned projected and potential development sites for which (E) designations are proposed

Comment K2: The procedure for lifting the “E” designation on a property calls for exclusive negotiation between DEP and the property owner, with no opportunity for public or City Council review or input. DEP regulation

provides no assurance to Harlem community members that contaminated sites will be remediated in a way that ensures their health and safety. Furthermore, there is no discussion in the DEIS of how sensitive receptors will be protected should remediation work become necessary near areas they frequent and/or use. (97)

Response: “E” designations are the standard approach used by the City in ensuring that impacts are avoided when privately-owned development sites are designed and built where potential contamination has been identified. DEP works with developers to ensure that remediation takes place in a site-specific manner on each development site based on contemporary background data. The "E" designation will remain on a site unless the cause for concern has been completely remediated so as to protect human health and the environmental during any future development. All hazardous material remediation approvals require an approved site-specific Construction Health and Safety Plan which addresses how workers and neighboring users will be protected during construction.

L. Natural Resources

Comment L1: There are additional birds affected not covered in the DEIS. Additionally, Marcus Garvey Park, Morningside Park, and St. Nicholas Park contain ecological value. (66)

Response: Both the New York State Department of Environmental Conservation (NYSDEC) and the United States Fish and Wildlife Service (USFWS) were contacted to ascertain the potential presence of species or habitat within the study area. No habitat for rare or endangered species exists within or adjacent to the study area. Coordination has been undertaken with both NYSDEC Natural Heritage Program and the USFWS.

M. Infrastructure

Comment M1: The study of effects resulting from residential and commercial growth along 125th Street is important, but it must be remembered that sewers and infrastructure must be improved commensurately. (7) The proposed rezoning will add to additional stress to Harlem’s already overburdened sewage treatment and water delivery infrastructure. (76)

Response: According to Chapter 3.12, Infrastructure, the proposed action would not adversely impact the City’s infrastructure. Development on the 26 projected sites would produce an additional 1,144,664 gpd (1.14 mgd) demand on the City’s water supply system, representing a 0.088 percent increase. As this is less than one-tenth of one

percent of the City's water supply, the proposed action would not result in a significant adverse impact to the City's water supply or water pressure. The proposed action would not adversely impact the City's wastewater treatment system. The North River WPCP and Wards Island WPCP would receive approximately 497,066 gpd and 281,524 gpd of additional wastewater as a result of the proposed action, equivalent to approximately 0.29 and 0.11 percent of their treatment capacities, respectively. As this represents a relatively small incremental demand that would not significantly augment the amount of wastewater treated by either WPCP, no adverse impact on the City's wastewater treatment system would result from the proposed action. Furthermore, the proposed action would not adversely impact the City's stormwater management system as development under the proposed action would not reduce or eliminate permeable surfaces compared to the development anticipated in the no-action condition. Therefore, no additional stormwater would be diverted into the City's combined sewer system as a result of the proposed action.

Comment M2: The existing rainwater drainage system is outdated and might not be able to accommodate additional development. (40)

Response: **Comment noted. Please see response to comment M1 above.**

Comment M3: We would like to express our concern that infrastructure needs further planning and investment to make this and future plans viable in the long term. (81)

Response: **Comment noted. Please see response to comment M1 above.**

Comment M4: During most wet weather events, the sewage processing capacity is overwhelmed and raw sewage is expected to be poured into the Harlem and Hudson Rivers. (97)

Response: **As concluded in the DEIS, the proposed action would not adversely impact the City's stormwater management system as development under the proposed action would not reduce or eliminate permeable surfaces compared to the development anticipated in the no-action condition. Therefore, no additional stormwater would be diverted into the City's combined sewer system as a result of the proposed action.**

It should also be noted that the analysis included in Chapter 3.12, Infrastructure, assumes the construction of conventional buildings, and does not account for the benefits of green building techniques, which generally decrease water demand and stormwater generation. Such buildings would draw less from the City's water supply, generate less stormwater than estimated and help to reduce the likelihood of a CSO event. Should the projected developments

include green buildings, the proposed action would likely discharge less stormwater into the combined sewer system than the No Action condition and consume less water than estimated.

Comment M5: The DEIS should include an examination of the cumulative impacts of the combined sewage processing pressures applied by the other large-scale actions occurring in Harlem, including East River Plaza, Uptown New York, and Manhattanville. (66)

Response: Cumulative infrastructure impacts from the proposed action and No-Build projects are expected to be negligible. Please note that Manhattanville is not included in the DEIS as a No-Build project, as its build year falls after the 125th Street Rezoning’s build year of 2017 except for traffic as it analyzed future traffic condition under two horizon years: 2015 and 2030. As a result of the proposed action directly, the North River WPCP and Wards Island WPCP would receive the equivalent of approximately 0.29 and 0.11 percent of their treatment capacities, respectively. Accounting for both the proposed action and No-Build projects, the Wards Island WPCP will handle approximately the equivalent of 0.18 percent of its permit capacity, and the North River WPCP will handle approximately the equivalent of 0.41 percent of its permit capacity. Therefore, the cumulative impact to either treatment facility is expected to be negligible.

Comment M6: The claim that incremental waste generation is insignificant must be supported. (66)

Response: According to the *CEQR Technical Manual*, actions involving construction of housing or other development generally do not require evaluation for solid waste impacts unless they are unusually large (a generation rate of less than 10,000 pounds per week, for example, is not considered large). Compliance with applicable requirements generally eliminates possible significant adverse impacts.

As noted in the DEIS, the resulting net increase in solid waste to be picked up by DSNY is relatively small (less than seven tons per day) when compared to the estimated 12,000 tons of residential and institutional refuse and recyclables collected by DSNY per day. In addition, due to the proposed action, non-residential waste serviced by private carters would increase by less than 3 tons per day, an insignificant amount compared to the estimated 13,000 tons of commercial/industrial waste currently removed by private carters.

N. Traffic and Parking

Comment N1: 125th Street must not be turned into a thoroughfare with increased traffic. Faster traffic could also be a danger to local children, especially with two major schools along 125th Street. (6)

Response: The results of these analyses show that the additional traffic demand generated by the proposed action would generate significant adverse traffic impacts on 11 approaches at 10 intersections during the weekday AM peak hour, 13 approaches at 9 intersections during the weekday midday peak hour, 21 approaches at 17 intersections during the weekday PM peak hour, and 24 approaches at 14 intersections during the Saturday midday peak hour. Several mitigation measures are discussed in Chapter 3.15, Traffic, including prohibiting left-hand turns along 125th Street between 3rd Avenue and Amsterdam Avenue. Furthermore, adjustments to signal timing of no more than three seconds are recommended for each intersection, as are reconfiguring lanes and on-street parking regulations. Implementing these measures would mitigate all operational impacts.

The results of the analysis of pedestrian conditions shows that there would be no significant adverse impacts to analyzed sidewalks or corner areas in the 2017 future with the proposed action, however, demand from the proposed action would significantly adversely impact a total of three crosswalks along East 125th Street in the midday peak hour based on CEQR Technical Manual criteria, including the south crosswalk at southbound Park Avenue, and the north and south crosswalks at Third Avenue. In addition, the north crosswalk on northbound Park Avenue at East 125th Street would be impacted in the PM peak hour as a result of the diversion of traffic associated with the proposed action's traffic mitigation plan. Widening the north crosswalk on northbound Park Avenue, the south crosswalk on southbound Park Avenue and the south crosswalk on Third Avenue to 13 feet in width (from 12 feet), and the north crosswalk on Third Avenue to 17 feet in width (from 14 feet), would fully mitigate the significant adverse impacts to these crosswalks resulting from the proposed action and its traffic mitigation plan.

The traffic safety analysis included in Chapter 3.15, Traffic, examined the traffic and pedestrian safety relating to the proposed rezoning, and identified measures to ensure no significant adverse impact in terms of safety.

Comment N2: Further traffic impacts should be considered for the Final EIS. (40)

Response: The EIS analyzed 44 intersections within the traffic study area based on transportation planning assumptions discussed in Chapter

3.15, Traffic, and adequate traffic mitigation has been identified (see Chapter 3.22, Mitigation) pursuant to CEQR Technical Manual procedures. Traffic impacts were adequately considered throughout the course of the EIS process.

Comment N3: To prevent any adverse traffic impacts, the city should remove all vehicular traffic along 125th Street and place it on 124th and 126th streets. (57)

Response: Removing all vehicular traffic from 125th Street is outside the scope of the proposed action.

Comment N4: We encourage the city to continue working on solutions to concerns such as vehicular congestion and parking. (80)

Response: Please see response to comment N2.

Comment N5: The transportation infrastructure serving 125th Street is to be further studied and the traffic congestion mitigated to ensure the smooth development of the 125th Street corridor. (82)

Response: Please see response to comments N1 and N2 above.

O. Transit and Pedestrians

Comment O1: Adequate public transportation is needed along 125th Street, and the city should move forward with its plan for Bus Rapid Transit (BRT). Further additions should include greater pedestrian access and a bicycle path along 125th Street where, with the exception of mass transit, no traffic is allowed. (57)

Response: Comment noted. An exploratory study has been completed by New York City Department of Transportation and New York State Department of Transportation to implement a system of Bus Rapid Transit (BRT) running along 125th Street. The proposed concept plan for 125th Street would create bus lanes along both curbs of 125th Street from Twelfth Avenue on the west to First Avenue on the east for the westbound BRT/bus lane and to Second Avenue for the eastbound BRT/bus lane. The bus lanes would operate during the peak hours of 7 AM to 10 AM and 4 PM to 7 PM in both directions, Monday through Friday and possibly on weekends. Parking and deliveries would be removed during bus lane hours of operation.

Comment O2: The DEIS does not show how pedestrians' health would be affected by the excessive bus traffic due to the proposed action. (66)

Response: A thorough discussion of air quality impacts is found in Chapter 3.17, Air Quality. The result of the air quality analysis is that the proposed action would not cause or exacerbate an exceedance of an

air quality standard nor cause the exceedance of a significant impact criterion.

P. Air Quality

Comment P1: Overdevelopment will occur in Harlem. The increased traffic will result in air quality impacts and will exacerbate asthma and cancer. (27). There will be significant adverse impacts to the air quality and asthma rates in Harlem, which are already very high. These impacts have not been adequately addressed in the DEIS. (43). We need cleaner air in Harlem so our population won't continue suffering from poor air quality. (46)

Response: The results of the air quality analysis in Chapter 3.17, Air Quality, indicate that the proposed action would not result in significant adverse impacts related to mobile or stationary source emissions. With respect to HVAC emissions, the proposed action would include (E) designations for air quality, which would restrict the placement of a building's vent stack and/or restrict the type of fuel used for HVAC systems. In addition, the evaluation of public health consequences due to the proposed action found that it would not result in significant adverse impacts to public health (Chapter 3.20, Public Health)

Comment P2: The air quality impacts that can be expected from this plan will be tremendous. (66)

Response: Please see response to comment P1 above.

Comment P3: Traffic will cause a major impact to the health of residents. Asthma is already bad in Harlem, and will become worse. (74)

Response: Please see response to comment P1 above.

Comment P4: Harlem will be experiencing cumulative impacts of emission pollution from three large development sites (East River Plaza, Manhattanville, 125th Street Rezoning), the expansion of three MTA bus depots, and many other development projects. The EIS must take these cumulative impacts into consideration and design appropriate strategies for avoiding the health impacts from these emissions. (76)

Response: Cumulative air quality impacts are discussed in Chapter 3.17, Air Quality (see Figure 3.17-2 - Potential Cumulative Impact Sites, for the location of these sites). The analysis concluded that the proposed build scenario, with its (E) designation and with consideration paid to cumulative effects, would cause no violations of the National Ambient Air Quality Standards (NAAQS), and would have no significant adverse environmental impacts on air quality at all development sites.

Comment P5: The Clean Air Act (“CAA”) authorizes the Environmental Protection Agency (“EPA”) to regulate emissions of air pollutants that “may reasonably be anticipated to endanger public health or welfare.” Accordingly, EPA named six criteria pollutants (e.g., sulfur dioxide – SO_x, nitrogen oxide – NO_x, carbon monoxide, photochemical oxidant agents of smog, particulate matter, and lead) and set the national ambient air quality standards (NAAQS) that govern acceptable levels of each of them. The CAA requires each state to prepare an implementation plan (e.g., the State Implementation Plan, “SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS. Emission sources located in areas that have not attained the NAAQS for any given pollutant must meet the stringent Lowest Achievable Emission Rate (“LAER”) standard for that pollutant. The LAER mandates the most effective emission control technology. (97)

Response: **LAER requirements are typically applicable to existing major industrial sources that are seeking to expand, make changes in source location or increases in emissions at their facility. With regard to limiting emissions from the proposed project, because the project includes only commercial, residential and hotel etc., some projected and potential buildings would use retrofit or new boiler technology which would result in cleaner emissions than that which already exists. In addition, new constructed buildings in NYC would likely use modern boiler technologies that reduce pollutant emissions when compared to older technology. A full analysis of air quality was conducted for the proposed action using guidelines and analysis procedures contained in the *CEQR Technical Manual*. Based on the results of the analysis and (E) designation requirements contained within the air quality report, no violations of applicable air quality standards were predicted.**

Comment P6: In addition to federal and state air quality regulations, the CTM identifies three sources of air pollution that must be considered in a proper environmental impact analysis; these are mobile, stationary and construction sources. Actions that increase mobile source emissions are those that: add vehicles to the roads regardless of mitigation that affect traffic flow, anticipate construction of parking lots or garages that emit air pollution as part of the facility’s operation, and create new uses next to sources of pollution. The 125th Street rezoning will add some 2103 vehicles trips to the 125th Street Corridor; it will create 16 new parking facilities with a capacity of 1743 spaces; and construct over square feet of new uses including 2,328 residential dwelling units (DUs), 189,099 square-feet of specialty retail space, 19,488 square-feet of boutique retail space, 436,014 square-feet of office space, and 11,672 square-feet of hotel space on the 26 projected development sites – all activities that would exacerbate the impact of existing air pollution sources including

Route 90 the Henry Hudson Parkway, FDR Drive, local truck routes, five MTA bus depots, and the North River Sewage Treatment Plant.

Similarly, an action increases stationary source emissions if it involves installing a new large boiler that exhausts pollution into the air. Here, DCP anticipates that some 52 sites (26 identified and 26 “potential” development sites) will be developed as a result of the upzoning of residential and commercial use on 125th Street. The new development will be many-folds larger, more energy intensive, and therefore more polluting than anything that currently exists on 125th Street. Although DCP has attempted to analyze the pollution generating potential of the anticipated development, the agency assumes building boilers will be burning both Number 2 fuel oil and natural gas. However, precedence from other large-scale, mixed-use buildings in the area suggests that new developments on 125th Street will likely employ fuel oil, and probably at a heavier grade, thus more polluting, than Number 2. Fuel oil is one of the most polluting energy sources, emitting tremendous amounts of key criteria pollutants such as NO_x, SO_x, and PM, not to mention other toxic pollutants, hazardous air pollutants (“HAP”), for which both New York State and the EPA are developing emission guidelines. (97)

Response: **The 125th Street Rezoning Study looks at 48 sites (26 projected and 22 potential development sites). Boiler technology (in terms of limiting potential emissions) for the 2017 build year would surpass the technology which currently exists. Therefore, it is incorrect to assume that the development would be many times more polluting than the existing sources. The HVAC analysis was conducted utilizing No’s 2, and 4 oils and natural gas. Based on the results, to prevent violations of NAAQS standards for NO_x, SO_x, and PM, (E) Designations would be used, where applicable, to restrict the type of fuel that any potential developer could use at projected or potential sites. Emissions of toxic/hazardous pollutants from HVAC systems would be small and their analysis under these circumstances is not included in the *CEQR Technical Manual*.**

Comment P7: In addition to the boilers, the rezoning-accommodated mixed-use commercial buildings will probably install emergency generators, which will most likely also employ diesel fuel. The combination of higher energy demands and low-quality fuel types sets Harlem up for an air quality disaster that will exacerbate already unacceptable rates of asthma, asthma hospitalizations, respiratory disease, and cancer. The City must require the use of alternative fuel and energy sources. At a minimum, new developments or renovations must be subject to strict energy conservation guidelines (e.g., weatherization, energy efficient office and residential appliances, and energy efficient HVAC systems, etc.) and required to employ natural gas or biodiesel as a start.

Developmental incentives should be given for developments that make use of such other sources energy as solar and geothermal power. (97)

Response: **Under the CEQR Technical Manual, the use of emergency generators is not included in HVAC analysis. The temporary operation of such generators during emergencies is unlikely to result in any impacts. The HVAC analysis included the study of natural gas as well as No. 2 and No. 4 fuel oil as potential fuel sources to assure a conservative assessment.**

Comment P8: A development may have construction air quality impacts if it involves dust emissions from the construction of new facilities, from sandblasting, from the operation of construction equipment, and from construction-generated traffic. The impact of such activity is assessed by the magnitude and duration of the construction activity. Here, the rezoning allows dramatic increases in building heights and anticipates that owners of up to 52 sites will take advantage of the upzoning. The construction-related traffic and fugitive dust generated from the sheer size and number of construction projects that will result from this rezoning is unimaginable. Add to this mix, the fact that many of these sites contain older buildings that will have to be demolished and new foundations will have to be laid to accommodate dramatic height increases, and you have unbearable dust, noise, vibration, and air pollution conditions that would discourage outdoor activity. Harlem residents already have a taste of this, albeit on a smaller scale, from the numerous condominium projects cropping up haphazardly throughout the neighborhood, and they already report respiratory problems and eye irritations from construction vehicle emission, traffic, and fugitive dust. Environmental health and safety restrictions on construction site operations must be put in place to avoid and/or minimize future construction impacts on the health and well-being of members of this community. (97)

Response: **The build year for the project is 2017 which makes it highly unlikely that the construction and development of individual sites would occur simultaneously. Consequently, the new construction that would be allowed under the proposed action would occur over several years, and with the 26 projected sites, would average about 2-3 sites in any 12 month period and construction at individual sites would not last for an extended period of time. Construction at individual sites would be temporary and would include modern dust suppression techniques, cleaning to prevent fugitive dust, and the use of low-sulfur diesel fueled equipment. Emissions from construction vehicles would be governed by the latest EPA engine emissions standards. Based on typical construction procedures for projects of this type, the use of sandblasting would be unlikely.**

Comment P9: DCP disingenuously discounts any CO impacts despite disclosing higher vehicle counts, construction activity on at least 52 development sites, and additional energy and HVAC needs for the upzoned commercial and residential uses in the rezoned area. However, one look at DCP's methodology for estimating these impacts reveals why. First, DCP only estimated CO concentrations at intersections on 125th Street itself, claiming that these are the areas most likely to be impacted by the rezoning. However, the rezoning plan calls for the new regulations to cover a north-south border from 124th to 126th Streets. Therefore, construction activity as well as HVAC exhausts will spill over to both these streets. Additionally, because the rezoning-related traffic mitigation were designed to relieve congestion on 125th Street, traffic on 124th and 126th Streets will likely increase; thus, increasing their air pollution profile. Second, air monitors on whose data the DCP relies are located in Brooklyn and in the north Bronx, at substantial distances from the rezoning site while CO can have both regional and local health impacts. DCP needs to reconsider CO impacts arising from the rezoning by monitoring CO increases more locally and to widen the geographic scope of the CO changes. (97)

Response: **As per the *CEQR Technical Manual*, the microscale (or local) mobile source CO analysis was conducted for intersections within the study area which experience the worst existing traffic congestion conditions. The traffic impact (i.e. project-induced increase in intersection volume) that the proposed project would have on these intersections is also taken into consideration. The result is that the analysis examines worst case conditions where the maximum pollutant concentrations are expected to occur. In this manner, the analysis discloses the potential worst case impacts: if impacts are not predicted at these selected intersections, then impacts at other intersections less impacted by traffic would be unlikely. As per the *CEQR Technical Manual*, CO was not a pollutant of concern during the assessment of the project HVAC systems. In addition, increasing the geographical scope of the CO analysis was not required as the project would not have regional traffic implications. For air quality, the closest available NYS DEC (which is the state agency which compiles air quality monitoring data) monitoring sites were reported for the project.**

Comment P10: In addition to the deadly effects CO can have on its own, global warming can exacerbate its public health impacts on Harlem community members. Scientists the world over agree that global temperatures are rising in some places by as much as 1.8-3.4 degrees Fahrenheit. In New York City, this is a particularly important issue to consider because heavily built neighborhoods are vulnerable to the urban heat island effect, a phenomenon that could lead to urban temperature increases of 2-10 degree Fahrenheit above what can be

expected from global warming impacts in rural areas. That is, green open spaces that can help reflect radiation and absorb carbon dioxide (“CO₂”) are in short supply while heavy use of asphalt and other paving material store heat for sustained warming throughout the day and night. The persistent elevated temperature means that CO will have a much longer opportunity to effect its destructive power on the health of Harlem residents. Moreover, the Northeast Climate Impacts Assessment, a study conducted by leading climate experts, expects warmer temperatures to become more prevalent; by mid-century, NYC may experience as many as 49 days per year over 90 degrees and much shorter winter seasons (as many as 13 days shorter). Yet DCP ignores cumulative impacts of combined climate forces and conveniently hides behind its simpleminded CO emission estimates. DCP must be made to conduct a more thorough study of CO air quality and public health impacts. (97)

Response: **The full air quality analysis as required by the *CEQR Technical Manual* was conducted. The analysis of the proposed project’s impact on global warming /climate change was not required by the *CEQR Technical Manual*.**

Comment P11: PM pollution, particularly that in the range of 2.5 microns or less, because of its varied composition, is one of the more dangerous of the criteria pollutants. PM pollution has been linked to diseases as far ranging as asthma, cardiovascular disease, chronic bronchitis, and emphysema. At the ultrafine end (e.g., particles less than 1 micron in diameter), PM has been linked to cancer and neurocognitive delay, even in children who were only exposed during gestation. Control and reduction of PM is particularly important in Harlem, and particularly around development sites, where childhood asthma hospitalization rates are nearly six times the national average and cardiovascular health is the second worst in Manhattan. These health impacts will have to be borne by a community where some 38% of the resident live below the federal poverty line, many are underinsured, and 19-26% of the residents have no health insurance at all. Adding more air pollution to this community would simply push it over the edge in most health indicators.

The CTM requires project applicants to analyze the environmental and health impacts of PM pollution. Moreover, the law requires cumulative impacts analysis to be performed on both PM₁₀ and PM_{2.5} separately. The *UPROSE* Court concluded that in light of the fact that PM_{2.5} is a non-threshold pollutant (one that has negative impacts at any level), and that the purpose of an EIS is to analyze the impact of any environmental factor that could have at least one negative effect, a failure to study the cumulative impact of PM_{2.5} constitutes a failure to take the requisite “hard look” required under SEQRA. Yet DCP has all but ignored analyzing PM impacts. (97)

Response: The study of PM impacts for the proposed project was based on conservative procedures found in the *CEQR Technical Manual*.

Comment P12: DCP hides behind the New York State Department of Environmental Conservation (“DEC”) guidance for estimating the number of project-induced heavy-duty diesel (“HDD”) trucks to claim that the rezoning will only induce the equivalent PM_{2.5} emission of a sub-threshold (some 67) number of HDD vehicles; thus, exempting it from analyzing PM_{2.5} impacts. What DCP fails to discuss is that the DEC guidance assumes that emission equivalents are from HDD vehicles that comply with state and federal regulations. In fact, many (DEC’s latest estimate is 25%) of the HDD and light-duty diesel delivery vehicles traveling through Harlem streets operate in violation of relevant standards. Therefore, DCP’s attempt to paint a rosy picture of the PM_{2.5} emission potential of project-generated vehicle traffic grossly underestimates the pollution impacts of the proposed rezoning. Second, by concentrating the analysis on just intersections on 125th Street, DCP fails to capture the cumulative impact of PM_{2.5} pollution on the entire rezoned area – including 124th and 126th Streets as well as the mid-blocks. HDD vehicles are predominantly delivery vehicles that tend to idle on the mid-block as they make their deliveries to various businesses. Third, DCP fails to consider PM_{2.5} impacts from stationary sources such as HVAC exhausts from the mega-commercial structures (e.g., the 290-foot tall retail-office-hotel-luxury residents, “mixed-use” buildings), which the rezoning aims to facilitate. Fourth, DCP fails to consider the cumulative impacts of the Metropolitan Transit Authority’s already implemented plans to expand two local bus depots (the Mother Clara Hale, just 20 blocks away from the rezoning area, and the 126th Street Bus Depots, within the proposed rezoning), as well as the construction and operational activities of the East River Plaza and the Manhattanville expansion of Columbia University along with the myriad other condominium construction projects in Harlem. The agency must be made to conduct the appropriate direct and cumulative impact analyses of PM_{2.5} air pollution generated by the project (during both construction and operation) and other nearby pollution sources. This includes the PM₁₀ and PM_{2.5} emission profiles of both pollutant types. DCP must design programs and/or requirements that will adequately avoid the environmental and health impacts of these pollutants on the Harlem community. (97)

Response: The study of stationary and mobile source PM impacts for the proposed project was based on conservative procedures found in the *CEQR Technical Manual*. Compliance with NYS DEC regulations (i.e. inspection and maintenance information) is included in the EPA Mobile6.2 emissions model used in the analysis (as required by the *CEQR Technical Manual*). The assessment of mobile source PM conservatively included the intersection which

would experience the most project-induced autos and HDD (Heavy Duty Diesel) vehicles. Potential impacts from stationary source PM were assessed for the individual and cumulative HVAC systems as required by the NYC DCP and the *CEQR Technical Manual*. The assessment of mobile source impacts on the proposed action due to the Mother Clara Hale bus depot, the existing 126th Street bus depot and vehicular activities resulting from the East River Plaza and the Manhattanville expansion of Columbia University projects were included as part of the No Build and Build analyses. As the depot is almost one mile away from the proposed project, an analysis of its stationary source impacts on the proposed project are not required as per the *CEQR Technical Manual*. An analysis was conducted to determine potential stationary source impacts from the existing 126th Street bus depot on the proposed project.

Comment P13: The proposed rezoning has the potential to increase Harlem's loading of ozone in a number of ways. First, during both construction and operation of the developments anticipated by the rezoning, more vehicles (automobiles and diesel-operated vehicles such as buses and delivery trucks) will be added to local roadways and smaller neighborhoods. DCP implies that because traffic flow on 125th Street, the most impacted avenue in the proposed rezoning area, will be completely mitigated through signaling and other traffic controls, the local air quality will not be impacted by traffic. However, even if traffic flow were to be mitigated (which it may not be), the absolute number of vehicles, and thus amount of vehicle exhaust pollution, will increase regardless of whether traffic delay increases. Second, construction vehicles and equipments, regardless of whether they use ultra-low sulfur diesel fuel or regular dirty diesel fuel, will generate ground-level ozone, and thus the local pollution loading in Harlem. Third, the operation, especially fuel choice, of the additional (and higher capacity) boilers and other power generation equipment including emergency generators will generate ozone. Finally, the use of VOCs in building material, building adhesive, furnishings, and other operations will increase Harlem's ground-level ozone. Despite the potential for this development to have such an immense impact, DCP ignores any analysis of ozone impacts that could result from the rezoning action. DCP must revise the DEIS to include an analysis of the rezoning's ozone impacts. (97)

Response: As set forth in the *CEQR Technical Manual*, Ozone is a pollutant that is typically studied on a regional basis. In addition, it is assessed indirectly by studying its precursors such as nitrogen oxide (NO_x) and hydrocarbons (HC). Whenever gas was proposed as a fuel for a projected or potential building site, NO_x was studied as a pollutant of concern on a microscale or local level. However, the scope of the project does not require the regional assessment (or the

assessment of impacts throughout NYC), of Ozone, NO_x or HC for individual buildings. In fact, analyses of this type are rarely performed since projects (such as the proposed action) do not have the potential to affect ozone over such a large area. Because the proposed action assumes a rezoning, not specific development proposal, the analysis methodology references conservative guidance and provides conservative analyses with regard to determining potential impacts on ambient air quality. Consequently, the assessment of VOC's, a pollutant which is of primary concern indoors, is not warranted.

Comment P14: Despite the danger NO_x poses both to human health and the environment, DCP makes no effort to discuss the project's impact on the overall NO_x profile of Harlem nor does it discuss the cumulative impact of the project's NO_x output and that of other pollution sources in the area. To be sure, the DEIS does give some tables of the NO_x output of various equipment configurations including its cooling towers, boilers, and HVAC systems. Lacking, however, is a discussion of what each of these numbers mean to the public health profile of the community or the air quality of the area. DCP must be made to study these factors so that decision makers, including the public, can truly assess the environmental impacts of this development and consider the wisdom (or lack thereof) of allowing it to go forward or not. (97)

Response: A discussion of NO_x and its affects can be found in Chapter 3.17, Air Quality. The study of NO_x for the proposed action followed procedures described in the CEQR Technical Manual. Please see response to comment P15.

Comment P15: The DEIS fails to provide any specific data or analysis on the level and impacts of SO_x emission that will result from project-facilitated development. The only information the community, stakeholders, and City decision makers are left to ponder is DCP's determination of how far apart the building exhaust stacks are required to be. The omitted disclosure is inexcusable. DCP must revise the DEIS to provide a full description of the anticipated SO_x emission so that the CPC, Harlem community members and their elected representatives can understand the full suite of environmental exposures and impacts that the rezoning will wrought on Harlem residents. (97)

Response: An assessment of SO_x due to the project related HVAC systems was provided in Chapter 3.17, Air Quality. The analysis methodology followed guidelines contained within the CEQR Technical Manual.

Comment P16: The DEIS must be revised to include more information about the specific types of odorants that contaminate properties within the rezoned area, discuss odorants that may result from the development of those parcels, and discuss the health impacts of each. Additionally, the

CPC and the City Council must demand more stringent environmental and health protections be placed on any plans to redevelop contaminated parcels. (97)

Response: **As per the *CEQR Technical Manual*, the analysis of odors is typically provided for industrial and waste management facilities. The proposed action is a residential / commercial development and as such, an analysis of odors was not warranted.**

Comment P17: Although the DEIS acknowledges that EPA regulates air toxics emission, it makes the misleading statement that the agency has not set federal standards for these non-criteria compounds. This statement is untrue. While EPA has not developed standards for all 188 compounds, both EPA and DEC have begun to address these air toxics and require all permit applicants to identify and all address the potential for emission of these toxics in their DEIS. At the same time, DEC has indeed issued standards for some non-criteria compounds including beryllium, gaseous fluorides, and hydrogen sulfide. The CAA also addresses HAPs emission from motor vehicle and motor vehicle fuels; it specifies that benzene, formaldehyde, and 1,3-butadiene are to be evaluated as air toxics. In addition, EPA has identified 21 chemicals that need detailed evaluation during a permit review.

Despite the increased regulatory attention to the control of air toxics and that both the construction and operation of the expansion campus at least has the potential causing releases of these compounds, DCP hides behind the fact that there are as yet no state or federal standards to altogether ignores analysis of the rezoning's potential for generating these compounds and fails to discuss the consequent health impacts of any release and/or emission. Although DCP is correct in stating that there are no legal standards defining safety levels of HAPs, public health organizations and the U.S. Centers for Disease Control all have resources concerning the health impacts of and strategies for avoidance of HAPs. Because HAPs can have detrimental effects on human health and have the greatest potency at local levels, DCP must revise the DEIS to include a proper analysis of the additional HAP loading in Harlem. (97)

Response: **EPA standards of air toxics are based on emissions limits, typically from industrial facilities. As the proposed project would not include any industrial sources of pollution, the use of these emissions limits is not relevant or warranted, not required. The NYS DEC has issued guidance limits [Annual Guidance Concentrations (AGC's) and Short-term Guidance Concentrations (SGC's)] for concentrations of certain air toxics. As per the *CEQR Technical Manual*, these guidance concentrations were used in the analysis of the potential impact of existing industrial sources on the proposed action.**

Comment P18: In 2007, the United States Supreme Court made the landmark ruling that greenhouse gas emissions such as those from vehicle exhaust pose a serious endanger public health and welfare. Since then, a number of federal and state courts have found that climate change and greenhouse gas emissions should be a part of the environmental impact review analysis. At the same time, both the New York City Council and Mayor Bloomberg have rolled out sustainability plans that include a suite of legislative and policy initiatives aimed at improving the region’s air quality and reducing greenhouse gas emissions. DCP, as the leading land use planning agency in the City, should be leading the effort to implement these policies rather than adding to the very problems they aim to alleviate. DCP should revise the DEIS to include thorough analysis of the climate change impacts of the proposed rezoning. (97)

Response: **At this time, there are no established assessment methodologies under SEQRA/CEQR for the analysis and identification of climate change impacts.**

Comment P19: The DEIS fails properly to analyze all relevant construction-related air pollution. The agency has failed to take the appropriate “hard look” at whether sufficient public review will be available for parcels that are known to contain hazardous material contamination, the environmental and health impacts of construction-generated fugitive dust, and construction vehicle exhaust. Moreover, the construction impacts analyses that are undertaken consider impacts of development at individual parcels rather than the worst case scenario that 1) all 52 sites available for development may be simultaneously undergoing construction, or at least will be simultaneously undergoing some stage of construction or 2) that construction may stretch out over the full 10-year buildout anticipated in the DEIS. (97)

Response: **Please see response to comment P10.**

Comment P20: The rezoning will facilitate much more density and increased commercial retail, office, and residential uses. These are much more energy intensive and will cause much greater emission than the uses currently existing on 125th Street. Depending on the size of the developments, equipment such as energy plants, cogenerators, and emergency generators and associated exhaust stacks will be installed. These will all cause greater emissions of dangerous air pollution such as PM, NO_x, SO_x, and VOCs into Harlem’s air. Yet the only discussion to be found in the DEIS about emission sources is how far apart they need to be so that pollution is not directly blown into neighboring properties or apartment units. DCP must revise the DEIS to include a more detailed disclosure of the pollution profiles of the anticipated developments. (97)

Response: The air quality analyses were performed using standard methodologies and in accordance with CEQR Technical Manual guidelines. The analyses are based on reasonable assumptions and present a conservative estimate of the likely emissions of new development resulting from the proposed action.

Comment P21: Exhaust stacks are also vulnerable to plume fogging, rime icing, formation of visible plumes, deposition of salts and other chemicals, deposition of microorganisms such as bacteria, mold, and other components of biological films. Rime icing, salts, and other chemicals are typically cleaned by industrial solvents. However, DCP does not even address the problem of filming on exhaust stacks much less discuss how the use of solvents or cleaners of any kind will impact the local environment, specifically Harlem's air, water, and soil quality or how these actions will impact the health and well-being of local residents and workers. (97)

Response: Conservative stack parameters provided in the *CEQR Technical Manual* were utilized in all analyses of project-related HVAC emissions sources.

Q. Noise

Comment Q1: DCP must provide mechanisms to avoid these noise impacts. Such strategies could include erection of noise barriers, limits to construction hours and business operating hours, enforcement of stringent noise ordinances, and requirement that commercial developers to provide sound-proofing to sensitive users. (76)

Response: As part of the proposed action, (E) designations would be placed on the zoning map for all projected and potential development sites where there is the potential for significant adverse noise impacts. Residential, commercial and community facility development on lots mapped with an (E) designation would be required to provide sufficient noise attenuation to maintain interior noise levels of 45 dBA or lower. The (E) designations on the projected and potential development sites would preclude the potential for the proposed action to result in significant adverse noise impacts.

Comment Q2: Currently the study area and the 125th Street corridor are mostly quiet at night after 10 p.m. What about the significant adverse noise impacts the proposed action will have after this time? (66)

Response: A 10 dB adjustment was added to all hourly noise levels recorded between the hours of 10 PM and 7 AM. This 10 dB addition accounts for the extra sensitivity people have to noise during typical sleeping hours.

Comment Q3: If the rezoning succeeds in drawing the type of businesses that it aims to attract, the corridor will be littered with destination retail, restaurants, and nightclubs whose noise generation and patrons will disturb Harlem residents' quiet enjoyment of their community. The increased population of residential users and commercial retail activity will add noise from delivery vehicle, bus, and automobile traffic. All these uses trigger the need for a detailed analysis of the noise impacts of the project. Despite specific guidance from the CEQR Technical Manual, DCP has failed to detail the necessary analysis. (97)

Response: As noted in the Noise chapter of the DEIS (3.18, Noise), when the noise levels that would be generated as the result of proposed action (Future Proposed Action) was compared to that that would be generated in the Future No Action scenario, it was found that the increase in noise levels at any of monitored sites would be no more than 0.4 dB. Therefore, a more extensive noise analysis was not required per the guidelines of the *CEQR Technical Manual*.

Comment Q4: Neglected in DCP's "mitigation" plan is how the agency plans to protect existing residents and users of neighboring properties from the noise impacts of the new rezoning-facilitated uses. (97)

Response: As discussed in the EIS, E designations for noise would ensure that no significant adverse noise impacts would occur. The requirements of the E designations are described in detail in the EIS.

R. Construction Impacts

Comment R1: There is expected to be constant construction in Harlem if this proposal is implemented. This will exacerbate problematic health conditions. (76)

Response: As noted in Chapter 3.19, Construction Impacts, Construction-related activities resulting from the proposed action are not expected to have any significant adverse impacts on natural resources, traffic, air quality, noise, or hazardous materials conditions. Furthermore, as stated in the Hazardous Materials and Public Health chapters of the DEIS (3.10 and 3.20 respectively), the proposed action would not cause significant adverse impacts to public health although it would have the potential to result in an increased human exposure to potential contaminants in soil or dust during construction and potentially during occupancy at a number of projected and potential development sites. Therefore, prior to construction, further investigation would be performed on each development site to determine the presence and nature of contamination of concern and the proper remedial and/or health

and safety measures that would be employed during redevelopment.

Comment R2: The noise decibels identified by the draft scope, 70 db, is wholly inappropriate for maintaining human life. A more fitting noise exposure guidelines would be the World Health Organization's noise exposure thresholds. Harlem's noise level will be increased substantially as a result of construction activities within the rezoned areas. The DEIS considers these impacts insignificant because they are temporary in nature, such an off-hand dismissal a serious public health threat is unwarranted. The rezoning will also cause increased vibration pollution in and around the rezoning area, particularly through the construction period with demolition, excavation, and building activities. (97)

Response: Construction noise associated with the proposed action is expected to be similar to noise generated by other residential and commercial construction projects in the city. Increased noise levels caused by construction activities can be expected to be most significant during the early phases of construction. The most significant noise source associated with the construction equipment would be the use of pile-drivers. This noise would be intrusive and would be heard by the employees at surrounding businesses and the residents who live within several blocks of the development sites; however, this construction noise would be temporary in nature. Increases in noise levels caused by delivery trucks and other construction vehicles would not be significant. Small increases in noise levels are expected to be found near a few defined truck routes and the streets in the immediate vicinity of the development sites.

Construction noise is regulated by the New York City Noise Control Code and by EPA noise emission standards for construction equipment. These local and federal requirements mandate that certain classifications of construction equipment and motor vehicles meet specified noise emissions standards; that, except for special circumstances, construction activities be limited to weekdays between the hours of 7 AM and 6 PM; and that construction material be handled and transported so as not to create unnecessary noise. A statement of adherence to these requirements should generally be included.

Comment R3: Runoff from development sites is particularly important to consider because the waterfronts in both East and West Harlem are becoming

developed after decades of neglect. The DEIS should include a plan to limit construction-related runoff to the Harlem and Hudson Rivers. (97)

Response: **Comment noted. The proposed action is not located within a City-designated coastal zone boundary.**

Comment R4: DCP's failure to discuss specific environmental protection from construction-related hazardous material pollution is legally insufficient; therefore the agency must revise its DEIS analysis to include a more thorough analysis of the environmental and health impacts of hazardous material remediation. DCP must also identify appropriate remediation for those impacts. (97)

Response: **The construction impact analysis was conducted following standard methodologies prescribed in the CEQR Technical Manual. The analyses fully disclose the potential for construction-related impacts.**

S. Public Health

Comment S1: Dust, noise, and health problems will result from new development. Programs are needed to address these health concerns. (6, 66)

Response: **A thorough consideration of health issues related to the proposed rezoning was put forth in the "Public Health" Chapter (Chapter 3.20) of the DEIS. The analysis concludes that no significant impacts related to public health are expected as a result of the proposed action.**

Comment S2: The yardstick the City should use to decide whether to approve or disapprove a development plan should not be whether it so degrades a community's health that federal cancer risk standards have to be triggered before mitigation is required for the action. The decision should be based on whether a particular action would improve the health and well-being of the local residents. DCP should be made to re-examine the air quality impacts and their associated health consequences in a revised DEIS analysis. Such an analysis must also include appropriate measures to either avoid the impact or substantially mitigate its negative effects. (97)

Response: **The DEIS includes a thorough analysis of potential public health impacts, based on CEQR Technical Manual guidelines, and fully discloses the potential for public health related impacts.**

T. Alternatives

Comment T1: We are in favor of the Arts Bonus Alternative, as it should attract philanthropy to 125th Street. (9) We also strongly prefer the "A" version which would create an Arts Bonus mechanism to provide floor

area bonus in exchange for the provision of visual or performing arts space within new development and would map a C4-4D district along an additional portion of the corridor. (80)

Response: **Comment noted.**

Comment T2: The DEIS fails to address the alternative of including several residential developments, located within the East 125th Street Project Area, as part of the 125th Street corridor rezoning. The DEIS assumes the East 125th Street Project will proceed as conceived, without considering the impacts if it does not. (96)

Response: **The alternative chapter considers a reasonable range of alternatives to the proposed action. The East 125th Street Project is considered a likely development that would occur in the future no-action condition. Thus, it was included in the EIS technical analyses to project future action and no-action conditions in the project area.**

U. CEQR and ULURP Procedures

Comment U1: Maximum community input is solicited and necessary. (7). The neighborhood has not been properly consulted in this process. (44, 45, 48, 87). There haven't been meetings dedicated exclusively to housing. (43). The small business owners were not properly consulted with this plan. (55). This is a secretive, non-public process. (54).

Response: **The rezoning plan includes input received from public meetings held in 2004, 2005 and 2006, before the start of the formal ULURP rezoning process. In addition, a public scoping meeting was held January 17, 2007 to solicit input on the scope of work for the Draft EIS. The City Planning Commission held a public hearing on the rezoning actions and the DEIS on January 30, 2008 where it received input from the community and interested parties. Public comments on the DEIS were accepted for a period of ten days after the public hearing.**

Comment U2: City should work with the community and developers to ensure local residents are considered in this process. (10)

Response: **Comment noted. See response to comment U1.**

Comment U3: There needs to be further transparency in this plan. (43)

Response: **Comment noted. See response to comment U1.**

Comment U4: These meetings should be held in the evening. (48, 51)

Response: **The public meetings were held in accordance with all applicable rules and regulations.**

Comment U5: We encourage the City Planning Commission to continue facilitating productive dialogue with Community Boards 9, 10, and 11. The recommendations they have put forth, and will put forth in the future, should be considered seriously by the city in this rezoning effort as reflecting the needs and wishes of the community. Of special interest are the proposals for a Harlem-wide development strategy by the Borough President's Office and community based business incentives and income targeted housing by the Community Boards. (18)

Response: The City Planning Commission, in conjunction with the Department of City Planning, as part of their mission, will continue to explore potential enhancements for the Harlem community as a whole.

Comment U6: The community's involvement didn't happen until the end of 2006. The DCP and its inter-agency partners came up with overall objectives before it got such groups involved. (66)

Response: Comment noted. See response to comment U1.

Comment U7: The DEIS fails to analyze the scope and scale of the 125th Street Rezoning's potential impacts at the level of detail that the relevant decision makers, including the Planning Commission, the City Council, and DCP itself, would need to give the project a sufficiently "hard look." (97)

Response: The DEIS was prepared in accordance with all applicable regulations governing environmental review, and following CEQR Technical Manual guidelines.

V. Miscellaneous

Comment V1: I support the 125th Street Business Improvement District's recommendation that 5% of all generated space be reserved for local residents. Additionally, a facility must be developed to prevent idling tour buses along corridor. (6)

Response: Comment noted. The creation of a tour bus staging area falls outside the scope of the DEIS. A full mobile source air quality analysis was performed for the DEIS in Chapter 3.17, Air Quality, that considers the mobile source impact of buses on air quality.

Comment V2: Jobs should provide training to community members. (7)

Response: Comment noted. The provision of job training falls outside the scope of the DEIS.

Comment V3: Support for cultural institutions should be increased. Minority and women participation should also be encouraged under this plan. (9)

Response: The proposed rezoning includes a special district that will encourage visual and performing arts facilities through an arts

bonus as described in the Expanded Arts Bonus Alternative that is part of the EIS. The encouragement of minority and women participation falls outside the scope of the DEIS.

Comment V4: Responsible development is what is needed. A plan is needed to ensure developers pay prevailing wages and benefits, and the community must benefit with good jobs and affordable housing. (10)

Response: Comment noted.

Comment V5: Labor standards must be applied. The city has an interest in ensuring fair labor standards are applicable in construction and new retail jobs. Contractors and subcontractors must be monitored to ensure these standards are met. Prevailing wages must be paid for jobs associated with this action. (11)

Response: Comment noted.

Comment V6: A density bonus for local businesses should be added (93), and locals should be hired for an additional FAR bonus. (12, 18)

Response: Comment noted.

Comment V7: We wish to build on a parcel of land on East 125th Street. This would be a Class A office building and will stimulate growth on East 125th Street. It will be built to LEED Silver standards, and we are requesting a height variance. This is due to the fact that there are significant clients who need additional space. This project will bring significant jobs (approximately 2300 permanent jobs, and 1500 construction jobs) to Harlem. (13, 23, 100). A number of new jobs, attractions, and benefits to the area would result from this rezoning. (30)

Response: Comment noted.

Comment V8: The maintenance and growth of tourism is an important element of this plan. It will also provide employment to local community members and enhance opportunities for local businesses. (15)

Response: Comment noted.

Comment V9: Developers should be negotiated with to provide space to local businesses. We need small businesses in this area of Harlem. (16)

Response: Comment noted.

Comment V10: Generally we are in favor of the proposal, but it needs some modification to provide opportunities to help local arts-based organizations. Support for arts organizations should come from the profits reaped by the developers. (17)

Response: Comment noted. See response to comment V3.

Comment V11: The Municipal Arts Society would like to urge that DCP further refine and define the qualifying arts and entertainment uses, including clauses that give preferential treatment to local non-profit and for-profit arts organizations. (20)

Response: Comment noted.

Comment V12: The Cotton Club should be maintained. This club is synonymous with Harlem culture. (21)

Response: Comment noted. The Cotton Club is not located within the rezoning area.

Comment V13: Development should not occur on 125th Street due to the location of the 125th Street fault line. (27, 58, 66)

Response: Comment noted.

Comment V14: LEED Silver standards should be mandatory for all new construction along 125th Street. (28)

Response: Comment noted.

Comment V15: HBA urges the development of green buildings across the 125th Street corridor. (52). Additional “green” buildings should be created as a result of this rezoning, and the city should offer tax incentives for their construction. (40)

Response: Comment noted. Green buildings, and development incentives to build them, fall outside the scope of the DEIS.

Comment V16: There is too much development in Harlem and Manhattan in general. (78)

Response: Comment noted.

Comment V17: A more appropriate plan should be crafted by the community and the City Planning Commission. (79)

Response: Comment noted. The DEIS analyzed the proposed action and five alternatives to the proposed action. In addition, please see response to comment U1.

Comment V18: The DEIS fails to conduct an appropriate environmental justice analysis pursuant to the DEC commissioner’s policy 29. Furthermore, alternative energy sources are not considered, nor are building design requirements that would increase energy conservation. (97)

Response: An environmental justice analysis is not required under the City Environmental Quality Review (CEQR) process, and therefore is not part of the 20 technical chapters included in the DEIS. A full assessment of socioeconomic conditions and impacts is included in Chapter 3.2, Socioeconomics. Considerations of alternative energy

sources and building design requirements also fall outside the scope of the DEIS.

Comment V19: We are asking for our property, located at 477 West 142nd Street, to be a part of the special district. (99)

Response: The Special 125th Street District only includes property located along the 125th Street corridor.

Comment V20: We believe that in order to promote development that is both responsible and sustainable, labor standards must be applied. This will ensure that livable wages are provided to construction workers. These wage requirements should apply to all permanent employees, whether they work under a contract or subcontract. The City should provide meaningful training and career opportunities for new workers and encourage the use of contractors and subcontractors which invest in a skilled, qualified and safe work force. (98)

Response: Comment noted.

Comment V21: To ensure that any hotels that are built in the area are not unreasonably disruptive to the surrounding neighborhood, a special permit should be required for any hotel, motel, or other such facility built on the area being rezoned. (98)

Response: The Department of City Planning believes that allowing hotels on an as-of-right basis within the special district would be consistent with the goals and objectives of the district.

Comment V22: We are wishing to build a 330-foot tall building at the corner of 125th Street and Park Avenue, and are requesting that the permitted height for the site be increased from 290 feet to 330 feet. We believe that this modest increase in height would be consistent with the overall goals of the rezoning. (100)

Response: The Department of City Planning is consulting with the applicant for the proposed building concerning the specific design requirements, and possible changes to the proposed rezoning that may be needed to facilitate them.

Comment V23: We are in support of Vornado Realty Trust's Harlem Park development on 125th Street and Park Avenue, and feel their height variance should be granted. (102, 103, 104, 105)

Response: Comment noted. See response to Comment V22 above.

Comment V24: We own property at 65, 77, and 79 East 125th Street. If the property is mapped within a C4-4D zone, we plan to develop a shopping mall with cultural attractions for tourists and amenities for residents. The owner of 69, 71, and 75 East 125th Street has expressed an interest in working with us. (30)

Response: **Comment noted.**

Comment V25: HBA recommends that a development fee on the approximately 8+ million square feet created by the new zoning be instituted. It would address the critical needs of the community impacted by the rezoning with the establishment of a community development bank which would collect and disburse community benefit funds. (52)

Response: **Requiring a development fee falls outside the scope of the DEIS.**

Comment V26: The plan should be retracted and made fair to the business owners of the community. (55)

Response: **Comment noted.**

V. Kingsgate

Comment V1: We wish to build a LEED Silver building at the northwest corner of 124th Street and 2nd Avenue. This site includes 10 tax lots, all of which are vacant. We wish to build a 7.2 FAR building, which includes an affordable housing bonus, with 92 affordable housing units out of 185 total units. This could not be built without rezoning action. Also, the proposed Second Avenue Subway would run directly below the site. An easement would be required if this subway is built, running below the Harlem River. The MTA has agreed to the proposed easement. (1, 2, 3)

Response: **Comment noted.**

Comment V2: The rezoning is a good option for Harlem, but there are not enough units of affordable housing for the current residents. Low-income and fixed-income families are not going to be protected. It is hard enough to find affordable housing, and I do not want to be displaced. (4)

Response: **According to the *CEQR Technical Manual*, direct residential displacement does not in and of itself represent a significant adverse impact. The DEIS concluded that the proposed actions would not cause a significant adverse direct business displacement impact because the displaced businesses are not found to have substantial economic value to the City or region, are not subject to publicly adopted plans to preserve, enhance, or protect them, and do not, individually or collectively, contribute substantially to neighborhood character.**

Comment V3: We think this is a good project, especially considering its environmental sustainability. The amendment to the urban renewal plan is appropriate for this project. (5)

Response: **Comment noted.**