

3.26 RESPONSES TO PUBLIC COMMENTS ON THE DRAFT SCOPE OF WORK AND DRAFT ENVIRONMENTAL IMPACT STATEMENT¹

INTRODUCTION

This chapter summarizes and responds to all substantive comments on the Draft Scope of Work (Draft Scope) and the Draft Environmental Impact Statement (DEIS) for the proposed Lower Concourse Rezoning and Related Actions made during the public review period. For the Draft Scope, these consist of comments spoken or submitted at the Draft Scope public meeting on June 19, 2008, as well as written comments that were accepted by the lead agency through the tenth day following the Draft Scoping meeting (June 30, 2008). For the DEIS, comments consist of spoken or written testimony submitted at the public hearing held by the New York City Planning Commission (CPC) on April 1, 2009, as well as written comments received during the public comment period, which closed on April 10, 2009. The DEIS hearing also considered comments on the project's Uniform Land Use Review Procedure (ULURP) application.

DRAFT SCOPE OF WORK COMMENTS AND RESPONSES

This section lists and responds to comments on the Draft Scope of Work (Draft Scope). The comments include those made during the public meeting, as well as written comments received through the close of the comment period. The organization and/or individual that made the comment is identified next to each comment.

Comments were received from the following individuals and organizations:

1. Paula Luria Caplan, Office of the Bronx Borough President (oral statement at public hearing)
2. New York State Senator Jose M. Serrano (oral statement at public hearing and written statement submitted June 19, 2008)
3. William Casari (oral statement at public hearing)
4. Ellen M. Pollan, Director, South Bronx Cultural Corridor, Bronx Council On The Arts (oral statement at public hearing and written statement dated June 23, 2008)
5. Leslie Lyga (oral statement at public hearing)
6. Linda Cunningham, Bronx Bricks LLC (oral statement at public hearing and written statement dated July 17, 2008)
7. Walter C. Houston (oral statement at public hearing)
8. Anthony Reid (oral statement at public hearing)
9. Nicholas Romano (oral statement at public hearing)
10. Bronx Borough President, Adolfo Carrion, Jr. (written statement dated June 19, 2008)
11. New York Industrial Retention Network (written statement dated June 26, 2008)

¹ This chapter is new to the FEIS.

Comment 1: Create the urban model of true mixed use zoning. (BCA)

Response: As described in the Draft Scope, the goals of the proposal are to create a transit-oriented mixed use community.

Comment 2: I question the proposed C4-4 district, as well as C6-2A on the Grand Concourse. I insist that the scope of services be amended to include the study of other commercial rezoning options, including comparative bulk scenarios. (BP)

Response: As noted in the Final Scope, an alternative proposal will be included in the DEIS that incorporates a C4-4D zoning district along the Grand Concourse. The Final Scope also states that rules will be proposed for the waterfront special district to preclude stand-alone retail uses except by City Planning Commission authorization. This potential for stand-alone retail uses in the proposed waterfront special district will be analyzed in the DEIS.

Comment 3: I question to proposal to rezone portions of four industrial blocks east of the core mixed use area, between 146th and 139th Streets from Canal Place to the east side of Rider Avenue, and the partial block north of 144th Street. (BP)

The proposal raises concerns in rezoning a M1-2 District into an MX Zone. This area lies east of the Grand Concourse between Canal Place and Rider Avenue from 139th to 144th Street, along with a smaller block north of that between the railways and Canal Place from 145th to 146th Street. Rezoning this area into an MX Zone is incompatible with the administration's overall vision of the area. (NYIRN)

Mixed-use designation could jeopardize over 230 jobs in the Canal Rider area. (BP)

Response: As described in the Draft Scope, the DEIS will assess whether the proposed project would result in significant adverse impact due to the direct displacement of these businesses. If significant, adverse socioeconomic impacts related to employment displacement are identified, the DEIS will discuss potential mitigation measures.

Comment 4: Expand scope of work for the EIS to include an analysis of ownership patterns, documenting numbers of business that are owner occupants or tenants, in the area in the Canal Rider area. (BP)

Response: The socioeconomic conditions analyses, as stated in the Draft Scope, will be done in accordance with the CEQR Technical Manual. Therefore the analyses will include a study of direct and indirect economic impacts to tenants, business owners, and property owners. In regards to "ownership patterns," that parameter is outside of the socioeconomic analysis guidelines of the CEQR Technical Manual and therefore will not be done for the DEIS.

Comment 5: The City should consider the impact on businesses that may be forced or pressured to relocate owing to resulting changes in real estate dynamics, in the absence of a relocation assistance program. (BP)

The M1-2 district in question rests in the Port Morris Ombudsman Zone, and sits northwest of an Industrial Business Zone. These existing designations indicate the City's recognition of the significance of manufacturing and business protection in the South Bronx. There are currently at least 95 manufacturing businesses in the Ombudsman Zone, 13 of which would be immediately affected by the proposed zoning. (NYIRN)

Further study on the impact of potential job displacement would help shed light on the negative effect that a rezoning could have on existing manufacturing industries, and the consequences on economic development opportunities in the Lower Concourse. (NYIRN)

Consider a "relocation assistance plan" for residents in substandard housing in addition to one for displaced businesses. (BCA)

Response: As stated in the Draft Scope, the DEIS will describe existing and proposed public policies that pertain to the project site and study area, including the Port Morris Industrial Ombudsman Area. The effect of the proposed action on employment and business displacement will be addressed in the Socioeconomic Conditions chapter of the DEIS. If significant, adverse socioeconomic impacts related to employment and business displacement are identified, the DEIS will discuss potential mitigation measures.

Comment 6: Potential competition with new redevelopment at the Hub should be considered. (BP)

Response: The socioeconomic conditions analyses, as stated in the Draft Scope, will be done in accordance with the CEQR Technical Manual. The projected retail is anticipated to be local in scale and cater largely to the new residents generated by the proposed action. The Hub is a regional retail destination and is unlikely to be affected by the proposed action. The Hub does fall partially within the study area for the socioeconomic analysis and will be considered in the context of regional retail in the area.

Comment 7: Question the vision of regional retail on the Concourse or the Harlem River waterfront. (BP)

Also a little concerned with the Pathmark on 125th Street or other large suburban-type developments. (Sen. Serrano)

The proposed rezoning also addresses the dearth of supermarkets in the neighborhood making provisions for greater developments of large grocery and food stores. This raises another concern of big box retail stores that are currently allowed in M1 zones without height and bulk limitations. (NYIRN)

Grocery stores - big boxes (will invade) the area and silence the treasure of local mom and pop retail that drives the economy. (BCA)

Response: As stated in the description of the proposed action found in the Draft Scope, new residential uses that would be realized with the proposed Lower Concourse rezoning will need complementary retail uses, including grocery stores, to meet the needs of new residents. Retail uses can also activate areas, such as the

waterfront, and make them more inviting to the public. The potential for retail development provides much-needed incentive to redevelop waterfront sites. The proposed waterfront special district, as described in the Final Scope, will include provisions to preclude the development of retail-only buildings except by City Planning Commission authorization (see response to Comment 2 above). The special district will also require design elements that will discourage typical “suburban type developments.” In other parts of the rezoning area, the special permit for Use Group 10A retail uses greater than 10,000 square feet will remain in effect in the MX and M1-4 and M1-2 zoning districts.

With regards to the concern of big box stores that are currently allowed in M1 zones without height and bulk limitations: The development scenario does not project any big-box retail in any M1 zone within the project area under the No-Action scenario. Existing sites are generally expected to develop into office space or into light manufacturing, including warehousing and self-storage under the No-Action scenario. Under the With-Action scenario, no large-format retail development is expected to occur. Food store development is expected to occur on three sites, ranging from 18,000 sq ft to 50,000 sq ft of total building area. This is still smaller than a typical suburban type supermarket.

Comment 8: The study should consider impacts on the arts community. (BP)
Need to maintain the kinds of arts initiatives that have actually brought everybody’s attention to the South Bronx. (Cunningham)

Response: In response to this comment, the socioeconomic analysis in the DEIS will consider the potential effects of the proposed action on the arts community. Also see response to Comment 10 below.

Comment 9: Inclusionary housing bonus should be available only where affordable units are located within the same development. (BP)
Inclusionary Zoning proposal should be restructured to insure a greater proportion of middle income and low middle income units (Cunningham)
Affordable units should be on same site as market rate units. (Cunningham)
Market is low and middle income. Develop for this market or nothing will happen. (Cunningham)

Response: The Inclusionary Housing Program is a citywide program with a consistent set of flexible rules targeted to low-, moderate-, and middle-income families and includes multiple options for the provision of affordable housing in order to maximize utilization of the program. These options include on-site construction (provided in the bonused development), or off site within ½ mile or within Community Board 1 either the preservation of existing affordable units or the construction of new units. As stated in the Draft Scope, a full discussion of the Inclusionary Housing Program will be part of the DEIS.

Comment 10: Install a preference for artists, teachers (Now low and middle income community members) (Cunningham)

It might be beneficial to have an arts council person request that housing, that there definitely be specific artist minimum housing in the neighborhood. (Pollan)

The proposal should include sustainable affordable artist housing, studio/work space and live/work space. Inclusionary bonus for 100% permanent affordability and creative financing. (BCA)

Response: The mixed-use zoning designation will allow the development of artist live-work space which is not allowed under the current industrial (M) zoning. The Inclusionary Housing Program is designed to provide housing based on income; artists and teachers may qualify based on income but preference is not provided to these professions. The Department of Housing, Preservation and Development requires a preference for current residents of the community district who meet the income requirements, which would give local residents preference in the assignment of the 50% of the affordable units. The Draft Scope states that an analysis of the socioeconomic conditions and impacts of the proposed actions including potential residential displacement will be conducted as part of the DEIS.

Comment 11: Consider a “relocation assistance plan” for residents in substandard housing in addition to one for displaced businesses. (BCA)

Response: As described in the Draft Scope, the DEIS will assess whether the proposed project would result in significant adverse impact due to the direct or indirect displacement of residents and businesses, and will consider whether the proposed actions could lead to significant indirect residential and business displacement. If significant adverse impacts on socioeconomic conditions are identified as part of the DEIS, then potential mitigation measures will be explored at that time.

Comment 12: Focus on streetscaping and improved pedestrian facilities, things like street trees. (Sen. Serrano)

Response: Pursuant to the *CEQR Technical Manual*, corners, crosswalks, and adjoining sidewalks in the study area will be evaluated adjacent to major sites in each development scenario and at intersections throughout the study area based upon pedestrian patterns to/from area subway stations. Also see response to Comment 13 below.

Comment 13: Street trees and parks – there are simply not enough of them now or evident in the plan as it appears today. (BCA)

Response: The proposed actions, as described in the Draft Scope, would require additional open space and plantings throughout the rezoning area. Contextual districts, which are proposed throughout the rezoning area, require that residential development or conversions provide and maintain street trees along the entire length of street frontage. The Waterfront Access Plan would require the development of a shore public walkway along the waterfront as well as upland connections which will include trees and other plantings. In addition, a 2.2-acre park is proposed on the waterfront. The DEIS, as stated in the Draft Scope, will describe and analyze existing

conditions of open space, parks and sidewalks throughout the study area. If significant adverse impacts are identified in the DEIS, potential mitigation measures will be explored at that time.

Comment 14: I have been trying to understand how the waterfront park will come to be. It appears that there are already funding sources in place for this. Normally a rezoning proposal doesn't necessarily contain funding to go along with it. It's a wonderful idea. My question is: Actually, how is that going to happen. (Cunningham)

Is there any way to make the park bigger? (Casari)

Park should follow the whole waterfront; promenade is an excellent idea. (Cunningham)

[Provide] Access to the waterfront. (BCA)

Response: It is anticipated that the NYC Department of Parks and Recreation would acquire the site following the park mapping action and develop it for park use. The project description has been revised in the Final Scope to clarify this point. The proposed action strives to balance the needs for open space and the needs for viable redevelopment parcels for the Lower Concourse area. As noted in the Draft Scope, the Waterfront Access Plan would require the development of public shore public walkway along the waterfront in addition to the proposed 2.2-acre park. The DEIS will fully describe the proposed Waterfront Access Plan as well as limitations to the provision of direct access to the water.

Comment 15: Developers would not build affordable units because they could already build 40 stories [along the waterfront]. (Cunningham)

Response: The Inclusionary Housing floor area ratio (FAR) bonus is only available if permanently affordable housing is provided. If developments do not provide affordable housing, a significantly lower FAR is available. The height restrictions on the waterfront are related to lot size and only two lots on the waterfront have enough area to allow a 40 story building. Without the Inclusionary Housing FAR bonus, the developments are unlikely to have enough FAR to achieve 40 stories. Also see response to Comment 16 below.

Comment 16: Revisit the height limits - remember the human scale. The height requirements are out of proportion with the horizon. The Padded Wagon Site is a potential development site and would be lower in height than is posited. (BCA)

Response: As stated in the Draft Scope, the DEIS will evaluate the potential for impacts on urban design in the rezoning area including along the waterfront. Heights along the waterfront, including the Padded Wagon site, are based on the lot size and will encourage a varied skyline to develop. The appropriateness of the scale in relationship to the shore public walkway and the development upland will be evaluated as part of the urban design analysis for the DEIS. The development scenario for the Padded Wagon site (Projected Development Site 3), as noted in the Draft Scope, has the site being developed under the proposed action with a base height of 60 to 85 feet and a tower height of 400 feet. The maximum height determined for this site and the other development sites along the waterfront were

formulated based on the relatively large lot sizes, to maximize water views, provide appropriate light and air, and to provide a conservative basis for the environmental review.

Comment 17: Waterfront land is a flood plain and should be used as park and recreation; push bulk to interior. (Cunningham)

Response: The potential for impacts to the flood plain and stormwater drainage, as noted in the Draft Scope, will be evaluated in the DEIS. If significant adverse impacts are identified in the DEIS, potential mitigation measures will be explored at that time.

Comment 18: Clean stations. Make bike paths a priority and create places to secure bikes. Think ferries, commuter rail express bus and safe pedestrian passage. (BCA)

Response: A complete transit analysis, as stated in the Draft Scope, will be performed in the DEIS pursuant to CEQR Technical Manual guidelines. This analysis includes determining whether existing bus and subway routes, and their frequency of service, would have the ability to accommodate the expected level of project-generated demand without overloading existing services. Cleaning the subway station is outside of the scope of the proposed action.

Comment 19: Asthma rates – stop trucks from free passage across the Bruckner service road to the Third Ave Bridge. Consider a fee for Road use. (BCA)

Response: As outlined in the Draft Scope, the DEIS will consider the potential impacts of the proposed action on air quality and public health. If significant adverse impacts are identified, the DEIS will explore potential mitigation measures.

Comment 20: Additional facilities for alternative modes of transportation such as cycling. We're even thinking of water transportation. (Sen Serrano)

Response: To ensure a reasonable conservative traffic analysis of the proposed actions no credit is being taken for alternative modes of transportation. As noted in the Draft Scope, a complete transit analysis will be performed in the DEIS pursuant to CEQR Technical Manual guidelines.

Comment 21: Is it possible to get a list of who you have met with on this issue in the city and in our borough? (Lyga)

Response: DCP has undertaken extensive public outreach as part of the South Bronx Initiative and independently focused on the proposal itself. A list of groups who participated in outreach for the South Bronx Initiative is available in the South Bronx Initiative Plan which is accessible via the Lower Concourse Public Outreach page on the DCP web site. DCP continues to meet with the Bronx Community Board 1 and its Land Use Committee, elected officials, local nonprofits, and property and business owners in the area.

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 organization and/or individual that made the comment is identified next to each comment. The first six 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. Jordan Most, Sheldon Lobel PC (oral statement at public hearing and written statement dated April 1, 2009)
2. Paula Luria Caplan, Office of the Bronx Borough President (oral statement at public hearing) Ms. Caplan's oral comments were an abridged version of the written comments submitted by the Acting Bronx Borough President (see commenter number 7 below).
3. Harry Bubbins, Friends of Brook Park (oral statement at public hearing and written statement dated April 1, 2009)
4. Jenna Breines, NYC Department of Housing Preservation and Development (oral statement at public hearing)
5. Amy Anderson, New York Industrial Retention Network (oral statement at public hearing and written statement dated April 1, 2009)
6. Davis Pantosa, Volunteer for Friends of Brook Park (oral statement at public hearing)
7. Acting Bronx Borough President Earl Brown, Office of the Bronx Borough President (written statement dated April 1, 2009)
8. Rodrigo Torres, RT Architecture P.C. (written statement dated April 6, 2009)
9. David Gmach, Consolidated Edison Company (written statement dated April 13, 2009)

Comment 1: We support this rezoning, but would like to include a property located at 142 Canal West in the proposed MX: M1-4/R7X rezoning area. (1)

Response: This request is contrary to the goals and objectives of the proposed action and therefore will not be analyzed in the FEIS. The property located at 142 Canal West is included in the rezoning proposal. It is proposed that this area (portions of three blocks located generally north of the Major Deegan Expressway, west of Park Avenue, south of East 138th Street, and east of Rider Avenue) would be rezoned from M2-1 to M1-4 to ensure that only light industrial uses and retail uses are allowed adjacent to proposed new residential areas. The area is proposed to remain zoned solely for manufacturing to support the concentration of jobs and active industrial uses in the area. The area is characterized by single-story and open air industrial uses such as storage and warehouses/distribution. Residential uses are not proposed in

this area due to its proximity to the Major Deegan Expressway and the elevated Metro-North Railroad tracks and to avoid conflicts with existing industrial uses.

Comment 2: I support the goals of the rezoning, but am concerned that rezoning four blocks between 146th and 139th Streets from Canal Place to the east side of Rider Avenue could threaten existing industrial businesses and jobs in the area. (2, 5, 7)

Response: These concerns are addressed in the Canal/Rider Retention Alternative to be included in the FEIS. Refer to Chapter 3.21, "Alternatives to the Proposed Action."

Comment 3: The inclusionary housing bonus of the Special Harlem River Waterfront District should be available only where affordable units are located within a development. (2, 4, 7)

Response: The flexibility of the Inclusionary Housing Program is critical to ensure maximum participation. The off-site development or preservation of existing affordable units is important to the program's flexibility. Requiring the affordable units to be on site would be inconsistent with the citywide Inclusionary Housing Program. Historically more than two-thirds of the affordable units are provided on-site. Financial incentives are available through the 421(a) financing program which encourage the on-site provision of the affordable housing.

Comment 4: The proposed rezoning area should be extended by 100 feet to the south along the Harlem River so that a park can be mapped along the waterfront at the end of Park Avenue (3, 6)

Response: This request has not been analyzed in the FEIS, as the open space analysis concluded the proposed action would not cause significant adverse open space impacts.

Additionally, it should be noted that the Department of Parks and Recreation is studying the feasibility of public access at the Park Avenue street-end although several constraints exist including a combined-sewer outflow, rail crossings and partial ownership of the site by the New York State Department of Transportation.

Comment 5: The removal of the as-of-right floor area limitation on food stores located within the M1-4 district could lead to other types of big box stores that are not allowed in a M1 district. A Special Permit should be required or a size limitation should be set to prohibit the development of big box retail, while still allowing for large food stores or supermarkets that are currently allowed as-of-right in M1 districts. (5)

Response: The projected retail under the proposed action and as analyzed in the DEIS is anticipated to be local in scale and cater largely to the new residents generated by the proposed action. A proposed alternative zoning text amendment, as described in the Canal/Rider Retention Alternative to be included in the FEIS (see Chapter 3.21, "Alternatives to the Proposed Action"), addresses this concern by allowing food stores up to 30,000 sf in M1-4 districts in the Bronx Community District

1. This change is consistent with an upcoming Citywide proposal on local supermarkets.

Comment 6: Our concern in the development of Projected Development Site 1 is that under the new zoning regulations, we would be required to have two entrances (one for each building) if two buildings were proposed for the site. It would be impossible to meet the requirement of locating the street wall of the development within five feet of the street line and extending it along the entire frontage of the zoning lot due to the sewer easement that runs east-west at the north end of the site and an easement on the east side of the lot for the Major Deegan Expressway. The proposed zoning text should be more flexible in the location of the two permitted towers. In this particular case, the requirement of locating all off-street parking spaces within facilities could be adjusted to accommodate the Major Deegan Expressway easement and allowing parking lots under the Major Deegan Expressway. (8)

Response: The CPC is actively considering modifications to address the site constraints identified by the architect to allow more flexibility in the design of the site. These modifications would not change the overall goals or objectives of the proposal or development of the waterfront area. These modifications are addressed in the Canal/Rider Retention Alternative to be included in the FEIS (see Chapter 3.21, "Alternatives to the Proposed Action").

Comment 7: We support the goals of the rezoning, but are concerned that the proposed rezoning of a waterfront property located on Block 2349, Lot 15 (Projected Development Site 4) will result in the loss of useable lot area and as-of-right uses on the site. We request that the rezoning permits the as-of-right construction and operation of the proposed Con Edison Exterior Street Service Center. The proposed rezoning would prohibit use of the site for most utility purposes other than the current public utility parking and storage uses. (9)

Response: The CPC is actively considering making modifications to the zoning text to allow more flexibility in the development of their site. These modifications are addressed in the Canal/Rider Retention Alternative to be included in the FEIS (see Chapter 3.21, "Alternatives to the Proposed Action").