

Zoning for Coastal Flood Resiliency

Chapter 27: Response to Comments¹

A. INTRODUCTION

This chapter summarizes and responds to all substantive oral and written comments on the Draft Environmental Impact Statement (DEIS) received for the proposed Zoning for Coastal Flood Resiliency text amendment (the “Proposed Action”) during the DEIS public comment period. These consist of comments made at the public hearing held by the New York City Planning Commission (CPC), and written comments submitted to the New York City Department of City Planning (DCP). The public hearing on the DEIS was held on Wednesday, February 3rd, 2021 virtually via the NYC Engage Portal. The comment period for the DEIS remained opened through Tuesday, February 16th, 2021.

Section B lists the elected officials, community boards, organizations, and individuals who provided comments relevant to the DEIS. The organization and/or individual that commented are identified for each comment in the following section (Sections C and D). These summaries convey the substance of the comments but may not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the DEIS. Where more than one commenter expressed a similar view, the comments have been grouped and addressed together. Written comments on the DEIS are included in **Appendix F** of the FEIS.

B. LIST OF ELECTED OFFICIALS, ORGANIZATIONS, AND INDIVIDUALS THAT COMMENTED ON THE DEIS

Elected Officials

1. Connor Allerton, on behalf of Manhattan Borough President Gale Brewer; oral statement at public hearing.

Organizations and Interested Public

2. Community Board 12-Manhattan, Land Use Committee; written comments dated June 5, 2019² and January 29, 2021.
3. John Baker, Center for New York City Neighborhoods; oral statement at public hearing.
4. Robert Fanuzzi, Bronx Council for Environmental Quality; oral statement at public hearing and written comments dated February 3, 2021.
5. Robert Freudenberg, Regional Plan Association; oral statement at public hearing and written comments dated February 3, 2021.
6. Jessica Katz, Citizens Housing and Planning Council; oral statement at public hearing.
7. Elizabeth Malone, Neighborhood Housing Services of Brooklyn CDC, Inc.; written comments dated January 29, 2021.

¹This chapter is new to the FEIS.

²These comments were in response to the ZCFR Draft Scope of Work (DSOW), published May 10, 2019.

8. Sherida Paulsen, Riverdale Nature Preservancy; oral statement at public hearing and written comments dated February 3, 2021.
9. Thad Pawlowski, Columbia University Center for Resilient Cities and Landscapes; oral statement at public hearing.
10. Leonel Lima Ponce and Daniel Horn, Operation Resilient Living and Innovation, Plus; written comments dated February 16, 2021.
11. Laurie Schoeman, Enterprise Community Partners; oral statement at public hearing.
12. Alia Soomro, Municipal Art Society; oral statement at public hearing and written comments dated February 16, 2021.
13. Alexandros Washburn, Resilient Red Hook Committee; oral statement at public hearing and written comments dated February 4, 2021.
14. Eric Wilson, Mayor's Office of Resiliency; oral statement at public hearing.
15. Cortney Worrall, Waterfront Alliance; oral statement at public hearing.

C. COMMENTS AND RESPONSES ON THE DEIS

Chapter 1: Project Description

Comment 1.1: Why would DCP want to preempt the work of FEMA? We feel that this is a little bit ahead of the game in the sense that we are jumping the FEMA new science. In 2013, the City passed an emergency amendment to the zoning resolution in the wake of Hurricane Sandy that would stay in effect until FEMA issued its new maps in 2021. Those promise broader flood frequencies than the coastal flooding incorporated into this document, the one to 0.2% catastrophic storm percentage FEMA itself is promising of greater frequency. But DCP is forging ahead with maps created from the city's own scientific community, and has adopted FEMA insurance rates from 2007, pre-Sandy. Would it not be preferable to develop a zoning resolution conditioned by and built around the most recent FEMA science and mapping metrics, which include "broader flood frequencies" than the 1% and 0.2% catastrophic storm percentages adopted for ZCFR? Why are we rushing this through now – especially when our city is in the midst of a pandemic and Hurricane Sandy-era emergency resolutions are still in effect? We believe that because the unique topography of New York City connects the impacts of catastrophic storm surges and coastal flooding within the 2013 delineated floodplain area to other catchment neighborhoods historically vulnerable to flooding, ZCFR should aim toward the integration of flood policies using the upcoming FEMA measure of "broader flood frequencies."

At one point, the document states that the project area of the Proposed Action "would be applicable to all lots located wholly or partially within both the current 1% and 0.2% annual chance floodplains... However, to help the city prepare for or respond to other disasters, select provisions in the Proposed Action would be applicable throughout the city." It is vital that the DEIS clarify the applicability of the zoning text in order to calculate impacts of any Proposed Action. (#4)

Response 1.1: As detailed on page 1-1 of EIS Chapter 1, "Project Description," the Proposed Action would be applicable to all lots located wholly or partially within both the current 1% and 0.2% annual chance floodplains (the latter serving as a proxy for the projected 2050s 1% annual chance floodplain). As indicated on page 1-6 of the "Project Description" chapter in the EIS, the applicable area would be automatically

updated when maps or map data reflecting new flood risks are adopted in the New York City Building Code. This contrasts with the 2013 Flood Text and 2015 Recovery Text, which have a more limited geography as they only apply to buildings located wholly or partly within the 1% annual chance floodplain. DCP is proposing the zoning text amendment to update the Special Regulations Applying in Flood Hazard Areas (Article VI, Chapter 4) of the New York City Zoning Resolution (ZR), which includes the “Flood Resilience Zoning Text” (the “2013 Flood Text”) and “Special Regulations for Neighborhood Recovery” (the “2015 Recovery Text”). These temporary zoning rules were adopted on an emergency basis to remove zoning barriers that were hindering the reconstruction and retrofitting of buildings affected by Hurricane Sandy and to help ensure that new construction would be more resilient. The 2013 Flood Text provisions will expire with the adoption of new and final Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), which is anticipated to occur within the next few years. Applicability of the 2015 Recovery Text expired in July 2020. If these rules are not made permanent, it would limit the ability of owners to protect existing vulnerable buildings from flooding and disincentivize more resilient construction in the floodplain.

As indicated on page 1-1 of the “Project Description” chapter in the EIS, DCP’s proposed citywide zoning text amendment, “Zoning for Coastal Flood Resiliency” (ZCFR, or the Proposed Action) improves upon and makes permanent the relevant provisions of the existing temporary zoning rules of the 2013 Flood Text and 2015 Recovery Text. The Proposed Action also includes updates to other sections of the ZR, including the Special Regulations Applying in the Waterfront Area (Article VI, Chapter 2) and provisions within various Special Purpose Districts. To help the City prepare for or respond to other disasters, select provisions in the Proposed Action regarding power system and other mechanical equipment, ramps and lifts, vulnerable populations, and disaster recovery rules, would be applicable citywide.

Comment 1.2: Flood maps and sea level rise projections used as a baseline and benchmarks for the Zoning Resolution text amendment must be precautionary and regularly reviewed. The proposed text changes reference 90th percentile 2050 NPCC projections as the benchmark for establishing 1% and 0.2% annual chance floodplains. We believe this definition does not accurately reflect the increased mid- and long-term cumulative risks posed by sea level rise and storms of increased frequency and strength, and recommend that more aggressive and long term projections such as the NPCC 2080 90th percentile projections be used to determine lots affected by these rule changes. This will still allow flexibility in implementation in lower-risk areas in the 0.2% floodplain, but ensure that long term climate resilience is codified. Further adaptability of baseline projections must be considered to provide the adequate redundancy necessary to react to ever-changing hazards. A mechanism for regular review and update of climate change projections must be incorporated into the zoning text. (#10)

While we think it is wise for DCP to include properties in the 500-year floodplain in this proposal, we do not agree with the DEIS reliance on the New York City Panel on Climate Change (NPCC)’s high-range sea level rise projections for the 2050s as its actionable data to inform this proposal – a mere 30 years from now. In their most recent report in 2019, the NPCC provided estimates for sea level rise in New York City by taking into account different climate change scenarios and inputs to arrive at high- and low-range sea level rise projections for the 2020s, 2050s, 2080s, and 2100.

In comparison, the Boston Planning & Development Agency is currently developing new Coastal Flood Resilience Overlay District and related zoning regulation updates to areas of the city that are expected to be flooded with a 1% chance storm even in 2070 with 40 inches of sea level rise. Like ZCFR, this Resilience Overlay District is currently in public review. With 520 miles of waterfront to protect, New York should use the most aggressive projections. At the very least, we urge DCP to use projections into the 2080s, given the vast scale of potential climate change impacts, including sea level rise and the previous impacts of Hurricane Sandy. (#12)

Response 1.2: As detailed on page 1-7 of EIS Chapter 1, “Project Description,” to supplement and inform future flood risk, the City relies on the findings of NPCC, a group of scientists and private sector experts that provides climate change projections for the city. The City conservatively uses the NPCC’s high-range sea level rise projections for the 2050s as its actionable data to inform land use and capital planning considerations, including the Proposed Action. The high-end projections for the 2050s are roughly equivalent to the mid-range projections (the likely rate of sea level rise) in the 2080s and 2100s. Employing this standard helps to ensure a high degree of safety and resiliency for buildings throughout their full life cycles. Moreover, it should be noted that these projections are not a fixed number, but rather a large range, particularly beyond the 2050s. The City continues to monitor the NPCC’s projections as they evolve over time because the science and underlying data are not static and will continue to advance.

As indicated on page 1-7 of the “Project Description” chapter in the EIS, based on data provided by the NPCC, the 1% annual chance floodplain is projected to cover one-quarter of the city’s total landmass by the 2050s. The 1% annual chance floodplain for the 2050s is based on the FEMA’s Preliminary FIRMs (PFIRMs) and the NPCC’s 90th Percentile Projection for Sea Level Rise (30 inches). As shown in Figure 1-4 in Chapter 1, “Project Description,” this area closely overlaps today’s 0.2% annual chance floodplain. The Proposed Action would be applicable to all lots located wholly or partially within both the current 1% and 0.2% annual chance floodplains. The applicable area would be automatically updated when maps or map data reflecting new flood risks are adopted in the New York City Building Code. As indicated on page 1-6 of the “Project Description” chapter in the EIS, the City believes that the 0.2% annual chance floodplain geography is a valid proxy for the projected 1% annual chance floodplain in the 2050s and that this geographic expansion is a sensible precautionary approach that would allow the City to proactively adapt to future flood risk. Eligibility within these two geographies would be determined at the time of a building permit application.

Comment 1.3: Do not limit flood resiliency zoning regulations to coastal sites. Flood resiliency zoning regulations should also apply to inland sites that are susceptible to flooding in instances of heavy precipitation.

Coordinate the flood resiliency zoning regulations and Building Code with any flood zone maps used in connection therewith to ensure that topography is accurately reflected and considered, e.g. a sloping coastal site/zoning lot may only partially be subject to flooding.

Establish expiration dates on flood risk assessments using the worst-case scenario, i.e. the most pessimistic forecast, in assessing flood risks. Update flood risk forecast and applicable zoning regulations on a regular cycle, not more than every 10 years. (#2)

Response 1.3: ZCFR’s goal is to enable buildings to better withstand flooding from large but infrequent coastal storms, like Hurricane Sandy. As such, the Proposed Action is not

limited to the 100 year flood zone but would also apply to the 500 year flood zone, which captures a greater number of inland sites, as illustrated in Figure 1-1 of EIS Chapter 1, “Project Description.” As also detailed in the responses to Comments 1.1 and 1.2 above, and as indicated on page 1-6 of the “Project Description” chapter in the EIS, the applicable area for the Proposed Action would be automatically updated when maps or map data reflecting new flood risks are adopted in the New York City Building Code, and eligibility within the 1% and 0.2% annual chance floodplains would be determined at the time of a building permit application.

Comment 1.4: Identifying impacts as no “significant change in the overall amount, type, or location of development” is wrong. There are more to impacts than construction development; the purpose of a DEIS is to protect the environment from adverse avoidable impacts or identify mitigation, where necessary. Instead of making it easier to read, the document makes statements with three negatives, like: “The Proposed Action is not expected to induce development where it would not have occurred absent the Proposed Action;” when it would suffice to say the Proposed Action is not expected to impact construction development. If we cannot tell what the Proposed Action is, it is difficult to determine if there would be an impact to the environment, or how big the impact would be, or even how it could be mitigated. We need to understand what the Proposed Action is, and that is not explained. This makes the DEIS inadequate. A generic statement that the Proposed Action will not induce further development is made more unreliable by the failure of the DEIS to document the basis for this finding, the percentage of built and unbuilt lots in the floodplain. Without quantifying the percentage of built and unbuilt lots within the floodplain, the DEIS cannot reach a quantifiable conclusion as to whether the Proposed Action will have development impacts. (#4)

Response 1.4: Please see response to Comment 1.1 above, explaining the components of the Proposed Action. Additionally, as detailed further in Section F: Analysis Framework (page 1-27) in EIS Chapter 1, “Project Description,” although the Proposed Action may allow developments and existing buildings to retrofit to meet resilient standards, the overall amount, type, and location of construction within the affected area is not anticipated to change. The Proposed Action is not expected to alter the rate of construction in the floodplain, which is controlled primarily by local real estate conditions. The Proposed Action is not modifying density regulations or the maximum Floor Area Ratio (FAR) allowed within zoning districts, since its purpose is to generally support planned density by providing flexibility in zoning for building owners to upgrade their buildings to limit damage from coastal flooding.

Additionally, the percentages of built and vacant lots within the city’s floodplains are provided on page 1-3 of EIS Chapter 1, “Project Description.” As detailed therein, approximately 10 percent of non-parkland lots in the 1% annual chance floodplain and approximately three percent of non-parkland lots in the 0.2% annual chance floodplain are currently vacant.

Comment 1.5: The NPCC 2019 Report warns of things to come, which the City should recognize with a complete plan that protects the coast from sea level rise, storm surge and high winds. The NPCC discussion focuses more on the shorefront than on new buildings or existing strengthening. The 2019 Report conclusion concerning coastal flooding, mapping risks, and community adaptations and equities also differ from the Proposed Action. Among the 2019 Report’s policy recommendations is a clear and simple statement: “Since it may not be possible to protect all shorelines from extreme coastal floods and sea level rise, NYC should continue to explore a wide range of structural and nonstructural risk reduction approaches, including paradigm-shifting concepts such as strategic relocation programs on

floodplains and densification on high ground.” This scientific recommendation is in direct conflict with a segmented hardening of floodplain homes, buildings and industry that is in the DEIS purpose and need. This direct conflict is stated “...there are other issues that need to be addressed to ensure that the zoning regulations applicable in the floodplain allow for all types of buildings in neighborhoods across the city to be resilient in the long term... These uses will therefore have to explore incremental resiliency improvements and creative solutions to increase the building’s safety over time.” The NPCC Report encourages community participation in developing strategies. Moreover, New York City Comptroller Scot Stringer’s recent report (May 2019) reiterates similar concerns.

By continuing its rampant destruction of the floodplains since 2014, instead of halting the actions, City agencies promoted building in the flood zone without reasonable environmental mitigation. Including 100-story buildings along the East River, almost every inch of the waterfront is being developed, with a hard-edged revetment, or hybrid but not one full living shoreline. Not only that, but this has increased stormwater runoff to the water bodies permitted by the New York State Department of Environmental Conservation (NYSDEC). This increases the water quantity in those waterbodies. The DEIS looks at a city absent all the policies and developments that have made the city more vulnerable to floods and its waterbodies more vulnerable to environmental contamination and concludes that increasing hardscape along the waterfront will have no impact. The DEIS devotes one paragraph (EIS Chapter 1, “Project Description,” page 1-23) to a paltry allowance for natural shorelines, 7 feet along 30 percent of the built shoreline. (#4)

Response 1.5: As discussed on pages 1-2 and 1-8 in EIS Chapter 1, “Project Description,” the Proposed Action would occur in conjunction with current and future coastal protection strategies and infrastructure improvements by the City and other state and federal agencies. These include geographic-specific climate adaptation measures identified in the City’s *Lower Manhattan Climate Resiliency Study* (March 2019), the *East Side Coastal Resiliency Project* projected to be completed by 2023; and the *South Shore of Staten Island Hurricane and Storm Damage Reduction Project* initiated by the U.S. Army Corps of Engineers in 2017. Examples of such measures include floodwalls and deployable flip-up barriers to protect upland areas from storm surges.

The Proposed Action is just one element of a broader set of measures being pursued by the City and others that collectively will address future flood risk and sea level rise, including investments in infrastructure and preparedness planning. The Proposed Action would complement such measures.

As detailed on page 1-5 of the “Project Description” chapter of the EIS, with such as vast and populous area subject to varied risks of flooding, it is evident that the city cannot simply retreat from the entire shoreline. Therefore, the City’s local land use policies across the 1% and 0.2% annual chance floodplains vary based on the degree of flood risk that exists in different parts of the city. As an example, in 2017, the City established Special Coastal Risk Districts in Broad Channel and Hamilton Beach, Queens to limit future density in these areas due to their exceptional vulnerability to coastal storms and projected daily tidal flooding due to sea level rise. On a citywide level, the City’s land use strategy has aimed to maintain prevailing land uses and the planned density across neighborhoods in the floodplain while encouraging buildings and neighborhoods of all types to become resilient in the long-term.

The Proposed Action is a zoning text amendment, an action under the jurisdiction of the CPC. As such, it concerns the regulation of use, bulk, and other elements that are controlled by zoning. It does not preclude coastal protection strategies and in fact is intended to be complementary to concurrent and future actions by other agencies.

DCP is working in consultation with other City, state, and federal agencies to coordinate policies and projects, with the respective responsible entity taking the lead for the activities under its jurisdiction. Those actions by others are subject to their own public review and approval processes as they involve other funding sources and decision-makers and are in their nature different from a change in zoning regulations. Measures such as coastal protection infrastructure or raising streets will have different timetables given their complexity and cost. In the meantime, this application is being advanced mindful of the impending expiration of the temporary 2013 Flood Text and the expiration of the 2015 Recovery Text. The Proposed Action would be applied to areas based on the floodplain designations, grades, and base flood elevations in place at the time building permits are sought for a given site. The proposed zoning regulations would also provide greater flexibility to existing buildings seeking to increase their resiliency following changes in floodplain designation or base flood elevations, than would occur if the Proposed Action is not adopted. As such, the Proposed Action provides flexibility to accommodate changes in conditions such as coastal protection strategies, sea level rise, and any other information considered by FEMA that would result in revisions to the geographic scope of floodplain designations and base flood elevations.

Comment 1.6: The ZCFR project description says: (1) It is an update to the 2013 Zoning Flood Text, despite the fact that it is still in effect, and will be until one year after FEMA finalizes its new maps. (2) It includes an update to the expired 2015 Recovery Text even though it only applies to selected Brooklyn, Queens and Staten Island community boards impacted and destroyed by Hurricane Sandy. (3) The last section concerns granting emergency powers for events like COVID-19 to the Mayor and City agencies such as the Board of Standards and Appeals (BSA) and the Department of Buildings (DOB); this even though existing emergency powers are sufficient and the pandemic is not finished. Is ZCFR a coastal flooding zoning resolution or an emergency management policy? A description should include more details – the who, what, when, where and how. (#4)

Response 1.6: Please see response to Comment 1.1 above. As described on page 1-8 of EIS Chapter 1, “Project Description,” the city’s experiences recovering from Hurricane Sandy and the current COVID-19 pandemic make it clear that zoning should include rules that can help facilitate long-term disaster recovery. While the storm highlighted the need for provisions that make it easier to reconstruct damaged buildings after a disaster like a hurricane, there is also a need for zoning regulations to address the associated economic effects from disasters like the pandemic, even if they do not cause physical damage. All rules should be able to be made applicable quickly after a disaster strikes the city, as with the COVID-19 pandemic, but should last no longer than necessary to facilitate the recovery. These regulations under the “Disaster Recovery Rules” section of EIS Chapter 1 (page 1-26) were drawn from the 2015 Recovery Text and the Emergency Executive Orders that have been issued to address the pandemic. It should be noted that pending an ongoing emergency, mayoral and state executive orders would nevertheless remain in effect under the Proposed Action.

As discussed in the response to Comment 23 below, the purpose of the Proposed Action is to generally support planned density by providing flexibility in zoning for building owners to upgrade their buildings to limit damage from coastal flooding. The proposed regulations are not modifying the maximum FAR allowed within zoning districts. The very limited floor area exemptions proposed are modifications to regulations that have existed since 1989, as explained within “The City’s Regulatory Framework in the Floodplain” section of EIS Chapter 1 (page 1-4). These exemptions

are necessary to accommodate flood-resistant construction requirements located within Appendix G of the NYC Building Code, which limits what kind of uses can be placed within wet-floodproofed spaces and requires active uses to be dry-floodproofed when located below the design flood elevation (DFE). These exemptions also incentivize internal access to be located at grade, and reduce the potential for blank walls or inactive spaces at the street level.

Comment 1.7: Our goal in achieving resilience is to maintain a lively street, and that requires ground floor uses other than parking, so our overall message, please make dry-floodproof uses easier. Requiring professionals, the regulations are complex and when applied to small rowhouse lots, they require hiring an engineer or lawyer to evaluate and expedite. This added cost may make small homeowner improvements impossible, we fear and we hope it can be addressed through the programs perhaps mentioned earlier. For example, BSA for a doctor's office? Having the ability to dry-floodproof a professional office on the ground floor is good, but why does it require further approval? Could this be made as-of-right; could these be streamlined and removed from regulations that might be over-specific, given the scale of the intervention? Two other examples of this are in the dry-floodproof credit. Why is 13 feet tall for a first floor a requirement; how many rowhouses actually have that? Similarly, why a 30-foot depth limit for the use? Existing rowhouses, especially, have different depths and the entire ground floor should be eligible. So please consider in these specific cases, how we can streamline or perhaps even remove some of these over-specific regulations, and therefore broaden the eligibility and make slightly easier, especially at the scale of a single homeowner, to make these resilient improvements. (#13)

Response 1.7: ZCFR utilized Appendix G requirements as the standard for designing the zoning rules, so they encourage further compliance with Appendix G.

As discussed on page 1-20 of EIS Chapter 1, "Project Description," the BSA Ground Floor Use Special Permit (a new discretionary action to permit ground floor offices in Residence Districts) will help encourage dry-floodproofing and benefit the streetscape in these areas where such uses are appropriate. Since office uses (Use Group 6B) are not permitted within Residence Districts, which vary across the floodplain, the Proposed Action included this provision as a BSA Special Permit so conditions focused on ensuring that the use fits into its residential context can be assessed.

As described on page 1-13 of EIS Chapter 1, "Project Description," the floor area exemption for dry-floodproofed spaces would only be available for the first 30 horizontal feet of the non-residential floor space as measured from the street wall of the building, since this is the most critical space for maintaining retail continuity. It does not preclude uses from going deeper than 30 feet. This reduced floor area exemption was designed as a response to community feedback that the large size of the existing floor area exemption located within the 2013 Flood Text led to out-of-scale development on small lots. (The 13 feet tall first floor requirement is only applicable to new development).

Chapter 2: Land Use, Zoning, & Public Policy

Comment 2.1: We support that this proposal limits new land uses that house vulnerable populations such as nursing homes in high-risk areas of the floodplain. In addition to prohibiting new nursing homes and restricting the enlargement of existing nursing homes within the 1% chance floodplain, the proposal must further restrict other vulnerable uses in the floodplain. We agree with Manhattan Community Board 1 and Manhattan Borough President Brewer in

recommending that other new buildings housing vulnerable populations, such as hospitals, be restricted from building in the floodplain. For instance, this proposal should incorporate the same language used in the City's Special Coastal Risk Districts limiting community facilities with sleeping accommodations into this citywide text amendment. If this proposal is intended to thoroughly limit populations from future sea level rise and coastal flooding harms, MAS believes that this proposal must be strengthened by limiting other types of land uses. (#12)

Response 2.1: Comment noted. As indicated on page 1-25 of the "Project Description" chapter in the EIS, ZCFR restricts new nursing homes and the enlargement of existing nursing homes within in 1% annual chance floodplain, as the process of moving those in nursing care oftentimes results in significant health issues from the process of being moved. It is expected that other categories of vulnerable populations, where people are still relatively independent in their living situations, would be able to either safely shelter in place if in a resilient building, or be able to undergo the process of evacuation safely and efficiently.

Comment 2.2: From raising the alarm about unregulated structural voids to gerrymandered zoning lots, MAS has been a stalwart advocate for closing zoning loopholes. It is from this perspective we express concern about the potential for the FAR exemptions and extra height allowances to lead to out-of-scale buildings in vulnerable and dense areas, such as Lower Manhattan. We echo Manhattan Community Board 1 and Manhattan Borough President Brewer in urging DCP to consider the following. Within special zoning districts, DCP should require a special permit approval from CPC for any new building that utilizes this text amendment, with proper notification to and review from relevant Community Boards and Borough Presidents. (#12)

Response 2.2: Floodplain regulations have been in place since 1989, and were updated in the 2013 and 2015 zoning text amendments. As detailed on page 2-40 of EIS Chapter 2, "Land Use, Zoning, & Public Policy," while special districts respond to a range of locally-specific conditions, the coastal flood risk condition that provides the rationale for the proposed changes also exists in special districts, just as it does outside of them. Therefore, the 2013 Flood Text already applied its rules to special districts within the 1% annual chance floodplain. ZCFR would continue this framework, allowing the optional provisions to modify regulations applicable in all areas within any special district that geographically overlap with the 1% and 0.2% annual chance floodplains, consistent with how the current rules apply. This would allow buildings in the floodplain to have a consistent set of regulations for resiliency, ensuring that resilient strategies are not hindered by zoning rules. In addition, the proposal includes several provisions that focus on encouraging resilient designs that also contribute to the city's streetscape, ultimately reinforcing special districts' goals: to ensure the vibrancy of the city's streets and neighborhoods. Select provisions in these special purpose districts would be modified to align with the Proposed Action's ground floor use, street wall, and building envelope regulations, as well as the proposed streetscape rules. ZCFR will therefore complement such goals, ensuring that resilient buildings do not negatively impact the public realm.

Comment 2.3: It is critical that this proposal clearly articulates how it will fit with other City and state waterfront and resiliency planning efforts in order to achieve long-term, comprehensive protection. In addition to assessing this proposal for consistency with the policies of New York City's Waterfront Revitalization Program (WRP), the FEIS must evaluate how this proposal will align with the City's current and future Comprehensive Waterfront Plan,

which has been extended until June 2021. Ideally, these plans should be coordinated to improve resiliency and flood protection in coastal areas in the long term. Lastly, the FEIS must be transparent and account for how this proposal will respond to the adoption of new and final FEMA FIRMs, which are expected to occur within the next few years. (#12)

Response 2.3: Please see the responses to Comments 1.1 and 1.5 above. The Proposed Action would occur in conjunction with current and future coastal protection strategies and infrastructure improvements by the City and other state and federal agencies. Additionally, as indicated on page 1-6 of the “Project Description” chapter in the EIS, the Proposed Action’s applicable area would be automatically updated when maps or map data reflecting new flood risks (i.e., the new and final FEMA FIRMs) are adopted in the New York City Building Code.

The Proposed Action is assessed for its consistency with the policies of the WRP on pages 2-31 to 2-39 of EIS Chapter 2, “Land Use, Zoning, & Public Policy.” As detailed therein, the WRP incorporates waterfront policies in a manner consistent with the goals set forth in *Vision 2020: The New York City Comprehensive Plan* (2011). Moreover, a forthcoming updated Comprehensive Waterfront Plan currently being developed by the City will substantively address coastal flood resiliency at multiple levels, including building scale and shoreline measures. This multi-layered approach was outlined in the 2011 Comprehensive Waterfront Plan, *Vision 2020*, and is expected to be a significant component of the new Comprehensive Waterfront Plan. Specifically, the new Comprehensive Waterfront Plan will lay out a framework for coastal flood resiliency that is informed by other citywide initiatives and land use planning strategies such as the present one.

Comment 2.4: RNP appreciates that the majority of the flood zone areas are not built up areas of Special Natural Area Districts (SNAD). In Bronx CB8, however, it should be clarified that the requirements to preserve natural features, including trees, plantings, rock outcroppings and steep slopes are directly related to limiting construction in zones that are subject to flooding. The provisions of the Flood Zone text should not override SNAD requirements other than to allow for flexibility in building height related to floodplains if rebuilding is subject to FEMA insurance regulations. (#8)

Comment 2.4: Comment noted. Please see response to Comment 2.2 above. As detailed on page 2-40 of EIS Chapter 2, “Land Use, Zoning, & Public Policy,” while special districts cater to a range of locally-specific conditions, the coastal flood risk condition that provides the rationale for the proposed changes also exists in special districts, just as it does outside of them. The 2013 Flood Text allowed the optional provisions in the 1% annual chance floodplain to supersede their special regulations and further modified select special purpose districts rules that overlap with the floodplain; ZCFR would continue to allow the optional provisions to supersede regulations applicable in all areas within any special district that geographically overlap with the 1% and 0.2% annual chance floodplains, including Special Natural Area Districts. Additionally, select provisions in special districts would be modified to align with the Proposed Action’s ground floor use, street wall, and building envelope regulations, as well as the proposed streetscape rules. This would allow all buildings in the floodplain to have a consistent zoning framework for resiliency.

Chapter 3: Socioeconomic Conditions

Comment 3.1: The DEIS did not evaluate the impact of non-coastal stormwater flooding on the people who actually live in the floodplains. According to *Rebuild by Design*, 50% of the population in or adjacent to the floodplain are non-white and 56% of the floodplain residents are low income, defined as making less than \$75,000 per year for a family of 3. In other words, most of the people who live in the floodplains are non-white or low income. Without documenting the economic impact of homeowners or creating stop-gap funding policies, ZCFR does not contribute to equity in our city. (#4)

Response 3.1: The potential impacts of the Proposed Action on the socioeconomic character within and surrounding the proposed rezoning area were evaluated in Chapter 3 of the DEIS, “Socioeconomic Conditions.” As detailed on page 3-2, pursuant to CEQR Technical Manual guidance, the Proposed Action would not result in any significant adverse impacts related to socioeconomic conditions. The Proposed Action is not expected to induce new development. No existing residential uses or residents, businesses or institutional uses would be displaced as a result of the Proposed Action. Additionally, the Proposed Action would not generate new residential dwelling units or residents, or result in substantial new development that is markedly different from existing uses and development. Therefore, it is unlikely that the Proposed Action would introduce a new trend or population that could alter existing economic patterns, or result in significant indirect residential or business displacement due to increased rents. Although stop-gap funding is beyond the scope of CEQR/SEQR review, the Proposed Action does not mandate the retrofitting of existing residential buildings.

Chapter 7: Historic & Cultural Resources

Comment 7.1: Manhattan is home to an array of historic districts and special zoning districts, each with its own regulations regarding height, bulk, streetwall design, and other elements of the built environment. These districts are very intentional in their zoning restrictions and allowances and this text amendment will take precedence over many regulations that protect these districts. I’m concerned that this change could compromise the character of these districts in the physical changes brought about by new construction. It’s in the best interest of the city to implement measures to explicitly protect and preserve these districts as they exist. (#1)

There are many areas in the city where the floodplain overlaps with historic districts. Therefore, ZCFR must consider how the various retrofit options will work in tandem with the historical context of these areas. We join Manhattan Community Board 1, Borough President Brewer, and others in asserting that the amendment must be strengthened to take into consideration floodplain properties within historic districts. To accomplish this, DCP must work closely with the Landmarks Preservation Commission (LPC) to develop contextual resiliency strategies. We also echo Borough President Brewer’s recommendation that DCP require special permit approval from the CPC for any building within a historic district that utilizes this amendment, in addition to LPC approval. Moreover, to ensure a transparent process, notice must be given to the relevant Community Boards and Borough Presidents for proper evaluation. (#12)

Response 7.1: As indicated on pages 7-8 and 7-9 of the “Historic & Cultural Resources” chapter in the EIS, in the future with the Proposed Action, privately-owned properties that are

New York City Landmarks (NYCLs) or in New York City Historic Districts would continue to be protected under the New York City Landmarks Law, which requires LPC review and approval before any new construction, enlargement, alteration, or demolition can occur. Therefore, any as-of-right changes to LPC-designated or calendared resources in the future with the Proposed Action would require approval before changes to the historic structure were made. The Proposed Action would not change this well-established framework. This approval process would ensure that development under the Proposed Action would not have an adverse impact on these resources.

Comment 7.2: Conformance pathways in the ZCFR must be further coordinated to prioritize enforcement of resilience and minimize exemptions, specifically in NYC LPC designated Historic Districts. Most proposed wet-floodproofing actions still require LPC review. To better integrate the heritage and climate pressures on properties in these districts, and ensure enforcement and flexibility, we recommend that DCP and LPC work to provide a comprehensive review of historic district regulations to account for climate change. (#10)

Response 7.2: Comment noted.

Chapter 8: Urban Design & Visual Resources

Comment 8.1: MAS appreciates that this zoning proposal encourages active uses at the street level and accounts for urban design elements such as streetscaping and the pedestrian experience. While we recognize that it is infeasible for an EIS to evaluate specific sites that could potentially be impacted by the proposed change, we are concerned about the wide-scale impacts this citywide zoning text amendment will have on urban design and in the public realm in the coming decades. To address this, we expect the FEIS to identify and disclose what mechanisms will be in place to evaluate as-of-right retrofits on a site-specific basis. As we suggested previously, increasing transparency at the Community Board level for construction, retrofits, and expansion proposals in the flood zone is a step in the right direction. (#12)

Response 8.1: The Proposed Action is not expected to induce development where it would not otherwise have occurred absent the Proposed Action. Although the Proposed Action may allow developments and existing buildings to retrofit to resilient standards, the overall amount, type, and location of construction within the affected area is not anticipated to change. Due to the broad applicability of the Proposed Action, it is difficult to predict the sites where development would be facilitated, and future specific as-of-right retrofits fall outside of the purview of environmental review for the Proposed Action. The generic EIS therefore analyzed 14 representative Prototypical Analysis Sites containing either new developments, infill, reconstructions, or retrofits of existing buildings in the city's 1% and 0.2% annual chance floodplains, to demonstrate the wide range of proposed regulations for sites that would be able to develop as-of-right in the future with the Proposed Action. As detailed on page 8-2 in Chapter 8 of the EIS, "Urban Design & Visual Resources," although the Proposed Action could result in a notable change in the design character of the floodplains as compared to No-Action conditions, this change would not be expected to alter the arrangement, appearance, or functionality of the city's floodplains such that the alteration would negatively affect a pedestrian's experience of the area.

Chapter 9: Natural Resources

Comment 9.1: High levels of scientific evidence demonstrate that this proposal has the potential to increase the size and height of the surge and waves causing more erosion, and harming natural resources. This type of unintended consequence has the ability to violate state and federal Clean Water rules, while doing little to solve incessant flooding problems from bigger and bigger rainfall. Therefore, we find the ZCFR DEIS to be fatally flawed. (#4)

Response 9.1: The Proposed Action is not expected to induce development where it would not otherwise have occurred absent the Proposed Action. Although the Proposed Action may allow developments and existing buildings to retrofit to resilient standards, the overall amount, type, and location of construction within the affected area is not anticipated to change. As detailed on page 9-6 in Chapter 9 of the EIS, “Natural Resources,” development in the future with the Proposed Action would not adversely affect floodplains or increase flooding on the Prototypical Analysis Sites or adjacent properties. Moreover, the Proposed Action and related potential changes in land cover would not result in any significant adverse impacts to the natural environment or populations of plant and wildlife species in New York City or the metropolitan area. Therefore, there would be no potential for significant adverse natural resource impacts as a result of the Proposed Action.

Chapter 10: Hazardous Materials

Comment 10.1: Hazardous materials and fugitive chemicals are addressed in an insufficient manner in the zoning revision proposals. It is imperative that the risk of fugitive chemicals during storm surges and sea level rise is properly accounted for in the Zoning Resolution text changes, beyond mere mentions of e-designations. Clauses requiring the enclosure and/or placement of hazardous materials above the wet-floodproofing elevations in flood zones would be a good start. (#10)

Response 10.1: The Proposed Action is not expected to induce development where it would not otherwise have occurred absent the Proposed Action. As discussed on page 10-5 of EIS Chapter 10, “Hazardous Materials,” as part of DCP’s flood resiliency work in industrial areas, coordination occurred with the Department of Environmental Protection (DEP) to implement new rules within the Community Right-to-Know program that address storage of hazardous materials within the floodplain. The rules ensure that businesses located in the floodplain that use hazardous materials comply with safe storage principles. This includes storing chemicals in locations less likely to be flooded; elevating chemicals to at least three feet above the base flood elevation (BFE) when possible; using secure storage cabinets; reducing the number and quantity of chemicals; and sufficiently anchoring above-ground tanks. The rules also prohibit the storage or use of water-reactive chemicals within the 1% annual chance floodplain. The new Right-to-Know rules concerning storage of hazardous materials to prevent spillage and reduce flood risk are contained in Title 15, Section 41-14 of the City Rules; the notice of adoption of the new rules can be found [here](#). As such, risks related to hazardous materials and fugitive chemicals during future storm surges and sea level rise are not expected in the future with the Proposed Action.

Comment 10.1: According to the DEIS, there will be development as a result of the Proposed Action on as-of-right sites. However, the City states it has no mechanism to require a test for contamination or remediation of materials. If that is true, this is a major impact that cannot be mitigated. Therefore, it belongs in the irretrievable and irreversible commitment to

environmental resources, that is clean water and air. The DEIS finds that: “The Proposed Action could potentially result in significant adverse hazardous materials impacts... The extent of the effects of hazardous materials are unknown because of the generic nature of the Proposed Action and because it is not possible to determine exactly where and to what extent additional ground disturbance may occur in the future with the Proposed Action... However, as development resulting from the Proposed Action on the Prototypical Analysis Sites would be as-of-right, there would be no mechanism for the City to conduct or require a program to test for hazardous materials contamination or to mandate the remediation of such materials. Therefore, any such impact would remain unmitigated.” We find this to be an unacceptable response. The City accepts Environmental Easement (EE) on properties, both private and public, for Brownfield Clean Up (BCP) sites in the floodplain areas; it does not apply to one- or two-family houses where the property has to be cleaned to the highest level. It does apply to the uses listed below. If the City did not want this designation, they should have required complete cleanup of such development in floodplain areas, especially those area where it is on City owned property. BCEQ is on record against accepting as the less extensive brownfield mitigation required of multifamily apartment buildings as a substitute for more extensive clean-ups required of single-family homes. (#4)

Response 10.1: The Proposed Action is not in-and-of-itself expected to induce development where it would not otherwise have occurred absent the Proposed Action. Although the Proposed Action may allow developments and existing buildings to retrofit to resilient standards, the overall amount, type, and location of construction within the affected area is not anticipated to change. As detailed on page 10-2 in EIS Chapter 10, “Hazardous Materials,” there is no mechanism for the City to require a program to test for hazardous materials contamination or to mandate the remediation of such materials on a citywide basis.

Chapter 15: Air Quality

Comment 15.1: This topic concerns ventilation in buildings during a Pandemic, especially public and private buildings with Air Conditioning. A building’s capacity to provide enough fresh air, retrofitting air conditioning valve openings transfers, and the risks given the speed at which COVID-19 spreads in the community are real and should be of interest. Indoor air systems in public buildings are a risk posed by COVID-19, particularly the difficulty controlling the amount of fresh air entering and replacing a room’s air circulation at the correct rate. Many windows are not placed in the optimum locations in the rooms for cross ventilation. Around the world articles published have demonstrated the speed at which COVID-19 spreads through the indoors. (#4)

Response 15.1: The Proposed Action would not induce development that would affect a building’s capacity to provide fresh air. As discussed on page 15-3 of EIS Chapter 15, “Air Quality,” any construction in the floodplains in the future with the Proposed Action would be required to comply with the proposed zoning text amendment, and any stack associated with mechanical equipment exhausts must be located at a height taller than the tallest building on the zoning lot. Additionally, based on a modeling analysis of stationary sources performed for several of the Prototypical Analysis Sites and provided in Chapter 15, the Proposed Action would not result in significant adverse air quality impacts related to stationary source air emissions.

Chapter 16: Greenhouse Gas Emissions & Climate Change

Comment 16.1: The impact of climate change should be considered for each task of the DEIS and ruled out where it does not apply only after proper analysis. (#2)

Response 16.1: The potential impacts of the Proposed Action on climate change were evaluated in Chapter 16 of the EIS, “Greenhouse Gas Emissions & Climate Change.” As detailed on page 16-2, pursuant to *CEQR Technical Manual* guidance, the Proposed Action would not result in significant adverse impacts related to greenhouse gas emissions or climate change. Rather, the Proposed Action expected to promote climate change resiliency and sustainability in the city’s floodplains, and improve the ability of the city to withstand and recover quickly from future storms or other disaster events.

Chapter 22: Alternatives

Comment 22.1: A review of the DEIS states that none of the two alternatives reviewed would meet the primary objectives of the Proposed Action. When this conclusion was reached, why weren’t additional alternatives sought? The DEIS continues that the chosen alternatives would not “allow resiliency improvements to be more easily incorporated on waterfront sties at the water’s edge and in public spaces, as well as provide zoning regulations to help facilitate the city’s long-term recovery from the COVID-19 pandemic and other future disasters.” Finally, the DEIS states that “...the analysis concludes that no feasible alternatives are available that would result in no unmitigated impacts meet the Proposed Action’s goals.” The last sentence has three negatives. Are all alternatives available mitigate impacts? Is no alternative able to mitigate impacts? Can they find alternatives that mitigates impacts? If so, which ones are the least comparable in need of mitigation? (#4)

Response 22.1 Per the *CEQR Technical Manual*, an EIS should consider alternatives that “would reduce or eliminate a project’s impacts and that are feasible, considering the objectives and capabilities of the project sponsor.” As detailed on page 22-1 in EIS Chapter 22, “Alternatives,” a No-Action Alternative and a No Unmitigated Significant Adverse Impacts Alternative were analyzed for the Proposed Action. No other alternatives were identified that would meet the goals and objectives of the Proposed Action, the purpose of which is to allow resiliency measures in existing retrofitted or new buildings currently permitted as-of-right in the study area.

Chapter 26: Irreversible & Irretrievable Commitment of Resources

Comment 26.1: Building concrete and other high carbon cost hardscape at great economic cost does not make sense where we have the opportunity to naturally protect floodplains and waterfront adjacent to rivers, estuaries and oceans. It seems counterproductive to move forward on shoring up the hardscape without first naturally protecting the waterfront areas near our rivers and oceans – the floodplains. The DEIS is not protecting, let alone preventing, flooding along local low-lying streets. In fact, ZCFR is conspicuously silent on current flooding conditions within the designated floodplain, a notable but debilitating omission. Increased development without alternative locations for the water to drain increase the severity of flooding that is already occurring. Unless each footprint is matched by about a cubic foot of runoff capture per square foot of built environment, soils and plantings are needed in this effort to make ecological use of retained runoff. FEMA recognized this as is evident in its Community Rating System (CRS), which provides discounts when communities take action to reduce their flooding vulnerability – they can get credit for more restrictive regulations, acquiring flood-prone property, and other measures that

reduce flood damages and protect floodplains. According to the DEIS, ZCFR takes us in the opposite direction which in all likelihood will result in an “irreversible and irretrievable commitment of potential development sites as a land resource, thereby rendering land use for other purposes infeasible.” Because it exclusively commits floodplain land use to development, ZCFR precludes other land uses – such as parks, green spaces, engineered aquifers and wetlands, berms, and dunes – that absorb stormwater, mitigate coastal flooding, and protect waterfront and property. ZCFR will make it that much harder for the city to enact green sustainability policies. (#4)

Response 26.1: As detailed on page 2-17 in EIS Chapter 2, “Land Use, Zoning, & Public Policy,” the Proposed Action would not generate new land uses or prohibit existing land uses from occupying floor area in the city’s floodplains. Moreover, the Proposed Action is not expected to induce development where it would not otherwise have occurred absent the Proposed Action, and land use trends and development patterns in the future with the Proposed Action are expected to remain similar to No-Action conditions.

As detailed in Chapter 26 of the EIS, “Irreversible & Irretrievable Commitment of Resources,” although the Proposed Action may allow developments and existing buildings to retrofit to resilient standards, the overall amount, type, and location of construction within the proposed rezoning area is not anticipated to change. The Proposed Action would not significantly change or increase the rate of growth in the city’s floodplains, which is controlled primarily by the supply of developable land and by the local supply of skilled professionals in the construction industry.

Comment 26.2: There is no consideration made to review the environmental impacts either here or elsewhere in the DEIS. In fact, the actual loss is to habitat and it is enormous. Hardening areas in the floodplain will interrupt natural shoreline processes, reduce nursery habitat for marine special and foraging habitat for wading birds, degrade water quality, and can actually increase erosion processes. There are other alternatives to just protecting the inner areas; it includes a careful and scientific study along the waterfront, known as the living shoreline. We are further disappointed that the DEIS only notes without evidence or calculations that current floodplain development, which includes “structures, paved roads/paths, domestic lawns with trees, or urban yard habitat” make the floodplain a “limited habitat for vegetation and wildlife apart from the species common to the city’s built environments” and they cannot be expected to yield environmental benefits. That is false. Every home, yard, and sidewalk provide opportunities for exacerbating or mitigating environmental impacts. This false distinction between nature and city misses the point. We are not asking for the zoning resolution to carve out a nature preserve from the city. We are asking for a green floodplain: a built environment that incorporates green building design and water management. These are resources that will be lost based on the unintended consequences of hardening building infrastructure, rather than creating the low impact, green and natural infrastructure. Are they filling in wetlands, creating revetments, increasing impervious surface, or adding concrete to the front yard? Does the Proposed Action protect or harm nature, or does it cause irreversible and irretrievable commitment of environmental resources?

There are reasonable resources that will be lost based on the unintended consequences of hardening building infrastructure, rather than creating the low impact, green and natural infrastructure. (#4)

Response 26.2: The environmental review for the Proposed Action was done in full compliance with both CEQR and SEQRA. Many of the elements of this comment are beyond the scope

of the Proposed Action, which is to permit and promote resilient measures in the built environment, not to prescribe and require the implementation of such measures.

As discussed on page 9-2 of EIS Chapter 9, “Natural Resources,” the Proposed Action would not induce development or otherwise affect the many natural areas and parkland located in the floodplain. Development projected under the Proposed Action is expected to occur exclusively on the Prototypical Analysis Sites, resulting in the disturbance of sites previously developed with commercial and residential uses including structures, paved roads/paths, domestic lawns with trees, or urban yard habitats. The conditions of the Prototypical Analysis Sites within the built environment of the floodplain provide limited habitat for vegetation and wildlife apart from the species common to the city’s built environments. Therefore, the Proposed Action and the related potential changes in land cover would not result in any significant adverse impacts to the natural environment or populations of plant and wildlife species in New York City or the metropolitan region.

Moreover, as discussed on page 2-36 of EIS Chapter 2, “Land Use, Zoning, & Public Policy” in response to WRP Policy 6.1, the Proposed Action would modify provisions applying in waterfront areas to ensure that existing waterfront zoning regulations allow sites to incorporate coastal flood resilient design, and would update existing provisions to allow several flood protection measures as permitted obstructions, including temporary flood shields and associated emergency egress, flood barriers, retaining walls, raised yards, landscaped berms, and floodgates in yards, open spaces, and waterfront yards, which would help minimize losses from flooding and erosion.

Additionally, please see the response to Comment 1.5 above. Green infrastructure would not be prohibited as a result of the proposed zoning text amendment, so such strategies could still be implemented by property owners that decide to do so, without facing zoning constraints. Furthermore, it should be noted that in 2008 the [Yard Text Amendment](#) was established to promote green streetscapes and increase the amount of open space and permeability on sites, and in 2012, the City advanced [Zone Green](#) to amend zoning regulations to promote green buildings.

D. MISCELLANEOUS/OTHER COMMENTS

Comment 1: Resiliency is an important and timely priority for New York City. The impacts of climate change on a coastal city like New York from rising sea levels to increasingly frequent coastal storms necessitate a swift and proactive resiliency framework that is holistic and adaptable, in response to climate change. Resiliency framework must be multifaceted and require a multitude of resources, the coordination of City agencies and support from state and federal governments. This text amendment is an example of the collaboration that is necessary to achieve a citywide framework intending to facilitate the resiliency goals set forth by the building code and utilizing zoning as a key but not sole tool required to achieve resiliency. A text amendment such as this is timely and necessary; however, the review process has revealed contention over the details. These concerns must be addressed by the City in order to make our building stock resilient. (#1)

Response 1: Comment noted.

Comment 2: A major component of this application is the facilitation of floodproofing, both dry and wet for building within the floodplain. While buildings can opt into either type of floodproofing, the difference in their treatment of their streetwall in frontage. Dry-

floodproofing promotes a consistent and accessible streetwall, while wet-floodproofing often results in elevated ground floors with little connection to the street and sidewalk, and an inconsistent streetwall. While both types should be implemented, dry-floodproofing should be required as much as possible, particularly in high-density residential and commercial areas in order to maintain a vibrant and permeable ground floor without sacrificing resiliency standards. (#1)

Response 2: Comment noted.

Comment 3: This proposed text amendment does little to differentiate zoning provisions between new and existing buildings. According to the building code, new development would already be required to apply such resiliency standards in the floodplain and that should not be given zoning incentives to do so. Existing buildings should be uniquely qualified for such zoning changes. This would incentivize retrofits that are not mandated, but would result in a much more resilient building stock. I believe that this higher degree of resiliency would be equal or greater than the resiliency of new construction. Our planning must emphasize the resiliency of buildings, particularly small properties and their owners, and meet the challenges that arise with such an effort. (#1)

Consider reducing allowable density for new construction and set more restrictive standards for higher-density new construction in flood-sensitive areas. (#2)

Incentives for new construction in the floodplain – particularly in low income and environmental justice communities – are inconsistent with the stated goals of the Zoning Resolution text amendment, will lead to increased inequality, and must be reduced or removed. The proposed zoning text changes will codify and expand protections and incentives for existing properties and neighborhoods that we expect will lead to an increase in climate resilient retrofits, if proper resources and enforcement are provided. However, we feel that excessive exemptions for bulk are provided for new construction, which disincentivizes response and responsible development along New York City’s coastlines and in its floodplain. This is especially true in low-income, frontline, environmental justice communities. These vulnerable populations, which are not listed under vulnerable populations in the proposed text changes, have often bore the inequitable environmental burdens of land use policies and re-zonings throughout the history of our city, and are at the greatest risk from climate change impacts, including but not limited to coastal flooding. We strongly recommend that exemptions and zoning incentives for new construction in the most high-risk areas are removed from the proposed zoning changes, thus providing less incentive for unsustainable development that increases risk to vulnerable populations within the floodplain – likely to the benefit of speculative real estate interests. (#10)

From an equity standpoint, we agree with Manhattan Community Board 1 in that the zoning text should be amended so that only building owners with existing buildings in need of retrofiting are eligible for FAR exemptions and height bonus incentives, not new buildings that already have to meet the requirements of Appendix G of the New York City Building Code. (#12)

Response 3: The Proposed Action is being proposed to facilitate resilient construction practices in the city’s floodplains, and is not intended to regulate the siting of new developments.

As discussed on page 1-4 of EIS Chapter 1, “Project Description,” the floodplain was first introduced in 1989 when architects and residents of waterfront communities raised concerns about achieving permitted height and floor area in the floodplain. As a result, underlying zoning regulations now allow for buildings in the floodplain to measure building perimeter wall, roof, and cellar heights from the BFE rather than from the adjoining grade.

By providing flexibility to new and existing buildings in the floodplain, the proposal is allowing all buildings to meet Appendix G, but also exceed these standards if a property owner opts to include future sea level rise projections into the design. This means that building owners would be able to proactively locate living spaces and equipment to higher elevations without having to lose buildable space. Absent this, buildings would likely be constructed to just meet minimum Building Code standards. The Proposed Action’s framework for height and floor area addresses concerns raised regarding the streetscape, since the additional height provided coupled with the floor area exemptions incentivize internal access to be located at grade, and reduces the potential of blank walls or inactive spaces at the street level. In addition, by providing the same framework to new and existing structures, the Proposed Action would ensure more consistent and predictable outcomes.

Comment 4: Coordinate coastal zoning regulations and building code requirements to ensure consistency and to avoid conflicts between compliance with flood resiliency and accessibility, i.e. ADA compliance. (#2)

Response 4: All buildings meeting flood-resistant construction standards would also have to meet ADA standards. The proposed regulations would provide incentives for building owners to take future risk into account and to provide a more accessible design.

Comment 5: Increase DOB enforcement of zoning regulations to ensure compliance with flood resiliency requirements. (#2)

Response 5: The Proposed Action would not change the relationship between floodplain regulations and DOB’s enforcement procedures. Work that would occur as a result of the Proposed Action will continue to require DOB review and approval on a case-by-case basis in order for building owners to receive building permits. The Proposed Action would not change this well-established framework.

Comment 6: Provide ongoing public education, in multiple languages, on flood resiliency threats and the range of mitigation measures as well as forums to make sure property owners are well informed of the coastal zoning regulations and encourage them to share their experiences. (#2)

Response 6: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 7: Provide technical assistance and financial incentives to encourage retrofitting existing buildings in flood zones. (#2)

Response 7: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 8: Consider a managed retreat scenario for undeveloped flood-sensitive sites, changing the land use to parkland, wetlands, or other resilient open space. (#2)

To increase the comprehensiveness of the proposal, the City must look beyond zoning to address future land use in our most vulnerable coastal areas. Following Hurricane Sandy, the New York State Office of Storm Recovery initiated a voluntary buyout program for high-risk areas in Staten Island in order to protect homeowners living in harm's way. DCP created a Special Coastal Risk District in 2017 to limit new development in these areas and to protect open space. NPCC projects that New York City will be subject to approximately 30 inches of sea level rise by the 2050s. Therefore, it is imperative that the City develop a large-scale framework for coastal retreat. We recommend that in conjunction with ZCFR, the City work with the state and federal governments over the next several years to develop an equitable and voluntary citywide buyout program for properties in vulnerable coastal areas. Instituting down-zonings in certain coastal neighborhoods is not enough. The City must develop a plan to give homeowners a different option from rebuilding in high-risk areas on a continuing basis. (#12)

Response 8: This comment is beyond the scope of the Proposed Action. Please see response to Comment 1.5 above.

Comment 9: Compare the economic benefits such as new tax revenues and resident/consumer spending against the costs incurred from incidents of flooding for new development in flood sensitive areas. (#2)

Response 9: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 10: Establish independent panels to consider climate risk on zoning and economic development and advise the City on applicable policy decisions. (#2)

Response 10: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 11: Establish flood resiliency regulations and capital projects to address flood threats posed to infrastructure and resulting from impaired infrastructure. (#2)

Response 11: This comment is outside the Proposed Action, which is focused on the Zoning Resolution; for additional initiatives that the City is undertaking, please refer to response to Comment 1.5.

Comment 12: Use consistent units of measure for expressing flood risk to allow for comparison across sites and flood events. (#2)

Response 12: Comment noted.

Comment 13: Ensure climate change risks such as flooding are thoroughly and accurately considered for all facets of CEQR/SEQR reviews and Environmental Assessment and Impact Statements. (#2)

Response 13: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 14: A uniform unit of measurement, such as gigatons per resident, should be used and adopted with regard to carbon footprint reporting. (#2)

Response 14: This comment is outside the Proposed Action, which is focused on the Zoning Resolution.

Comment 15: I support the ZCFR plan. The proposal will increase community resiliency and save homeowners money on their flood insurance premiums. These progressive changes will remove obstacles to neighborhood resiliency not only for homeowners and their tenants who are currently at risk of flooding, but also communities that will face additional flood risk by 2050. The proposed changes are flexible and will allow residents to make long-term investments in their homes to help lower their risk of flooding, as well as to lower their flood insurance premiums right now. By including the 0.2% annual chance floodplain, this plan complements our work and helps ensure that New York City homeowners can adapt to climate change long-term, not just in the immediate future. The zoning changes will allow homeowners to undertake badly needed retrofits such as raising their homes or mechanicals. In addition, these changes would position New York City to be a national leader in actually adapting to climate change. (#3)

Response 15: Comment noted.

Comment 16: We cannot support the proposal at this time. At first glance, you may think ZCFR will protect us from coastal flooding, capture or contain storm surges, or sea level rise. It does not. ZCFR may well protect buildings from damage caused by coastal flooding, but it does not address the cause of our flooding in the floodplain. By locking in the development policies that contribute to our current flooding problems, ZCFR is likely to increase stormwater flooding, storm surges, and coastal flooding impacts in floodplain communities. Where are the design features grounded in natural processes and that work to protect the built environment by increasing ecological capacity? Management practices here do not appear to be focused on enhancing environmental quality. Best management practices should be incentivized for increasing carbon capture, incorporating the NYC waste stream in coastal protection and storm water capture, with comparative metrics spelled out in for the work. By not incorporating the best management practices, design features and incentives that enhance the ability of the natural and built environment to absorb water, we find that the zoning resolution does not prioritize green alternatives and infrastructure. Without prioritizing them, DCP is missing a golden opportunity to build floodwater mitigation, ecological enhancement and biodiversity into the zoning resolution, and by that we mean not just harm to buildings but actually mitigating floodwaters through the ability of the natural environment to absorb water. Instead, it commits waterfronts to hardscape and supports impervious development in the floodplains, and takes us on a road towards divorcing resiliency from sustainability. We strongly believe that you cannot have resiliency without sustainability and you cannot have sustainability with a concerted attempt to incorporate green building practices. If ZCFR is to sacrifice sustainability in the pursuit of resiliency, we say you cannot have one without the other. Resilience has an increasingly short purchase on the future if it's not fundamentally sustainable. (#4)

Response 16: Please see response to Comment 1.5 above.

The Proposed Action is a zoning text amendment, and it concerns the regulation of use, bulk, and other elements that are controlled by zoning. It does not preclude coastal protection strategies and in fact is intended to be complementary to concurrent and future actions by other agencies. DCP is working in consultation with other City, state, and federal agencies to coordinate policies and projects. An example of the City's investment in infrastructure is the DEP-administered [Green Infrastructure Grant Program](#), which incentivizes private property owners to retrofit their roofs with green roofs to manage stormwater runoff.

ZCFR's goal is to enable buildings to better withstand flooding from large but infrequent coastal storms, like Sandy. Green infrastructure is not prohibited in zoning, and so such strategies can still be implemented by property owners that decide to do so, without facing zoning constraints.

Comment 17: ZCFR provides no connection to the many City policies and initiatives that aim to mitigate stormwater impacts with enhanced green spaces. These include DCP's 2030 Waterfront Plan, and DEP's emerging Unified Stormwater Rules for new development, its Green Infrastructure program, and the implementation of its Long-Term Control Plans. It is disconcerting that the proposal does not leverage these programs and goals with zoning and building code modifications, incentives, and options for sustainable development and carbon capture.

Strangely, many of us in the Bronx participated in the new DCP Comprehensive Waterfront Plan this past year; yet, there was no mention of the Comprehensive Waterfront Plan 2020 or 2030 in the ZCFR proposals. Without that, it is like this Proposed Action is half a project – it is missing the calculations of environmental impact its own Waterfront Plan will have, or prevent. Even now, the City is misunderstanding the environmental impacts to both increasing climate change effects.

As the city faces ever more threats from storms and climate change, we need a coastal floodwater zoning resolution that takes us in the same direction as the City's sustainability efforts. For 50 years, BCEQ has fought to put nature, green spaces, and respect for the environment at the center of our borough's planning and development. We can think of no better place for them than a coastal flooding resolution. The residents of the Bronx urgently need a floodplain zoning change that may actually help our flooding problems and stormwater management now. Accordingly, we urge rejection of this proposal, and ask City planners to start considering one comprehensive green floodplain policy for the Bronx and the City of New York. (#4)

Further prioritize and incorporate nature-based solutions and sustainability initiatives, in coordination with other City agencies. We support the BCEQ's CPC testimony recommending broader incorporation of natural, permeable, adaptive coastline and green infrastructure requirements into the zoning proposal, in coordination with relevant government agency programs (e.g., Unified Stormwater Rule and Green Infrastructure Plan). These nature-based solutions are not only critical to the preservation and reclamation of regional coastal habitats and open spaces, but also provide unique ecosystem services and climate resilience through stormwater infiltration, wave attenuation, natural buffers, and other functions. (#10)

Response 17: Please see responses to Comments 1.5 and 16 above. Additionally, as discussed on page 2-31 of EIS Chapter 2, "Land Use, Zoning, & Public Policy," the Proposed Action was assessed for its consistency with the policies of the WRP, including the goals set forth in *Vision 2020: The New York City Comprehensive Waterfront Plan*, per 2020 CEQR Technical Manual guidance. The updated Comprehensive Waterfront Plan currently being developed by the City will lay out a framework for coastal flood resiliency that is informed by other citywide initiatives and land use planning strategies, including the Proposed Action.

Comment 18: To add more salt to the wound, City owned property is being used to favor development investments to build affordable housing that is too expensive for most people and too small for permanency. This is not how to create a community, or protect the shoreline. For

instance, the recent notice in the Real Deal explains in a December 23, 2020 article “L&M close to scoring \$349M for South Bronx affordable housing development: Bronx Point will have 542 affordable apartments, Universal Hip-Hop Museum.” This project is in the Harlem River floodplain that during Sandy had an 8-foot surge even at low tide. In addition, this project will not be required to have the brownfield hazard waste pollutant cleared to the highest level as they have an environmental easement. If disturbed during the next major weather event, there is no question that the pollutants will travel into the Harlem River – and the city cannot do anything to stop it. This impact should be analyzed under the Public Health section. (#4)

Response 18: Individual projects presently being undertaken are beyond the scope of the Proposed Action.

Comment 19: The most current science is available in the NYSDEC’s *Using Natural Measures to Reduce the Risk of Flooding and Erosion* (August 2020). It is clear, just from the definition of a floodplain, that it is not the area to build, but is the area to protect. (#4)

Response 19: Comment noted. Please see response to Comment 1.5 above.

Comment 20: As a highly developed, dense waterfront city with 520 miles of shoreline, New York City is centered directly in the crosshairs of the climate crisis. In addition to other climate impacts of heat and increased precipitation, the slow, steady, and accelerating rise of sea levels threatens to permanently inundate neighborhoods and infrastructure, while deepening the reach and destruction of more frequent and intense coastal storms. Put another way, New York City faces the challenging and dubious future: uncomfortable at best, wholly uncertain at worst. Faced with these worsening impacts, the City must make critical decisions around existing and future development in flood hazard areas if it is to continue to thrive off safeguarding its residents. In our own Fourth Regional Plan, we called for a combination of resiliency strategies – including zoning changes, investments in engineered and nature-based solutions, and strategic buyouts, among others – to adequately adapt to our changing coastline. In that spirit, we offer our support for the action to amend the Zoning Resolution of the City of New York, to modify its flood resiliency provisions within the proposed ZCFR. This amendment comes at a tenuous moment: standing in the long wake of Hurricane Sandy and our continued recovery from it, while facing a future of rapidly rising seas and increased flooding, it is clear the City must take action to become more resilient and face the impacts of climate change head-on. Achieving resiliency means having the ability to look in two directions at once: backward to the disaster we are recovering from, making sure to learn from the difficult lessons it brought; and forward toward future catastrophic impacts – which can look very different from those in the past – doing everything possible to anticipate and reduce risk. I’m pleased the amendment succeeds in doing that, incorporating the lessons learned from Sandy’s devastation to bolster support for post-disaster recovery, while also promoting long-term resiliency by allowing precautionary standards and resiliency features for buildings in the current and future flood zone, as well as zoning and design rules that factor in sea level rise. Further, prohibiting the construction of new nursing homes in high-risk areas represents a small but important leap, with strong overtures for future development restrictions. These are common sense updates that acknowledge the reality that there will be more disasters to recover from across a wider area, and that we must take additional and meaningful steps today to prepare for worsening impacts that are yet to come. While this amendment will help to reduce risk for many, it will fully eliminate long-term risk for none. And in order to have its greatest impact, it will need to be paired with tools that help building owners and developers for the modifications that allows. Still, it is a very good,

well thought-out and tested next step that should be approved. Yet, there is still much to be done. So, while we enthusiastically urge the CPC to adopt this amendment, we also encourage you to advance beyond these measures. Stated simply, there are an awful lot of people in areas that are at high-risk of flooding, far too many of whom are particularly vulnerable because of their race, age, or limited wealth. This amendment can help, but we must also acknowledge that there are just some areas for which design solutions have a much shorter shelf life. The tools of planning and zoning can be used to do even more, and they must. Adopting this amendment helps to buy some additional time. Let's use that time wisely and advance important, necessary and honest conversations across City agencies and in city neighborhoods, to plan for the difficult road ahead, using, refining, and improving all of the adaptation tools we have at hand. (#5)

Response 20: Comment noted.

Comment 21: CHPC is in favor of ZCFR. As a city and across the country, I think we may finally be learning our lesson that climate change isn't just something our grandchildren will worry about in the future; it is here now. Personally, I was working in City government at the emergency operations center during Hurricane Sandy and I witnessed the devastation firsthand. A crucial lesson that was learned from Sandy is that our zoning codes matter. They shape our built environment in ways that in this case can literally save lives, that protect people's homes and livelihoods, help people bounce back faster after an emergency, and prevent future disasters. It is imperative that our zoning reflects the new realities of our environment as sea levels rise. CHPC applauds DCP for the new ZCFR text that builds on the emergency zoning changes enacted in the immediate aftermath of Sandy. DCP studied how the temporary zoning measures have been working. They embarked on a massive outreach and engagement effort with affected communities to better understand the issues faced in rebuilding after Sandy, and the most effective ways to improve the future resiliency of these neighborhoods. They worked closely with the design and development industry, including a team of technical experts on our board to identify any problems that you may have missed to collectively find solutions and ensure that the application of the text would achieve its stated goals. As one of the organizations involved with the technical consultation, we've been deeply impressed with the collaborative dynamic DCP brought to the development of this text. For example, one concern we had was for the zoning changes to apply to the 500-year floodplain, rather than the 100-year for increased resiliency into the future. This was not an easy aspect of the text to achieve, and we are so grateful that comments like that one were addressed. DCP also responded to feedback we put forward relating to the streetscape implications of the text and many others. ZCFR will help buildings better withstand flooding and storms, it will reduce the time it takes to get New Yorkers back into their homes and reopen their businesses after a disaster. (#6)

Response 21: Comment noted.

Comment 22: Having worked with DCP on the Zoning for Resilience study in Canarsie, our organization fully supports this proposal. Community engagement, local mitigation and affordability studies all support the continuing value of our communities and the value of bringing all necessary resources to continue to this work. Coastal residents are well aware of climate change impacts and they expect every resource be marshalled to transform their communities. We realize this transformation will require time, ingenuity and resources. Multiple approaches will be needed to rebuild resiliently where possible and manage displacement where necessary. This zoning proposal can be one of those valuable tools, giving residents the flexibility to transform their communities. If the cost/benefit analysis of a coastal project measures only the private market for property, the actual value of these

neighborhoods is misrepresented. The formal and informal networks that sustain communities are worth, in real, measurable dollars, more than we usually estimate. These largely working class communities are generational, self-supportive and complexly integrated. Our city's work force lives here and that alone adds a major reason to support the mitigation projects needed to sustain them. Home is the most important place on earth. Communities like Canarsie, Gerritsen Beach, Coney Island are not real estate, they are real people. The built environment of coastal New York is not physically or financially sustainable. We must re-imagine, redesign and rebuild our coastal communities. And we have rebuilt New York before: from the Bronx to Coney Island, community based organizations and New York residents brought New York City back from literal ruins. We can do it again; we are doing it now. Lead, follow - or get out of our way, we're keeping our homes. (#7)

Response 22: Comment noted.

Comment 23: The Preservancy applauds DCP for initiating a complex undertaking, but wishes to express reservations on the proposed text amendments. The proposal before you is multi-faceted and attempts to address a variety of issues related to resiliency, but its name is incorrect; it addresses flood zones, waterfront areas, and every borough of the entire city! While there are sophisticated and nuanced efforts to allow for longer range responses to climate change, the lack of clarity and predictability in the proposed text noted by our community board's resolution can lead to confusion in implementing these rules.

The Preservancy supports the effort to create a zoning section that creates tools for areas in FEMA designated flood zones and coordinate with Appendix G of the NYC Building Code, but oppose the rules as proposed. The effort to provide as-of-right regulations must be clear for existing buildings, and should limit new development in these areas to address future concerns. We recommend the following general modification to reduce confusion:

- Establish a clear "reference plane" definition that is related to curb elevation (base plane) and/or floodplain relative to specific map designations.
- Restrict development in all instances to no more than the underlying district's FAR limits.
- Allow for more flexible proof of prior construction similar to the text proposed for the Recovery Zone.
- Support the deductions for mechanical, electrical and plumbing (MEP) spaces within building footprints.
- Oppose deductions for grade-level entry areas.
- Agree with requests to encourage dry-floodproofing ground level spaces to maintain vibrant streetscapes.
- Support streetscape screening mitigation when wet-floodproofing is used for ground floor uses.
- Support allowances for stairs to access raised entries, but require that they count toward lot coverage. (#8)

Response 23: Comment noted. As detailed further on pages 1-12 in Chapter 1, "Project Description," the Proposed Action would allow building heights to be measured from a new reference plane that is up to 10 feet above the base plane or curb level (as applicable within the underlying zoning district) in the 1% annual chance floodplain and up to five feet in the 0.2% annual chance floodplain.

The purpose of the Proposed Action is to generally support planned density by providing flexibility in zoning for building owners to upgrade their buildings to limit damage from coastal flooding. The proposed regulations are not modifying the maximum FAR allowed within zoning districts. The very limited floor area exemptions proposed are modifications to regulations that have existed since 1989, as explained within "The City's Regulatory Framework in the Floodplain" section of EIS Chapter 1 (page 1-4). These exemptions are necessary to accommodate flood-resistant construction requirements located within Appendix G of the NYC Building Code, which limits what kind of uses can be placed within wet-floodproofed spaces and requires active uses to be dry-floodproofed when located below the DFE. These exemptions also incentivize internal access to be located at grade, and reduce the potential for blank walls or inactive spaces at the street level.

More specifically, to promote a safe and lively pedestrian environment, the Proposed Action would encourage active dry-floodproofed ground floor spaces along the city's retail corridors (see page 1-13 of EIS Chapter 1). A floor area exemption would be available for the first 30 horizontal feet of the non-residential floor space as measured from the street wall of the building, and would come with design requirements to ensure quality ground floors, including that the ground floor level be within two feet of the adjacent sidewalk and follow transparency requirements. In addition, the Proposed Action would maintain the existing floor area exemption for access, to encourage ramps and stairs be located within the building.

Regarding the 2015 Recovery Text regulations, which added documentation flexibility for storm-damaged properties, the Proposed Action is building upon that temporary text and including a provision to simplify the documentation process for obtaining DOB permits for buildings that are damaged by future disasters as described in the "Disaster Recovery Rules" section of EIS Chapter 1 (page 1-26).

Lastly, to ensure that resilient design and associated accessibility adaptations can more easily be accommodated, the Proposed Action would consider steps, ramps and porches as permitted obstructions in required open spaces, as described on pages 1-24 and 1-25 of EIS Chapter 1. This allowance is particularly important for existing buildings, many of which were constructed prior to ADA legislation. Since they are often built right up to the particular district lot coverage allowances or, in the case of many pre-1961 buildings, exceed them, subjecting new ramps or stairs to lot coverage limits would severely deter needed adaptation.

Comment 24: Waterfront zoning: RNP supports the changes proposed as they will improve the design of public areas within the Waterfront Zones and allow for greater flexibility and neighborhood related designs in connecting public access to upland areas. (#8)

Response 24: Comment noted.

Comment 25: We support the proposal to add back-up generators, solar installations and battery storage to the items that qualify as permitted obstructions, but ask that these items be included in calculations of lot coverage and/or impervious area to limit their impact on green areas. We would note that back-up generators are essentially gas powered units, and that they require substantial air flow to test and operate properly, as well as be located well away from openings that provide ventilation. The language requiring them to be located within the building or structure should be reviewed to allow for locations on rooftops for larger buildings. We also support the provisions allowing for stairs and ramps for accessibility to be included as permitted obstructions. (#8)

Response 25: As discussed in page 1-24 of EIS Chapter 1, “Project Description,” the Proposed Action would allow appropriately scaled power systems on lots throughout the city to make it easier to provide back-up energy, especially in the event of a disaster by considering these types of equipment as permitted obstructions in required open areas. Modifications to lot coverage calculations would create another impediment to the siting of these systems. Instead, the Proposed Action sets limitations on where these types of equipment can be sited and their maximum size. Underlying regulations governing mechanical equipment, including rules governing bulkheads, is generally inclusive of power system equipment. Therefore, the Proposed Action does not modify what types of equipment can be located on rooftops, consistent with current DOB practices.

Comment 26: Recovery Zones: This section of the proposal is the most troubling part of the proposal. The initiative to declare a specific recovery zone and adopt meaningful tools to address challenges is just overly broad and inappropriate for the current situation. We recommend:

- Delineate or reference a specific procedure for the declaration of a Recovery Zone.
- Adopting the language that requires a formal text amendment by the CPC to identify the area of a Recovery Zone.
- Oppose the proposal to include waivers of building envelope or use controls to address the issues arising from the Coronavirus Pandemic.
- Support the proposal to allow for extensions of approvals and permits due to the Pandemic. This text would be useful in addressing delays due to climate events as well. (#8)

Response 26: The proposed procedure to make a set of disaster rules available within a designated recovery area is a text amendment. At that time, the application would be subject to all requirements that text amendments are subjected to, including review from affected Community Boards. The two sets of regulations proposed to address the pandemic do not include modifications or waivers of the building envelope. The first one would extend the available timeframe for non-conforming uses to reactivate by an additional two years, and the second one would allow for the extension of the timeframe required for substantial construction to take place under City Planning Commission special permits and authorizations for an additional term, as explained within the EIS Chapter 1, “Project Description” on page 1-26.

Comment 27: RNP asks the CPC to review the proposal with the added lens of preserving neighborhood character. It was interesting to hear several speakers address that specific goal in a variety of recommendations at the public hearing, including the Manhattan Borough President, Municipal Arts Society and Resilient Red Hook. We agree that a one-size-fits-all approach is rarely successful in a city as diverse as New York, and coincides with the need to provide for a zoning regulation that encourages responses that support the natural environments in our climate compromised areas. (#8)

Response 27: Comment noted. Please see responses to Comment 1.5, Comment 26.2, and Comment 16 above.

Comment 28: RNP opposes the proposal to allow BSA to increase building height or floor area beyond what is allowed by the underlying district, except in relation to requirements related to the flood elevation. (#8)

Response 28: The Proposed Action does not expand resort by individual property owners to the Board of Standard and Appeals, as a property owner may presently file a variance application regarding any provision of the Zoning Resolution.

Comment 29: The zoning tech section for Article 6, Chapter 4 needs further consideration, as its attempt to establish clear as-of-right guidance is more confusing with the relationship to the establishment of a measurement plane to establish height, and the confusion regarding the maps which has been referenced by other community boards.

And the need to expand flexibility to underlying zoning limitations, we oppose adopting Article 6, Chapter 5 as proposed. But we do support the need to establish a framework that addresses the need to extend permits and reviews due to emergency situations, such as the current pandemic.

We oppose adopting Article 7, Chapter 3 regarding BSA special permits, and we especially oppose overriding the SNAD regulations, other than those that are related to height, if necessary, to respond to FEMA requirements. (#8)

Response 29: Comment noted. Regarding Historic Districts, please refer to the response to Comment 7.1; regarding SNAD regulations, refer to the response to Comment 2.4.

Comment 30: We further note that in today's testimony at the public hearing, several speakers referenced an extensive outreach to affected communities. I do not recall any such outreach to our community. Our district includes coastal frontage on the Hudson River, Harlem River and Spuyten Duyvil Creek, and includes several stream corridors that flow directly into the Hudson River. The effects of climate change and rising waters are felt in our neighborhoods as well. (#8)

Response 30: DCP conducted extensive outreach across the city's floodplain for the ZCFR text amendment. As summarized in the *Community Outreach Summary* document, since 2016, DCP has met with over 2,500 New Yorkers in all five boroughs at more than 110 public meetings on how zoning could be updated so that buildings in the floodplain can be better prepared for future coastal floods. This outreach included meetings with the Office of the Bronx Borough President and the Bronx Borough Board to better understand issues related to coastal flooding throughout the Bronx. Additionally, between the publication of the ZCFR DEIS on October 16, 2020 and CPC's public hearing for the DEIS on February 3, 2021, DCP offered a presentation to all 59 Community Boards to discuss the proposal. DCP met with every Community Board that requested a presentation, including Bronx Community Board 8, which represents the Spuyten Duyvel and Riverdale sections of the Bronx, on November 23rd, November 30th, and December 7th, 2020.

Comment 31: After Hurricane Sandy, I worked very closely with a lot of property owners and the Build It Back Program and other situations, and saw the enormous frustration that people have as they struggled to recover from Hurricane Sandy and understand all of the complexity of FEMA flood regulations, building code zoning, and sometimes work at cross purposes. I also saw firsthand how City Planning staff really worked closely in a very deep listening process over many years, very detail oriented with the designers, with the property owners, with the homeowners, with people in neighborhoods in a very creative process, and I think that there was enormous thoughtfulness and creativity and hard work that went into this proposal. In some ways I think it's a model for how planning could happen in the future, and something that I'm very proud to teach my students about and teach other cities about as we go forward, but I agree with everything that all others have said that this is just the

beginning of climate change adaption and sustainability, both mitigating our carbon footprint and making our neighborhoods more prepared for climate change. We're at the beginning of this work, and we know from this last year of the pandemic how the intersection of risks that our communities face are so much more challenging now, but this is a move in very much the right direction, and I congratulate the City Planning staff for their very thoughtful work. (#9)

Response 31: Comment noted.

Comment 32: As practicing licensed architects in New York State, we have been exposed to the technical and financial challenges posed to property owners, economic and social challenges faced by community residents, and environmental hazards and risks inherent in disaster relief and resilient reconstruction efforts. Based on this experience, we commend DCP for their willingness to codify a robust and multi-pronged response to our diverse city's climate change risks, and looking to advance the City's goals of enhanced resilience in the built environment through the proposed zoning changes. While there are significant and laudable text changes within this proposal, ORLI+ objects to a number of clauses. (#10)

Response 32: Comment noted.

Comment 33: Ensure funding and equity. It is critical that funding mechanisms that support low-income and small building owners, residents, and business owners achieve compliance and conformance must be expanded and formalized. Cost burden is the principal barrier to implementation of resiliency, mitigation and adaptation measures, and will continue to be so regardless of approval of the ZCFR proposal. (#10)

We believe the CPC and the City Council should approve the DCP proposed ZCFR to preserve and protect stable housing for generations of vulnerable New Yorkers. We know that existing shocks and stresses in our nation have been deeply exacerbated by the cascading effects of climate change, such as flooding events. And the global storm that the COVID-19 pandemic has created this collision, has revealed to use that we need to have ordinances and programs in place, such as ZCFR, to ensure that our systems reduce the fragility in our communities, particularly those in the floodplain of New York City. We know that thousands of low-income New Yorkers depend on affordable housing, public house, Section 8 – all of these units are so critical, so that we can ensure a stable and sustainable New York City. And as we are seeing in COVID-19, housing is also a shelter to safeguard the health and well-being of New Yorkers. We believe that the proposal put forward by DCP is the right way for us to move to building and retrofit this housing, because we need to preserve what we have, it's very difficult, and to build affordable housing. New York has an important opportunity at this point to transform extent policies and create forward-facing supports, and we believe this is the right legislation and the right program to put forward and invest in the good work that's happening from DCP as well as MOR. (#11)

In the aftermath of Hurricane Sandy, and with the city's vulnerabilities to coastal storms, flooding, and sea level rise in mind, MAS supports DCP's efforts to strengthen the city's resiliency through the proposed ZCFR. The events of the past year have further emphasized the fundamental need to address racial and socioeconomic inequalities in times of crisis. We recognize DCP's ZCFR text amendment as a necessary step toward making the city more resilient in the face of the increasing threat of climate change. We support DCP's

decision to include the 500-year floodplain in this amendment. However, the proposal poses an equity issue by shifting the burden of retrofitting and improving homes and commercial buildings to individual property owners, leaving the city's vulnerable coastal areas subject to sea level rise and market forces. For it to be truly comprehensive and equitable in scope, the City must coordinate across local, state, and federal agencies to ensure that the proposal is supported with proper funding mechanisms. (#12)

Response 33: **The proposed ZCFR text amendment does not address City, state, or federal financial assistance or management regulations. However, the framework allows for homeowners to be resilient in the long-term and potentially save on flood insurance administered by FEMA. Moreover, as discussed on page 1-2 in Chapter 1 of the EIS, "Project Description," the Proposed Action would occur in conjunction with current and future coastal protection strategies and infrastructure improvements by the City and other state and federal agencies. The proposal is an appropriate and vital first step to address coastal flooding at the building-scale, and that such zoning regulations will play a key role in advancing resiliency work moving forward, including when additional financial assistance programs become available.**

Comment 34: Renewable, clean energy and climate change mitigation strategies must be clearly incorporated into the proposed changes. Incentivize installation of renewable power and energy generation, transmission, and storage technologies as a prerequisite for Power System installations and mechanical structures over open space. Funding by the New York State Energy Research and Development Authority (NYSERDA), through New York's Climate Leadership and Community Protection Act (CLCPA)? (#10)

Response 34: **Comment noted. Please see response to Comment 1.5 above.**

Comment 35: Commercial storefronts (especially in dense zones) do not have the space to comply with dry-floodproofing requirements. Additional considerations must be made for these businesses in future ZCFR updates, and exemptions made as the challenges of implementation are made clearer in the first year of enforcement. (#10)

Response 35: **The Proposed Action includes many modifications to the rules enacted shortly after Hurricane Sandy, meant to assist the floodproofing of commercial storefronts, based on lessons learned since then. These include a mix of proposals to remove impediments to specific floodproofing strategies, and incentives to encourage preferred outcomes. For example, the Proposed Action includes many provisions intended to assist the creation of dry-floodproofed retail spaces, including modifications to street wall regulations to allow sufficient space to accommodate exterior stairs and ramps, as well as flood panels, in all zoning districts that require street walls be located on or near the street line, as explained on page 1-14 in EIS Chapter 1, "Project Description." It also includes allowances for mandatory ground floor uses to be elevated to the flood-resistant construction elevation (FRCE) so that buildings can pursue a variety of strategies to comply with Appendix G, such as by partly raising the ground-floor level and dry-floodproofing above that height, as explained on page 1-15 of EIS Chapter 1.**

Comment 36: Basements and cellar occupancy and use (specifically in dense neighborhoods). Prioritize funding and future zoning considerations for the integration of wet/dry-floodproofing of basement and cellar dwelling units in the 0.2% flood zone, whether in the current Basement Apartment Conversion Pilot Program (BACPP) or in future program expansions. This will

increase capacity for affordable units, stabilize homeownership, prevent homelessness, and protect tenants. (#10)

Response 36: Comment noted.

Comment 37: We would like to commend DCP and partners for this overdue and critical text amendment, and express our support for its (a) incorporation of community character and streetscape considerations, specifically the proposed Point System related to Building Access and Ground Floor Level; (b) support of long-term resilient design for all building types; and (c) allowances for adaptation over time through incremental retrofits. (#10)

Response 37: Comment noted.

Comment 38: While zoning is only one planning tool without clear funding mechanisms to assist property owners, the stage could be set for a piecemeal approach that does not comprehensively improve the city's coastal risk. We agree with Manhattan Community Board 1 and Borough President Brewer that DCP must work with other local, state, and federal agencies to formulate a plan to financially assist qualified property owners when retrofitting their homes and businesses for resiliency through this zoning amendment. While we acknowledge the constraints of DCP and the CPC's authority, without a funding component, financially vulnerable property owners will become more at risk to future storms, sea level rise, and potential foreclosures. (#12)

Response 38: This issue is beyond the scope of CEQR review.

Comment 39: While the intent of the zoning amendment is to encourage property owners to proactively reduce future risk, we are concerned that by extending zoning flexibility to any lot where at least a portion is within the flood zone, the incentives could be used by owners to exploit the optional regulations for floor area and height bonuses. For example, as it stands now, the zoning creates a potential loophole in which property owners could use zoning lot mergers to carve out portions of their properties in the floodplain and use the provisions of this proposal to build larger new buildings outside the floodplain, but within the affected zoning lot. One way to raise transparency on this potential loophole is for DOB to provide notice to affected Community Boards and Borough Presidents when a property owner seeks a zoning lot merger within the area covered under this zoning proposal. (#12)

Response 39: As discussed on pages 1-9 and 1-10 of EIS Chapter 1, "Project Description," ZCFR would simplify the design process and further encourage buildings to proactively incorporate resiliency improvements by determining applicability based on the zoning lot. ZCFR's rules, such as height allowances and floor area exemptions, would be able to be utilized only if the building on the lot complies with or exceeds Appendix G regulations. This applicability will produce a more consistent outcome and be more in line with applicability requirements in the rest of the Zoning Resolution.

Comment 40: The Netherlands takes on the burden of flood resilience at the national and regional level allowing individual houses to be diverse. The NYC approach is to put the burden on the individual. We ask to reinvigorate neighborhood scale flood protection. Red Hook has been flooded. We know what our houses can withstand and what our community can withstand. We need neighborhood-scale flood protection. We support ZCFR, but we want to note from experience that resilience cannot be accomplished only at the level of the individual. A lively street with activity on it increases social resilience, so if floodproofing requirements deaden the activity on the street, neighborhood resilience, which is a

combination of social and physical resilience, will suffer. A mandate for every house to save itself is not enough and can be counterproductive if the regulations are too complicated. (#13)

Response 40: Please see response to Comment 1.5 above.

Comment 41: I support the Proposed Action. Adapting New York City to climate change will require substantial public and private sector actions, over the coming decades. While much attention is paid to large coastal infrastructure projects, we must deploy multiple lines of defense and utilize all of the tools that are available to us. Our building and zoning codes are primary levers in our evolving climate adaptation toolkit. We must ensure these documents include both rigorous standards and flexible provisions for new construction and retrofits within the coastal floodplain. We strongly support the ZCFR proposal that exemplifies this approach. As we design policies that enable resilient construction retrofits, we must also assist property owners navigate the technical and financial challenges of implementing resiliency improvements. (#14)

Response 41: Comment noted.

Comment 42: Through our rise to resilience coalition, we call for urgent policy governance and financial changes that will protect our region from the risk of climate. Through our waterfront edge design guidelines program, which is the wedge program, we are shifting the market towards resilient, sustainable, and accessible waterfront development. For these reasons, we support ZCFR. While we are in strong support of the new zoning, it should remain very clear that zoning is just one part of a set of solutions that are needed for New York City's resiliency. We continue to advocate for the comprehensive legislation and regulatory solutions to the effects of climate change, set forth in our resilience policy platform, and we also push for the funding that is needed for many of the changes that will be allowed through this zoning. Floodplain neighborhood uses and morphology are extremely diverse, making the need for flexible but targeted land use policies critical for adapting to future risks. The city will face two and a half feet of sea level rise by 2050, and because of these changes in the flood zone, the number of people, businesses, and land in the flood zone will greatly increase. We support the zoning for the following reasons it expands the 500-year floodplain, which increases the area for which the resiliency provisions apply. And this allows building owners in the 500-year floodplain to proactively build and retrofit according to new resilience standards. The zoning changes will reduce barriers to the use of nature-based resiliency strategies, such as soft shorelines, which reduce title energy at the waterfront and increase habitat, for an ecologically productive and healthy shoreline. And we are extremely pleased that the zoning is the product of robust community input that happened after Hurricane Sandy. This reflects the widespread demand for future-focused resiliency measures. We are also so pleased that 2,500 New Yorkers participated from all five boroughs and there were many creative engagement strategies that were used in order to reach them. So for all of these reasons, we give our full support to ZCFR. It's a positive and impactful step in the right direction. (#15)

Response 42: Comment noted.