

New York Supreme Court

APPELLATE DIVISION—FIRST DEPARTMENT

LANDMARKWEST! INC.,

Petitioner-Appellant,

—against—

CASE NOS.

2021-02808

2021-04423

NEW YORK CITY BOARD OF STANDARDS AND APPEALS,
NEW YORK CITY DEPARTMENT OF BUILDINGS,
EXTELL DEVELOPMENT COMPANY, and WEST 66TH SPONSOR LLC,

Respondents-Respondents.

RECORD ON APPEAL VOLUME VIII OF IX (Pages 4422 to 4856)

GEORGIA M. PESTANA
CORPORATION COUNSEL OF
THE CITY OF NEW YORK
PAMELA A. KOPLIK,
ASSISTANT CORPORATION COUNSEL
100 Church Street
New York, New York 10007
(212) 356-1000
pkoplik@law.nyc.gov

*Attorneys for Respondents-Respondents
New York City Board of Standards
and Appeals and New York City
Department of Buildings*

JASON C. CYRULNIK
CYRULNIK FATTARUSO LLP
55 Broadway, 3rd Floor
New York, New York 10006
(917) 353-3005
jcyrulnik@cf-llp.com

*Attorneys for Respondents-Respondents
Extell Development Company and
West 66th Sponsor LLC*

MIKHAIL SHEYNKER
KLEIN SLOWIK PLLC
90 Broad Street, Suite 602
New York, New York 10004
(212) 564-7560
msheyarker@buildinglawnyc.com
*Attorneys for Petitioner-Appellant
LandmarkWest! Inc.*

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NYSCEF DOC. NO. 84

INDEX NO. 160565/2020

RECEIVED NYSCEF: 08/06/2021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
LANDMARKWEST! INC.

Index No.: 160565/2020

--against--

Affirmation in Support

NEW YORK CITY BOARD OF STANDARDS
AND APPEALS, NEW YORK CITY DEPARTMENT
OF BUILDINGS, EXTELL DEVELOPMENT
COMPANY AND WEST 66TH SPONSOR LLC
-----X

MIKHAIL SHEYNKER, ESQ., an attorney duly admitted to
practice law before the Courts of the State of New York, hereby
affirms and states under penalty of perjury pursuant to CPLR
2106:

1. I am associated with Klein Slowik PLLC, attorneys of
record for Petitioner LandmarkWest!,Inc. (LW!) and respectfully
submit this Affirmation in support of its application pursuant to
CPLR 2221 (e) to renew its prior mandamus proceeding to review
pursuant to Article 78 of the CPLR. A true and accurate copies of
all the papers previously submitted in support of the underlying
petition and in reply to the opposition are available for review
on NYSCEF Docket Nos.1-29, 77.

2. This Article 78 proceeding attacks the November 6, 2020
resolution ("the Resolution") of the New York City Board of
Standards and Appeals (the "BSA" or the "Board") to affirm the
issuance of a building permit (the "Permit") by Respondent New

York City Department of Buildings ("DOB"), allowing Respondents Extell Development Company and West 66th Street Sponsor LLC (together, "Extell") to proceed with construction of a 775-foot-tall ultra-luxury condominium tower (the "Building") at 36 West 66th Street. For the sake of brevity, the undersigned will not restate the factual background and legal arguments that are fully briefed in the original Verified Petition.

3. On May 4, 2021, the Court issues a decision denying and dismissing the petition for the reasons set forth on the record of oral argument. Petitioner was served via NYSCEF filing with a copy of this decision, order and judgment, together with notice of its entry, on July 7, 2021. A true and accurate copy of the May 5, 2021 Decision, Order and Judgment, together with notice of entry is annexed hereto as Exhibit A.

4. The purpose of this motion is to bring to the Court's attention that the Court's May 4, 2021 decision needs to be revisited due to a clarification in the law that occurred after the Court's determination. It is axiomatic that a motion to renew lies in the event of the intervening clarification in the law. See *e.g., Roundabout Theatre Co. Inc. v. Tishman Realty & Constr. Co., Inc.*, 302 AD2d 272, 272-73 (1st Dept. 2003).

Intervening Clarification in the Law

5. On May 12, 2021, eight days after the Court's erroneous denial and dismissal of the Article 78 Petition, the City Council approved an amendment to the Zoning Resolution, known as the Zoning for Coastal Flood Resiliency ("ZCFR"). This is a package of various amendments the purpose of which is to "update and make[] permanent the current temporary regulations from 2013 set forth within the Special Regulations Applying in Flood Hazard Areas [] to remove zoning barriers that hinder the reconstruction and retrofitting of buildings to resiliency standards and to help ensure that new construction will be more resilient." A true and accurate copy of the CPC Report dated March 17, 2021 is annexed hereto as Exhibit B, p.1. Most of the zoning text changes have defined limited applicability as to particular districts, flood zones and areas, but some have citywide applicability. There is one amendment that touches upon paragraph (8) of the definition of "Floor Area" in Section 12-10 of the Zoning Resolution ("ZR").

6. Before May 12, 2021, the definition read:

Floor Area

...

(8) floor space used for mechanical equipment, except that such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50

square feet for the first **dwelling unit**, an additional 30 square feet for the second *dwelling unit* and an additional 10 square feet for each additional **dwelling unit**. For the purposes of calculating floor space used for mechanical equipment, **building segments** on a single **zoning lot** may be considered to be separate **buildings** (emphasis in original)

Effective 5/12/21, the following are the underscored changes:

Floor Area

...

(8) floor space used for #accessory#mechanical equipment, including equipment serving the mechanical, electrical, or plumbing systems of #buildings# as well as fire protection systems, and power systems such as solar energy systems, generators, fuel cells, and energy storage systems. Such exclusion shall also include the minimum necessary floor space to provide for necessary maintenance and access to such equipment. However, such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#

A true and accurate copy of the May 12, 2021 Zoning Text

Amendments is annexed hereto as Exhibit C, Minutes of the City

Council's May 12, 2021 Meeting, p.99.

Legal Analysis

7. This amendment, particularly the sentence, "*Such exclusion shall also include **the minimum necessary** floor space to provide for necessary maintenance and access to such*

equipment (emphasis added), did not effect a change in law but was made to clarify the existing law to avoid a pattern of inconsistent and unfair application of this FAR deduction by the Department of Buildings.

8. The significance of this clarification on the determination of issues raised in LW!'s petition is that it makes absolutely plain that the two BSA commissioners who voted to deny LW!'s appeal acted arbitrarily and capriciously when they misread the word "use" to mean any and all space a developer wishes to claim and that by designating the entire floor for "mechanical use", Extell could exempt 100% of the floor area. In fact, as BSA Commissioner Sheta, the only engineer on the Board, concluded, Ambrosino's analysis that presented the most efficient layout for the HVAC equipment, freeing up thousands of square feet of unused and unnecessary "white space" was directly on point as to the only rational reading of the statute. This amendment contains a clarification that establishes the BSA's denial of the appeal was a result of a gross misreading of the word "use" in paragraph (8) of the definition of Floor Area, and was arbitrary and capricious.

9. It has been the law at both the state and federal levels that when the legislative history indicates that an amendment merely clarify the existing law, as opposed to effects a change in the existing law, the amendment does not institute a

change in the law and as a result controls analysis of disputes arising prior to the amendment. See *Brown v Thompson*, 374 F.3d 253, 259 (4th Cir. 2004).¹ Clarifying amendment has the status of legislative intent to be accorded great weight in applying the original statute. See *EFS Medical Supplies Inc. v Dowling*, 252 AD2d 99, 108 (1st Dept. 1998) (when applying Congressional enactment clarifying legislative intent).

10. In determining whether an amendment clarifies or changes an existing law, a court, of course, looks to statements of intent made by the legislature that enacted the amendment. *Weaver v State of New York*, 91 AD3d 758, 760 (2nd Dept 2012) (upholding ruling of lower court predicated in part on observation that legislative history of recent amendments to Mental Hygiene Law §§29.23 and 33.07(e) indicated that amendments were intended merely to clarify director's authority under those sections, and not to alter existing substantive

¹ "We note at the outset that when an amendment alters, even "significantly alters," the original statutory language, this does "not necessarily" indicate that the amendment institutes a change in the law. *Piamba Cortes v. American Airlines, Inc.*, 177 F.3d 1272, 1283 (11th Cir.1999) (internal quotation marks and citation omitted); accord *Wesson v. United States*, 48 F.3d 894, 901 (5th Cir.1995) (noting that "an amendment to a statute does not necessarily indicate that the previous version was the opposite of the amended version"). Certainly, Congress may amend a statute to establish new law, but it also may enact an amendment "to clarify existing law, to correct a misinterpretation, or to overrule wrongly decided cases." *United States v. Sepulveda*, 115 F.3d 882, 885 n. 5 (11th Cir.1997) (internal quotation marks and citation omitted). As we have explained, a "change[] in statutory language need not *ipso facto* constitute a change in meaning or effect. Statutes may be passed purely to make what was intended all along even more unmistakably clear." *United States v. Montgomery County*, 761 F.2d 998, 1003 (4th Cir.1985)."

law."); see also *Gleason v Michael Vee, Ltd.*, 96 NY2d 117, 122 (2001) (giving retroactive effect to amendment of CPLR 7502(a) because "the legislative history establishes that the purpose of the amendment was to clarify what the law was always meant to do and say: that all arbitration-related applications should be concentrated in a single proceeding to promote judicial economy and prevent forum shopping. These factors together persuade us that the remedial purpose of the amendment should be effectuated through retroactive application"); *Town of Cortland v NY State Bd. Of Real Prop. Servs.*, 36 AD3d 823, 826 (2nd Dept. 2007); *FASA Props. v Freidus*, 103 AD2d 729, 730 (1st Dept 1984) (holding that 1981 amendment to RPL 421-a merely clarified the pre-existing law that rent stabilization laws do not apply to multiple dwellings containing condominium or cooperative units).

11. A review of the administrative and legislative materials, appended herein, establishes that the purpose behind inserting additional language in paragraph (8) of the definition of the term Floor Area was to clarify, not to change, the existing law, but "to make what was intended all along even more unmistakably clear". *Brown supra*. Review of the Full Environmental Impact Statement, issued by the Department of City Planning, solidifies this conclusion.² A true and accurate copy

² The State Environmental Quality Review Act ("SEQRA"), N.Y. ENVTL. CONSERV. LAW ("ECL") ch. 43-B, art. 8, §8-0101 et seq., requires all state

of the Notice of Completion of the Final Environmental Impact Statement, issued by the DCP, and dated March 5, 2021, is annexed hereto as Exhibit D.

and local agencies in New York State to assess the environmental effects of land use application, via a process of civic engagement and public comment, so as to minimize negative impacts of these projects, and to maximize benefits, for the communities hosting them: It is the purpose of this act to declare a state policy which will encourage productive and enjoyable harmony, between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human, and community resources important to the people of the state. ECL §8-0101. It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities. ECL §8-0102(5).

To meet this need, the State has implemented a comprehensive statutory and regulatory scheme, which public agencies must follow in securing approvals. New York State's regulations for implementing the SEQRA statutes, at 6 NYCRR FILED: NEW YORK COUNTY CLERK 05/06/2021 03:48 PM INDEX NO. 154724/2021 NYSCEF DOC. NO. 1 RECEIVED NYSCEF: 05/14/2021 12 of 24 13 §617.14 et seq., enable municipalities to promulgate their own procedures for SEQRA review, in conformity with SEQRA. New York City has established such a procedure, i.e. CEQR, the rules for which are codified at 62 RCNY §5-01 et seq., and 43 RCNY §6-01 et seq. ("the CEQR Rules"). The CEQR statutes and rules are substantially similar to those for SEQRA; CEQR may be thought of as the implementation of SEQRA for the five boroughs. See N.Y.C. MAYOR'S OFFICE OF ENVIRONMENTAL COORDINATION, CITY ENVIRONMENTAL QUALITY REVIEW TECHNICAL MANUAL ("CEQR Manual"), 2020 at 1-2.1 52 RCNY §5-03 mandates designation of a "lead agency" for CEQR projects. The lead agency determines the proper scope of review for a project, coordinates with other agencies, solicits and interprets public comment, and, if the project scope requires, prepares Environmental Impact Statements ("EIS") as per the requirements in the CEQR Manual. 30.

The lead agency for land use applications in New York City is usually the City Planning Commission acting through its executive branch, the Department of City Planning (DCP). Applicants for discretionary land use actions must file an Environmental Assessment Statement (EAS) in addition to the ULURP application. The EAS form, with any supporting 1 <http://www1.nyc.gov/site/oec/environmental-quality-review/technicalmanual.page>. When, as here, DCP is the lead agency, EAS is typically filed along with related ULURP applications and the ULURP and CEQR proceed concurrently. The EAS serves to assist the DCP in assessing whether identified adverse effects on the environment may be significant enough to warrant further analysis in an Environmental Impact Statement (EIS).

12. Review of the EIS indicates that with regard to deductions of floor area for mechanical equipment (ME) use, the DCP learned that the FAR deductions by the DOB's plan reviewers were so unevenly and unpredictably applied that it prevented many home owners from relocating their mechanical equipment above the flood zone level due to patchy crediting of the FAR ME deduction:

In addition, recovery efforts after Hurricane Sandy have highlighted shortcomings with the floor area exemptions provided for mechanical equipment in the ZR that have hampered resiliency projects. Space used for mechanical equipment is exempted from floor area calculations in all zoning districts citywide. However, it has not been clear whether the space necessary for routinely accessing and servicing the equipment is also exempted, which has led to inconsistent outcomes. This has also, in some situations, made it difficult to retrofit buildings in the floodplain by moving mechanical equipment from below-grade locations, where they are fully exempted from floor area calculations, to upper areas where they may not be. To address this situation in a comprehensive manner across the city, the Proposed Action **would clarify** that the floor area exemption for mechanical equipment applies to mechanical, electrical, plumbing equipment, as well as to fire protection and power systems, and necessary maintenance and access areas. This is consistent with the general practice at the Department of Buildings **but would ensure that buildings across the city would be treated consistently.**

(emphasis added). The City Planning Commission's Report, dated March 17, 2021, contains a report from the Community Board 1 (CB1), which on page 4 of the CB1 Report, reproduced on pages 326-333 of the CPC Report, also refers to the relevant portions of the zoning text amendments as "[c]larifying the floor area exemption for mechanical equipment".

13. Before issuing the EIS, the DCP solicited public comment and published "Zoning for Resiliency: Community Outreach Summary", in which it detailed some complaints from design professionals that

[w]hile the current zoning allows additional latitude for mechanical equipment to be relocated from the basement to the top of the building or a rear yard, architects and property owners highlighted some limitations of these allowances. Though some flexibility exists for mechanical equipment, the space used to access the equipment is counted as floor area, which can pose difficulties for existing buildings that are trying to reconfigure and relocate building systems.

A true and accurate copy of the "Zoning for Resiliency: Community Outreach Summary" is annexed hereto as Exhibit E.

14. This information completely discredits the BSA Chair's position that to assess how much floor area could be exempted as mechanical use, it was sufficient to simply review similarly sized buildings and compare amounts of FAR deductions awarded by the DOB on those projects. Because otherwise, the DOB could not possibly assess how much space was needed to operate the equipment. In fact, the very reason why this clarification was necessary is because the DOB routinely denied FAR deductions for floor area around the equipment that was necessary to service it, to the point that alterations could not be done to homes in flood areas. This was happening all the while the DOB was just signing "blank checks" on FAR ME deductions to mega developers

on Manhattan. Petition ¶50, fn. 15, available on NYSCEF Docket No. 1. The DOB General Counsel testified at the December 17, 2019 hearing that the DOB looks at different things when reviewing ME FAR deduction, without being able to articulate a single consideration. Petition, fn. 15. Inconsistent and unequal application of the law has due process ramifications that the Court failed to address in its prior decision.

15. A review of the transcript of meeting of City Council's Committee on Land Use on April 27, 2021, on page 6, lines 20 through 25, also sets forth that the relevant amendment were "clarifications":

The modifications will include clarifications applicable of the proposed flood plan regulations and clarification to certain bulk regulations. These clarifications will address floor area rules and provide obstruction rules for accessory mechanical equipment.

A true and accurate copy of the transcript of the April 27, 2021 meeting of City Council's Committee on Land Use is annexed hereto as Exhibit F.

16. "Clarification" is the word that consistently appears in relevant portions of the legislative history and the May 12, 2021 amendment clarifying that it is "the minimum necessary floor space to provide for necessary maintenance and access to such equipment" exposes that the BSA's denial of the application was a result of a purely legal statutory analysis, to which the Court owes no deference, especially as the City Council has

clarified it to be plainly wrong. In fact, a simple dictionary definition of the word "use"³ in the pre-May 12 wording in essence gives the same meaning as what was made clear by the May 12, 2021 clarifying amendment.

17. Even a logical reading of the relevant portion of paragraph (8) before and after May 12, 2021 shows that when reading both with logic in mind, the meaning has not changed. For example, there is a word "accessory" that is added before the word "mechanical". "Accessory" is a term defined in the ZR and means "a use which is clearly incidental to, and customarily found in connection with, such principle use" or "is either in the same ownership as such principal use, or is operated and maintained on the same zoning lot substantially for the benefit of the owners, occupants, employees, customers, or visitors of the principal use." Adding this term merely clarifies that which was apparent already, that the FAR ME deduction is appropriate for mechanical equipment that is installed for the benefit of operating a building where it is installed.

³ "Use": To put into action or service: avail oneself of: EMPLOY", with the word "utilize" being closest synonym. Petition, ¶66. This is where the additional clarification of "minimum necessary floor space" fits, as all the space that is more than what is necessary to operate a piece of equipment is not "used" for that operation. It may have a different purpose, in which case the developer simply does not get all the FAR ME deduction it may want under paragraph (8) of the Floor Area Definition either before May 12, 2021 or after. Same result inures. This is question of pure statutory interpretation, and the BSA Chair and Vice Chair clearly did not even understand a legal standard that they needed to apply.

18. Further, the clarification then adds various types of mechanical equipment that exists and is currently installed in buildings: "including equipment serving the mechanical, electrical, or plumbing systems of #buildings# as well as fire protection systems, and power systems such as solar energy systems, generators, fuel cells, and energy storage systems". This addition does not really alter the import of the prior formulation and use of the word "mechanical." This additional language does not qualify or alter – it simply clarifies.

19. The final and most important clarification that "Such exclusion shall also include the minimum necessary floor space to provide for necessary maintenance and access to such equipment" is inherent in the previous word "use". This clarification accords comfortably with the Commissioner Scibetta's formulation of the best reading of the word use:

. . . mechanical space that does not count towards floor area applies when the space is what the equipment reasonably requires, that the space is exclusively devoted to housing the mechanical equipment used for the service of the building, that the space has no other use, that the mechanical plans cannot realistically be occupied for purposes other than housing the [sic] servicing of said equipment.

Petition, ¶59.

20. Substantively, amendment to paragraph (8) of the definition of the Floor Area adds nothing. Its purpose is to say that "blue sky" is "blue", and blue means not red, yellow,

green, black, white or any other color for that matter. This amendment makes facetious word acrobatics so much harder for the DOB when denying FAR ME deductions to small projects and looking the other way when granting them to the wealthy developers. It does not add or detract from what the law was. Only clarifies.

21. Nor can Extell reasonably rely on the DOB's long-standing policy of not reviewing the mechanical equipment and the space necessary for its servicing and operation as private individuals cannot rely on a practice of non-enforcement of the law, especially where this nonenforcement affected only multi-million-dollar luxury developments and was arbitrarily applied only to one-and-two family home developers and private property owners.

Importance of This Petition

22. While the Court initially might not have appreciated the importance of the issues raised on this Petition, the undersigned would like to explain that this Article 78 does not merely concern a miscalculation of FAR deduction that can be recalculated with ease. This is not merely a fight of math geeks for the sake of fighting. Nor is this merely a fight over floor area calculation that may result in removal of a few apartments once FAR is recomputed. The fate of the mechanical voids monstrosity and the architectural and urban integrity of the Upper West Side neighborhood is at stake here.

23. In a related appeal brought by the City Club, the First Department recently ruled, while reversing the lower court's cancellation of the permit, that "BSA rationally relied on its precedent (see 15 East 30th Street, BSA Cal. No. 2016-4327-A [Sept. 20, 2017]) in ruling that when this project vested ZR § 12-10 did not control or regulate the height of the mechanical floor area (see *Matter of Peckham v Calogero*, 12 NY3d 424, 431 [2009] [rational for agency to act 'consistent with its own rules and precedents'])". *The City Club of N.Y. v BSA et al.*, 2021 WL 3083700 (1st Dept 2021). That appeal in part concerned the issue of the mechanical voids. Petition, fn. 4.

24. This petition picks up where the City Club's appeal left it. The issues of vesting rests on whether a developer obtained a valid permit prior to zoning amendment change. If the permit was not issued legally, the permit cannot support a claim of vesting. See e.g., *Natchev v Klein*, 41 NY2d 833, 834 (1977). This Petition establishes that Extell's permit, issued on April 11, 2019, was invalid at the time of issuance, as it was obtained on an improper claim that the entire square footage of the floors designated for use of mechanical equipment could be deducted from the floor area calculations, with the resulting violation of the 60/40 split of tower versus base portion of the building in violation of ZR §82-34. As the First Department observed in the City Club's appeal:

Pursuant to the applicable Zoning Resolution provisions, the total floor area permitted on the project site is 548,543 square feet. ZR § 82-34's bulk distribution regulation required that the project had to have at least 60% of the total floor area located below a height of 150 feet (329,125.8 square feet). The project designated 329,131.92 square feet of floor area below 150 feet, slightly more than the 60% requirement.

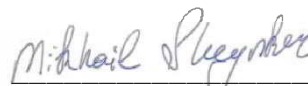
25. Because the mechanical floors forming the basis of the mechanical voids are all based in the tower portion of the structure, any excessive Floor Area deduction improperly exempting more than six square feet of floor area in the 40% tower portion renders the project noncompliant with ZR §82-34 bulk distribution regulation. Once the improper deductions are removed and additional square footage is added as chargeable floor area, it would become evident that less than 60% of the square footage is placed below 150 feet. As a result, the permit would have to be cancelled, and the underlying job application denied. Extell would have to redraw its plans, amend the application and reapply for a new permit. Only this time, the application would have to comply with the floor height regulations enacted for mechanical floors in May 2019 (25 feet), as the new permit would not be reissued retroactively. Therefore, the mechanical voids would have to be eliminated and the height of the building would drop to be consistent with what is appropriate for the surrounding neighborhood.

26. This Article 78 is deciding the fate of a multi-billion project, on one hand, and fair administration of the law in the face wealth and greed, on the other, and deserves a careful and weighted review and a full written opinion from the Court.

27. Accordingly, Petitioner requests that the Court grant leave to renew and, upon renewal, reconsider its May 4, 2021 decision in light of the May 12, 2021 amendment clarifying the definition of Floor Area in ZR §12-10.

Dated: Brooklyn, New York
August 6, 2021

KLEIN SLOWIK, PLLC



By Mikhail Sheynker, Esq.
90 Broad Street, Suite 602
New York, New York 10004
Phone: 917-715-3060 (temp)
msheynker@buildinglawnyc.com

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 84

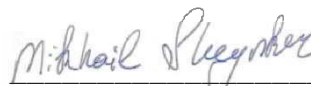
RECEIVED NYSCEF: 08/06/2021

CERTIFICATION PURSUANT TO 22 NYCRR 202.8-b(c)

I, Mikhail Sheynker, counsel for Petitioner in the above-captioned matter, hereby certify that this affirmation was generated on a computer word-processing program, using Courier New font, 12 pt. size, double-spaces with 1 inch margins, and the word count for this brief is 4400 words, inclusive of this certification.

Dated: Brooklyn, New York
August 6, 2021

KLEIN SLOWIK, PLLC



By Mikhail Sheynker, Esq.
90 Broad Street, Suite 602
New York, New York 10004
Phone: 917-715-3060 (temp)
msheynker@buildinglawnyc.com

**Exhibit A to Sheynker Affirmation-
Decision and Order of the Honorable Eileen A. Rakower
Appealed From, dated May 4, 2021, with Transcript of
Proceedings, dated May 4, 2021 and Notice of Entry,
dated July 7, 2021
(Reproduced herein at pages 4 to 29)**

Exhibit B to Sheynker Affirmation-
March 17, 2021 City Planning Commission Report for Application
#N 210095 ZRY
[pp. 4441 - 4856]

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

NYSCEF DOC. NO. 86

INDEX NO. 160565/2020

RECEIVED NYSCEF: 08/19/2021



CITY PLANNING COMMISSION

March 17, 2021 / Calendar No. 7

N 210095 ZRY

IN THE MATTER OF an application submitted by New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to modify the flood resiliency provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), and related Sections.

This application (N 210095 ZRY) for an amendment to the Zoning Resolution (ZR) was filed by the Department of City Planning (DCP) on October 16, 2020 to update and make permanent the original 2013 Flood Text (N 130331(A) ZRY).

BACKGROUND

The proposed Zoning for Coastal Flood Resiliency text amendment (ZCFR) is one component of a wide range of citywide efforts to implement the vision of a more resilient New York. ZCFR updates and makes permanent the current temporary regulations from 2013 set forth within the Special Regulations Applying in Flood Hazard Areas (ZR Article VI, Chapter 4) to remove zoning barriers that hinder the reconstruction and retrofitting of buildings to resiliency standards and to help ensure that new construction will be more resilient. In addition, ZCFR builds upon the Special Regulations for Neighborhood Recovery (ZR Article VI, Chapter 4, Appendix A) from 2015 to simplify and expedite the process of elevating and reconstructing single- and two-family homes in Hurricane Sandy-impacted areas. ZCFR includes special provisions to help facilitate the city's long-term recovery from the ongoing COVID-19 pandemic and its associated economic effects, and sets a framework for future disasters. ZCFR also includes updates to other sections of the ZR, including the Special Regulations Applying in the Waterfront Area (ZR Article VI, Chapter 2), provisions within various special purpose districts, and regulations with citywide applicability.

ZCFR originated from lessons learned and initiatives implemented through New York City's recovery efforts after Hurricane Sandy in 2012. It was developed based on analysis of resilient construction in the floodplain, through widespread coordination with partner City agencies, and community feedback received during an extensive public engagement process as laid out in 2018's *Zoning for Resiliency: Community Outreach Summary*. The proposal to make permanent the 2013 Flood Text provisions is necessary to continue to remove regulatory barriers that hinder or prevent buildings from complying with resiliency standards, which are located within the New York City (NYC) Building Code (Appendix G), as constructing buildings to these standards reduces vulnerability to future flood events and helps property owners to avoid higher flood insurance premiums.

The proposed updates to the existing provisions are needed to accommodate future flood risk so that long-term adaptation can be achieved across the city's entire floodplain, as it will continue to increase with climate change. Sea level rise will increase the potential height of storm surges and will also cause the extent of the floodplain to expand over time. The updates also acknowledge that the 2013 Flood Text was predominantly focused on the low-density residential areas heavily impacted by Hurricane Sandy. As such, the 2013 Flood Text less effectively addressed the wider variety of conditions found throughout the city's floodplain. With more than eight years of experience under existing floodplain regulations, some of these inconsistencies became clear and are therefore being addressed so that all buildings and, by extension, all neighborhoods in the city's floodplain can become more resilient. Finally, the recovery process associated with Hurricane Sandy and the current COVID-19 pandemic makes clear that zoning should include regulations that can help facilitate long-term disaster recovery. Therefore, ZCFR proposes regulations that can be made applicable quickly after a disaster strikes the city, on a temporary basis, in order to facilitate the recovery process.

In the long term, ZCFR, in conjunction with coastal protection strategies and infrastructure improvements that are being pursued by the City and other New York State (NYS) and federal agencies, would help to fully realize the vision of a more resilient city.

Regulatory Framework

Flood Resiliency

In 1983, the City joined the National Flood Insurance Program (NFIP), allowing homeowners to purchase flood insurance and receive assistance following flood events. This program, administrated by the Federal Emergency Management Agency (FEMA), is a voluntary program based on an agreement between the federal government and local communities. FEMA identifies areas at risk of flooding through the development of flood-risk maps. Local authorities adopt these maps to implement and enforce floodplain management regulations. In exchange, local communities receive access to federally backed flood insurance, which is made available to property owners and renters throughout the floodplain. The rates for this flood insurance vary depending on location, height above sea level and general building characteristics. These rates can be substantially reduced when subgrade spaces, such as basements and cellars, are removed from residential buildings, and when living spaces are elevated above the base flood elevation (BFE) — the elevation to which floodwater is anticipated to rise during a 1% annual chance storm as currently shown on FEMA's Flood Insurance Rate Maps (FIRMs) and the Preliminary FIRMs (PFIRMs), as measured from sea level.

Appendix G provides flood resilient construction guidelines and is administered by the NYC Department of Buildings (DOB) as a requirement of the NFIP. Appendix G requires all habitable spaces of new construction, and existing buildings that were substantially damaged or are undertaking substantial improvements, to be raised above the Design Flood Elevation (DFE) — the minimum elevation to which a building must be elevated or floodproofed, generally determined by adding freeboard (additional height for safety; either one or two feet depending on the occupancy type) to the BFE — as determined by Appendix G. "Substantial damage" is damage to a building for which the total cost of repair is 50 percent or more of the building's current market value before the disaster occurred, regardless of the cause of damage. "Substantial improvement" is any repair, reconstruction, rehabilitation, addition, or improvement with a cost equaling or exceeding 50 percent of the current market value of the building. All spaces below the DFE must be either wet-floodproofed (a method designed to allow the passage

of water within parts of the structure that are located below the flood elevation, while ensuring that the structure resists water loads), if the building is used solely for residential use, or dry-floodproofed (a method designed to seal a building's exterior walls to flood waters while ensuring that the building can resist water loads below the expected level of flooding), if the building contains non-residential uses. Spaces that are wet-floodproofed can be used only as crawl space, or for parking, storage and building access, and spaces that are dry-floodproofed can be used for non-residential uses. Additionally, residential buildings are not allowed to provide spaces, such as basements and cellars, below grade and mechanical equipment must be located above the DFE.

Historically, the ZR generally did not account for the issues caused by coastal flooding. The floodplain was first introduced to the ZR as part of the Lower Density Contextual Zoning text amendment (N 890552 ZRY) adopted in 1989 when architects and residents of waterfront communities raised concerns about achieving permitted height and floor area in the floodplain. As a result, existing underlying zoning regulations allow for buildings in the floodplain to measure building perimeter wall, roof, and cellar heights from the BFE rather than from the adjoining grade.

After Hurricane Sandy, the Mayor signed Executive Order No. 230 in October 2012 suspending height and other restrictions as necessary to allow buildings to be rebuilt to the Appendix G requirements. The Executive Order was an interim measure that needed codification. As a result, the City adopted two zoning text amendments: the 2013 Flood Text (N 130331(A) ZRY) and the 2015 Recovery Text (N 150302 ZRY). These were intended to remove regulatory barriers that would hinder or prevent the reconstruction of storm-damaged properties, and to enable new and existing buildings to comply with new, higher flood elevations issued by FEMA, and to new requirements in the NYC Building Code.

In removing regulatory obstacles from the ZR, the 2013 Flood Text allowed buildings within the 1% annual chance floodplain to meet the requirements of Appendix G. The subsequent 2015

Recovery Text simplified the process to document non-compliance (a portion of any building or structure that does not adhere to bulk regulations of the applicable zoning district) and established new rules to allow the reconstruction of damaged homes located on narrow and small lots.

The two text amendments were adopted on a temporary emergency basis and were not subject to environmental review, as they were determined to be Type II per New York Codes, Rules, and Regulations (NYCRR) given their emergency and temporary nature. The 2013 and 2015 zoning changes included expiration provisions: the 2013 Flood Text expires within one year of the adoption of new FIRMs, which are expected to be revised by FEMA in the next few years, while applicability of the 2015 Recovery Text expired in July 2020.

COVID-19 Pandemic

On March 7, 2020, Governor Andrew Cuomo declared a statewide disaster emergency to address the threat that the COVID-19 virus posed to the health and welfare of NYS residents and visitors. With cases quickly increasing over the next few weeks, the Governor announced a full stay-at-home order for all non-essential workers on March 20 and halted all non-essential construction work on March 27. The City's Uniform Land Use Review Procedure (ULURP) was suspended from March 12 through September 14, 2020.

As of March 20, 2021, over 794,027 cases and nearly 30,564 deaths were reported in the city, making it one of the global centers of the pandemic. In addition, the city's economy was greatly impacted by the shutdown, losing nearly one million jobs in the span of only a few weeks.

To help address these issues, Mayor Bill de Blasio issued Emergency Executive Order No. 98 on March 12, 2020, which included a declaration of a citywide state of emergency. This order has been updated repeatedly and also addresses provisions of the ZR, including legally imposed deadlines for the filing of certain documents or for the completion of other required actions. These measures are generally intended to provide more time for businesses to reopen and

builders to complete construction projects. However, these allowances will cease after the declared emergency ends unless a zoning text amendment is enacted.

Proposed Project Area

ZCFR mostly affects the city's 1% and 0.2% annual chance floodplains, which are currently designated on FEMA's FIRMs and PFIRMs. The 1% annual chance floodplain, also referred to as the "100-year floodplain," is the area that will be inundated by the flood event having a one-percent chance of being equaled or exceeded in any given year. The 0.2% annual chance floodplain, also referred to as the "500-year floodplain," is the area that will be inundated by the flood event having a 0.2-percent chance of being equaled or exceeded in any given year. Both geographies are currently designated on the FEMA FIRMs and the PFIRMs. The area of the city's 0.2% annual chance floodplain officially includes the area of the 1% annual chance floodplain. However, for the purposes of clarity in this document, the term 0.2% annual chance floodplain will only refer to that portion of the overall floodplain that does not overlap with the 1% annual chance floodplain.

The city's 1% annual chance floodplain, covers approximately 15 percent of the city's land area, touching 50 of the city's 59 Community Boards and 45 of its 51 Council Districts. This vast geography contains over 80,900 buildings housing 434,500 residents that are currently at high risk of flooding by coastal storms. In commercial areas, the floodplain contains roughly 14,500 private businesses that employ approximately 270,000 people. In industrial areas, roughly 3,600 private businesses that employ approximately 87,000 people are located in the floodplain. The city's 0.2% annual chance floodplain encompasses an additional four percent of the city's land area, which includes approximately 44,600 buildings and 348,000 residents that are at moderate risk of being flooded today. Combined, there are a total of 125,500 buildings and 782,800 residents in the city's floodplain.

However, select provisions apply citywide, affecting all five boroughs and the city's 59 Community Boards.

Proposed Text Amendment

ZCFR's core goals will facilitate long-term resiliency for the city and its residents. Like the 2013 Flood Text and the 2015 Recovery Text, ZCFR would generally provide optional zoning rules in the floodplain for buildings to fully incorporate Flood-Resistant Construction Standards. These rules would also be available for those building owners who might want to incorporate incremental resiliency improvements to protect their buildings against flooding over time. Flood-Resistant Construction Standards in the proposed text amendment, are the construction standards set forth in Appendix G for "Post-FIRM Construction" (as defined therein) applied up to the Flood-Resistant Construction Elevation (FRCE) or higher to aid in protecting buildings in the floodplain from flood damage. They govern buildings that are required to comply with such standards and those that voluntarily comply. Given the scale and variety of the city's floodplain, ZCFR includes modifications to many existing zoning regulations. These changes generally allow habitable spaces and other building support features to be elevated and better protected, and address the effect that these elevated spaces can have on the city's streetscape. ZCFR also includes provisions with applicability beyond the floodplain to help address a wider variety of disaster situations.

Goal 1: Encourage resiliency throughout the current and future floodplains.

All building owners in areas subject to flood risk should have the option to proactively incorporate resiliency standards into their buildings, even when these standards are not required by FEMA and Appendix G.

Goal 2: Support long-term resilient design for all building types.

Zoning rules in the floodplain should facilitate protection from coastal flooding for all buildings, independent of their age, typology or specific location.

Goal 3: Allow for adaptation over time through incremental retrofits.

Building owners should be able to incrementally incorporate resiliency improvements into all buildings and waterfront sites, including existing structures that are not able to fully meet Appendix G.

Goal 4: Facilitate future recovery by reducing regulatory obstacles.

Zoning rules should assist vulnerable populations and the recovery process after a future storm or other type of disaster, including the ongoing COVID-19 pandemic.

While ZCFR includes a range of zoning text changes to meet these four goals, it would continue the overarching goal of the 2013 Flood Text to maintain prevailing land uses and the planned density in neighborhoods across the floodplain, while helping buildings and neighborhoods of all types to be resilient in the long term.

Encourage resiliency throughout the current and future floodplains.

ZCFR would modify zoning regulations to allow building owners throughout the floodplain to proactively incorporate resiliency improvements in their buildings by expanding the applicability of the optional rules.

Expanding beyond the current 1% annual chance floodplain

ZCFR would greatly expand the current availability of optional regulations to allow more building owners to design or retrofit their buildings to proactively meet Flood-Resistant Construction Standards. The existing 2013 Flood Text only applies in the 1% annual chance floodplain. As a result, for buildings in the 0.2% annual chance floodplain, there are no zoning regulations to facilitate or encourage resiliency improvements. While most types of uses in the 0.2% annual chance floodplain are not required to comply with Appendix G, buildings located within such area will become more vulnerable to flooding in the future as sea-level rise projections show flood risk increasing over time. To address this, ZCFR would apply to both the 1% annual chance floodplain and the 0.2% annual chance floodplain. In the proposed text amendment, the 1% annual chance floodplain is defined as the “high-risk flood zone” and the

0.2% annual chance floodplain is defined as the “moderate-risk flood zone.” 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.

Expanding to zoning lots

ZCFR would simplify the design process and encourage more building owners to proactively meet Flood-Resistant Construction Standards by determining applicability based on their zoning lot. The 2013 Flood Text provisions are currently applicable only to buildings located wholly or partially within the 1% annual chance floodplain. Along streets, this standard produces inconsistent results where only some specific buildings touch the floodplain edge. By determining eligibility based on whether the zoning lot is both wholly or partially within the floodplain, ZCFR would produce a more consistent outcome that is more in line with applicability requirements in the rest of the ZR.

Support long-term resilient design for all building types.

ZCFR would include optional zoning regulations that better enable owners to make their buildings more resilient by physically elevating habitable spaces and other building support features above expected flood elevations. These would generally modify existing regulations for building envelopes and ground floors, as well as address more unique situations. When these allowances are used, buildings would be required to comply with Flood-Resistant Construction Standards and a new set of streetscape regulations.

Building Envelope Modifications

ZCFR includes optional modifications of various building envelope regulations to better allow habitable spaces to be raised above flood levels.

Flood-Resistant Construction Elevation

ZCFR would continue to provide additional building height where building owners are required or are opting to meet Appendix G floodproofing standards.

All zoning districts have height and setback regulations that govern the size and shape of buildings. Heights are measured from different starting points, depending on the type of building and the zoning district.

Since 1989, in the 1% annual chance floodplain, required heights in the ZR have been measured from the BFE to allow building owners to construct habitable space above the elevations that FEMA projects would be inundated by flooding without losing buildable space. However, it has been identified that pre-1989 buildings could use additional height for enlargements without providing any floodproofing, as long as the improvement did not trigger compliance with Appendix G.

In the aftermath of Hurricane Sandy, DOB changed the Building Code to require that buildings in the 1% annual chance floodplain locate all living spaces at or above the DFE, which, depending on building type, requires an extra one or two feet above the BFE as an additional measure of safety. The 2013 Flood Text embedded this rule into the ZR by allowing heights in all zoning districts to be measured from the FRCE, which is generally synonymous with the DFE in the current rules. The underlying building envelope associated with building types and zoning districts did not change; the only change was to the height from where the envelope was measured. With this modification, building owners can meet the requirements of Appendix G without sacrificing living space.

ZCFR would continue to allow building envelopes across all zoning districts to be measured from the FRCE. In addition, this term would be revised to add certain clarifications. The FRCE would be required to be not lower than two feet above lowest adjacent grade to ensure a minimum level of floodproofing. In the 0.2% floodplain, where compliance with Appendix G is

voluntary and no DFEs exist, this two foot minimum level of protection would also apply. Coupled with required compliance with the Flood-Resistant Construction Standards, this would mean that no living space would be located below the FRCE, and below grade basements and cellars would not be built in residences. In addition, essential facilities, such as hospitals, would be able to measure height from the 500-year flood elevation, which is required by Appendix G. Finally, the allowance to measure height from the BFE would be removed to ensure a consistent framework, and any additional height would be tied to flood-resistant improvements.

Reference Plane

ZCFR would include a consistent framework for additional building height to encourage building owners to address long-term climate change, lower insurance costs and provide usable spaces at grade.

Acknowledging that there may be situations where the FRCE height could result in spaces with awkward heights that could deleteriously impact the streetscape, the 2013 Flood Text allowed the reference point from which heights are measured to be adjusted upwards to create more practical and viable ground floor spaces. This alternate reference plane is available in areas where the BFE equals or exceeds four feet, and the plane's maximum height (ranging from nine to 12 feet) is dependent on the zoning district and building use.

While the concept of an alternative reference plane has proven effective, there have been several lessons learned regarding specific application. Varying the reference point based on the building type and zoning district creates a highly complex framework that benefits some buildings more than others. This leads to inconsistent outcomes, sometimes even along the same street due to minor changes in the topography. Additionally, the BFE height necessary to use the reference plane limits its applicability, as most of the buildings in the 1% annual chance floodplain are subject to a lower BFE. This means that most building owners in the floodplain can only measure building height from the lower height (FRCE), which limits compliance with the minimum construction standards set forth in Appendix G. However, building owners might

prefer to over elevate their buildings, since the New York Panel on Climate Change (NPCC) projects that the city would be subject to approximately 30 inches of sea level rise by the 2050. Such over-elevation could also assist building owners maximize their flood insurance reduction, generally achieved when the first occupiable floor is placed four feet above the BFE.

To create a consistent framework for height measurement that addresses these issues, ZCFR 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 in the 1% annual chance floodplain and up to five feet in the 0.2% annual chance floodplain. To ensure that the additional height is tied to improvement in the building's resiliency, the building would have to comply with Flood-Resistant Construction Standards and its First Story Above the Flood Elevation (FSAFE) — a new defined term that this text amendment is introducing — would be required to be located at or above the chosen Reference Plane height. The FSAFE would be defined as the level of the finished floor of the first story located at or above the level to which the building complies with Flood-Resistant Construction Standards. In areas where the FRCE is higher than 10 feet, the higher FRCE could continue to be used.

Other Envelope Modifications

To help offset the effects of the proposed additional height that would allow construction at or above the FRCE, ZCFR would include several allowances intended to break down the building massing in the upper portions of buildings.

For lower-density residential areas, ZCFR would continue to encourage sloped roof design in areas where that type of roof is the prevailing context. However, there would be a minor modification to the existing attic allowance, which allows a 20 percent floor area bonus in exchange for a sloped roof in R2X, R3, R4, R4A and R4-1 Residence Districts. The current regulations require that the additional floor area be located directly under the roof, which often results in taller roofs and building heights to accommodate a usable attic. If these rules were applied to the floodplain, the height of these buildings could be exacerbated, as building heights

would be measured from the FRCE, or the Reference Plane. To address this, ZCFR would instead allow the additional floor area to be located in any portion of the building, which would encourage a lower roof slope and lower overall building height. In Lower Density Growth Management Areas (LDGMA), as defined in the ZR, the rule would not change, as the ability to locate the additional floor area is already permitted. However, Cottage Envelope Buildings, as defined by ZCFR, would be able to use the lower pitch in LDGMAs, as the character of buildings in those areas tends to be more reminiscent of bungalow homes.

In medium- and high-density contexts, ZCFR would make two modifications to promote lower building scale. First, while maximum base heights and overall heights in Quality Housing Buildings, as defined in the ZR, may be measured from the FRCE or the Reference Plane, ZCFR would allow minimum base heights to continue to be measured from the base plane. This would allow setbacks in buildings to be made closer to the ground and keep the base heights lower. The provision was adopted as part of the 2013 Flood Text and would be maintained in ZCFR.

Additionally, ZCFR would modify the underlying dormer allowances to provide an alternative that could break up the bulk in the upper portion of the building. The underlying dormer allowance permits 60 percent of the width of the building as a permitted obstruction in the building setback above the maximum base height, but this must diminish in width as the building rises. ZCFR would allow a dormer that extends up to 40 percent of the building width without diminishing.

Accommodating Flood-Resistant Construction Standards on Ground Floors

ZCFR includes a series of regulations intended to incentivize the floodproofing of ground floors, encourage active uses to be kept at the street level to promote more resilient neighborhoods, and encourage internal building access. These regulations build on the standards included in the 2013 Flood Text but aim to provide more consistent outcomes throughout the floodplain. These are described below in five categories: wet-floodproofed spaces, dry-floodproofed spaces, cellars, street wall location, and ground floor use requirements.

Wet-Floodproofed Spaces

ZCFR would provide a consistent floor area exemption for wet-floodproofed ground floor spaces for all buildings to promote long-term resiliency improvements.

Flood-Resistant Construction Standards require the ground floor of residential buildings to be wet-floodproofed, thereby limiting the use of this ground floor space solely to parking, storage and/or building access. While accessory parking is generally not counted toward zoning floor area calculations, spaces used for storage or building access typically are counted and can therefore act as a severe disincentive to floodproofing. The 2013 Flood Text addressed this by allowing all existing structures to fully exempt a wet-floodproofed ground floor. For new buildings, the exemptions are limited to entryway areas used for enclosed ramps and stairs to encourage access to be kept within the building.

ZCFR would provide the full ground floor exemption for wet-floodproofed spaces to new and existing buildings. This would provide more consistent results and incentivize internal access at grade, while encouraging living spaces to be elevated above the FRCE in new and existing buildings, including those that cannot be physically elevated.

Dry-Floodproofed Spaces

To promote a safe and lively pedestrian environment, ZCFR would encourage active dry-floodproofed ground floor spaces along retail corridors.

Flood-Resistant Construction Standards allow non-residential ground floor uses to be dry-floodproofed. While this method allows active uses to be kept close to grade, which is beneficial in maintaining retail continuity along the city's commercial streets, this method has proven to be quite costly. The 2013 Flood Text attempted to incentivize dry-floodproofing by allowing up to 10,000 square feet of non-residential uses in existing buildings to be exempted from floor area calculations if they are dry-floodproofed. However, this provision has seen limited use due to

both the high cost of dry-floodproofing, as well as existing restrictions on the use of relocated space that make the resiliency investment less viable. If the 2013 provision was utilized, the large size of the floor area exemption could lead to out-of-scale buildings on small lots. For new buildings, the exemptions are limited to entryway areas used for enclosed ramps and stairs, to encourage access to be located within the building.

ZCFR would modify these incentives to better encourage dry-floodproofed spaces in appropriate locations. The provision would be available for both new and existing buildings facing Primary Street Frontages, as defined by ZCFR, in commercial districts and M1 Manufacturing Districts paired with residence districts. The floor area exemption 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. The exemption would come with design requirements to ensure quality ground floors. These would require that the ground floor level be within two feet of the adjacent sidewalk and that buildings follow transparency requirements. In addition, ZCFR would maintain the existing floor area exemption for access, to encourage ramps and stairs to be located within the building.

Cellars

ZCFR would ensure that floor area exemptions are given only when buildings are floodproofed and remove incentives to build low-quality ground floors.

The 2013 Flood Text included some limited modifications to the definition of cellar to help ensure that buildings with moderate and high FRCE levels (particularly those that equal or exceed four and a half feet above grade) can achieve their fully permitted floor area. However, this provision has unexpectedly resulted in low-quality spaces, as it encourages low ground floor heights to obtain the floor area exemption, and the outcome can be out of scale with the neighborhood context. In addition, where allowed, this provision has also encouraged the construction of sunken retail ground floors. While these floors would have to be dry-floodproofed, they could become vulnerable as sea levels rise, making it harder to further retrofit these buildings in the future.

ZCFR would limit these exemptions by not allowing the FRCE to be used as the measurement threshold for cellars and basements. In addition, as noted in the Flood-Resistant Construction Elevation section above, ZCFR would modify the base plane definition to remove references to the BFE. Taken together, this would restrict the owners of buildings subject to a high BFE from taking significant floor area exemptions for these low-quality below-grade spaces. With this proposed change, floor area exemptions would only be tied to the floodproofing of the building. However, existing buildings would have the option to determine floor area calculations using either the definition prior to or after the change in order to ensure that significant new non-compliances are not created for these sites.

Street Wall Location

ZCFR would include limited street wall modifications when access or flood protection measures are provided outside of the building.

Many zoning districts have street wall provisions that ensure new buildings will be constructed close to the property line to reflect the character of their area. While these regulations promote best practices in streetscape design, they can conflict with the ability to provide sufficient outdoor access from the sidewalk into buildings in the floodplain, as stairs and ramps can occupy considerable space and may not fit in the permitted area.

The 2013 Flood Text provided street wall modifications in the highest-density commercial districts to allow stairs and ramps in recesses that occupy up to 30 percent of the street wall width. However, this allowance is not applicable to buildings in lower-density districts and does not fully accommodate stairs and ramps serving narrow buildings, or buildings with high flood elevations, because of the limited recess percentage allowance. The 2013 Flood Text also did not provide any street wall location modifications for installing flood protection measures, which has been identified by practitioners as hampering flood resiliency. While ZCFR is intended to facilitate interior entrances to improve the streetscape around flood-resilient buildings, there are

situations where exterior access may be necessary and existing street wall location provisions may make this impossible. Provisions governing these types of locations may also hamper the implementation of flood protection measures, such as flood gates.

ZCFR would instead 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. To incorporate these measures, street walls could be located up to eight feet from the property line and, to allow ramps that run perpendicular to the street, up to 50 percent of the street wall could be located beyond eight feet. In acknowledging the access challenges for narrow lots (less than 50 feet), ZCFR would allow the remaining 50 percent of the street wall to be recessed at the ground floor level. Planting would be required if the access extends along 70 percent or more of the street wall.

Ground Floor Level Requirements

ZCFR would accommodate resilient buildings and raised first floors by addressing conflicts with existing ground floor level zoning requirements.

To promote walkability and enliven retail corridors, some zoning districts have ground floor use regulations that typically require non-residential uses on the ground floor level and stipulate that these uses must be located at an elevation close to the sidewalk level. Additionally, these districts often mandate that the building facade of the ground floor contain a minimum amount of transparency close to the sidewalk to promote the feel of shopping districts with large show windows. In the floodplain, requiring that ground floors and transparency be located close to the sidewalk level would often preclude floodproofing strategies, which could become extremely onerous in areas with a high FRCE. In addition, commercial and manufacturing districts include accessory signage regulations to promote businesses on the lot, including size and height limitations measured from grade, which may lead to impractical outcomes in the floodplain due to the possibility of having to elevate these uses.

To address issues in applying these rules at the sidewalk level in the floodplain, the 2013 Flood Text allowed these ground floor measures to be elevated to the FRCE so that buildings could comply with Appendix G. With these changes, owners can consider a wide variety of resilient design strategies including ground-floor elevation, dry-floodproofing, or the creation of wet-flood-proofed “show pits.”

ZCFR would continue to allow this, with small additions. In all areas, any blank walls created along retail corridors would now be subject to streetscape rules and would need to be addressed by adding elements such as planting, street furniture, or artwork. Additionally, in V Zones¹ and Coastal A Zones² identified by FEMA, ground floor use regulations would be made optional because dry-floodproofing is prohibited and FRCEs are often extremely high above the sidewalk.

Improving Streetscape in the Floodplain

ZCFR would require buildings using any of the regulations that require compliance with Flood-Resistant Construction Standards to also comply with streetscape requirements meant to help ensure that flood-resistant buildings contribute to their surroundings.

Leading up to the 2013 Flood Text, there were concerns that elevating buildings and restricting the use of ground floor space would have deleterious effects on the neighborhood streetscape. To address this, the 2013 Flood Text included ground level design requirements for those buildings that used zoning regulations outlined in the text. These requirements are dependent on the height of the FRCE, the building’s use and the applicable zoning district. They require that a minimum number of elements be incorporated into the building’s design from a small number of options.

¹ V Zones are those portions of the 1% annual chance floodplain subject to high velocity wave action (a breaking wave that is 3 feet-high or higher). V Zones are subject to more stringent Appendix G requirements than other zones, because of the damaging force of waves. V Zones are usually shown as VE on FEMA’s FIRMs.

² Coastal A Zones are those portions of the 1% annual chance floodplain (sub-zone of the A Zone) subject to moderate velocity wave action (a breaking wave that is expected to be between 1.5 and 3 feet high). This zone is indicated by the Limit of Moderate Wave Action (LiMWA) line on FEMA’s FIRMs.

Though this system attempts to provide design flexibility while ensuring an appropriate level of streetscape consideration, its workability has proven challenging in practice. This has been due mainly to the requirements and thresholds being overly focused on residential buildings, particularly in low-density areas. For example, buildings in commercial districts are rarely required to meet any streetscape requirements because their applicable flood elevation threshold is so high, while many buildings in residence districts are required to comply because residential thresholds are lower. In addition, the number of design options are limited, particularly for buildings other than single- and two-family residences.

ZCFR would continue to require design features to address concerns about building elevation and blank walls but would modify the requirements to better align with desired best practices. Specifically, this would create a more consistent framework of requirements, with more design options, to better address the wide variety of building conditions found in the floodplain.

The framework would include a 'points system,' similar to the one found in the 2013 Flood Text. One to three points would be required depending upon the level of the FSAFE, and would be available in two broad categories: building access and ground floor level. Building access would be focused on how users reach the elevated first story, while ground floor level would be focused on the design of the ground floor itself. These requirements would be applicable in all zoning districts other than M2 and M3 districts. Additionally, in M1 districts, they would not apply to heavy industrial uses. A much-expanded menu of design options would be available for each category to better address different building types and scales found in the floodplain. The building access category would include nine options, such as front porches, stair turns, entrances close-to-grade, and multiple entrances along a facade. The ground floor level category would include 14 options, including planting and raised yards (included in the 2013 Flood Text), as well as wall treatments such as decorative latticework, street furniture, and ground floor level transparency. This expanded list of options would give designers tools to better reflect conditions found in the floodplain, such as locations along commercial corridors or in higher-density residential neighborhoods.

In addition, ZCFR would ensure that these design options can be more easily used. It would classify steps and covered porches as permitted obstructions in front yards and modify the maximum height of retaining walls to three feet to address those practical construction constraints caused by the previous maximum height of two and a half feet. In low-density residence districts, ZCFR would also exempt buildings on narrow lots from existing front yard planting requirements, which inadvertently limit the use of the other available design options. Finally, for all buildings subject to these provisions, all group parking facilities provided on the ground floor level would be required to be either wrapped by usable building space, or screened by treatments such as latticework, vertical plantings, or artwork.

Accommodating Current and Future Flood Elevations in Special Conditions

ZCFR includes more tailored zoning regulations to address special situations found in the city's floodplain, including small or narrow lots, as well as for existing buildings that do not meet current zoning requirements. While these conditions exist throughout the floodplain, they are often concentrated in certain neighborhoods, such as bungalow communities that are usually found along the water's edge.

Substandard Lots (Cottage Envelope)

ZCFR would expand the availability of the popular cottage envelope option, first created in the 2015 Recovery Text, to small lots throughout the floodplain. This would allow for the construction of resilient buildings that better match their surroundings and accommodate improved layouts.

Following the 2013 Flood Text, many neighborhoods with a prevalence of small, high-lot-coverage bungalow homes on substandard zoning lots had concerns about the taller heights of recently constructed flood-resistant buildings. This issue was partially a result of zoning regulations that were designed for larger lots. When traditional yard regulations were applied on narrow and/or shallow lots, the resulting building footprint was extremely small and forced the

permitted floor area into a taller building than would have otherwise been expected in these low-density communities.

To better reflect the scale of surrounding buildings, the 2015 Recovery Text provided an alternative cottage envelope option for single- and two-family detached residences reconstructed in the Neighborhood Recovery Areas (areas that experienced a high concentration of damage to single- and two-family residences from Hurricane Sandy, which were included within zoning text maps in the 2015 Recovery Text). This envelope came with decreased yard requirements and increased permitted lot coverages on substandard lots, in exchange for a shorter overall building height. The resulting building form mimics the wider and deeper bungalow homes and has provided homeowners the opportunity to create a more practical design and interior layout. While this provision has been well received, it was limited to reconstructions in the Neighborhood Recovery Areas.

ZCFR would expand the 2015 Recovery Text provisions by allowing all new and existing single- and two-family detached residences in R1 through R5 Residence Districts in the floodplain to use the cottage envelope option when the building is designed to Flood-Resistant Construction Standards. Specifically, the maximum permitted building height would be reduced to 25 feet, as measured from the Reference Plane, instead of the typical maximum height of 35 feet. In exchange for this reduction, the applicable yard and lot coverage requirements would be modified: the minimum front yard would be reduced to the depth of neighboring homes, while minimum side and rear yards would be reduced at a rate proportional to the narrowness and shallowness of the lot (up to a minimum of three and 10 feet, respectively). In addition, any applicable lot coverage and open space requirements would not apply, as the modified yard regulations effectively control the building's footprint. Corner lots would be able to consider one of their front yards as a side yard to allow for a more contextual corner building.

Parking on narrow lots

ZCFR would continue to encourage single- and two-family residences on narrow lots to have parking be located below the building.

Several low-density residence districts restrict the location of parking spaces and curb cuts on a property. In many contextual districts, parking is only allowed within the Side Lot Ribbon, as defined in the ZR, on lots less than 35 feet wide, and curb cuts must be at least 16 feet from other curb cuts on the same or an adjoining zoning lot. While the combination of these regulations works well to preserve the streetscape in many neighborhoods, they may be particularly difficult to comply with in the floodplain due to the prevalence of narrow lots found there and the inability to use ground floors for habitable spaces.

To address these issues, the 2013 Flood Text included modifications to underlying rules that require minimum curb cut spacing and rules that limit parking location, particularly for narrow lots. These have allowed narrow residences to be elevated and parking to be located below the building, provided that at least two parking spaces are located below the building. ZCFR would maintain these allowances, with small modifications to better align the number of parking spaces that may locate under an elevated building to what is required by the zoning district (which may be less than two spaces). It would also limit the applicability of more flexible curb cut spacing rules for narrow lots. Specifically, in providing parking spaces beneath the building, single- and two-family residences in most low-density residence districts would be able to disregard underlying parking location and curb cut location rules to allow parking spaces to be located under the building. On existing narrow zoning lots, the curb cut spacing regulations would become optional if four feet of curb space is provided between the new and existing curb cuts. In either case, the site would have to comply with the underlying front yard planting requirements.

Non-Complying and Non-Conforming Buildings

ZCFR would promote resiliency for the large number of existing buildings and land uses that do not adhere to the zoning rules that are currently applicable.

These conditions exist because the buildings or uses were constructed before zoning existed or because they were legally built under the provisions in effect at the time and the regulations have since changed. These non-complying buildings or non-conforming uses (any land use that is not permitted under applicable zoning regulations) can stay in place but there are limits on reconstruction, enlargement or alteration. Most importantly, if these buildings or uses are demolished or damaged, such that more than a specified amount of floor area is removed — (75 percent for most non-compliances, 50 percent for most non-conformances) — they cannot be put back, although single- and two-family residences located in districts that allow them can be fully demolished and replaced. This longstanding policy was intended to ensure that properties comport with the applicable zoning regulations over time.

However, these restrictions became problematic in the aftermath of Hurricane Sandy. The 1961 ZR did not account for the significant destruction of non-conforming uses or non-complying buildings caused by the storm, which meant that many uses and buildings could not be rebuilt after being damaged beyond the applicable thresholds. The 1961 ZR also did not anticipate that these buildings would need to be elevated to become more resilient, therefore potentially creating, or increasing, non-compliance with several bulk regulations.

To ensure that building owners could rebuild and get their properties out of harm's way, the 2013 Flood Text allowed non-conforming uses and non-complying buildings damaged in Hurricane Sandy beyond the applicable thresholds to be reconstructed while still retaining their previous non-conformances or non-compliances. It also encouraged buildings to be elevated or reconstructed up to the FRCE by permitting new and increasing existing non-compliances. Subsequently, the 2015 Recovery Text created two additional allowances to address situations that building owners encountered when rebuilding their homes. First, it permitted non-conforming two-family residences in single-family residence districts and single- and two-family residences in manufacturing districts to rebuild or vertically enlarge if they were in Neighborhood Recovery Areas, neither of which had been permitted under the 2013 Flood Text.

Additionally, it allowed all habitable space in existing single- and two-family residences, including space in basements, to be elevated above the FRCE and accommodated all associated non-compliances.

These special rules have facilitated reconstruction of properties damaged by Hurricane Sandy but building owners and practitioners have identified issues that deterred some owners from making their buildings more resilient. The non-compliance allowances only permitted buildings to be elevated to the FRCE, which limited the ability to over-elevate to lower insurance premiums or plan for projected sea level rise. Additionally, buildings being elevated largely have to stay within their existing footprint (single- and two-family homes are allowed a limited ability to shift their existing footprint but cannot expand them). These limitations have proven to be challenging for those on small or awkwardly configured lots. Finally, many of the provisions were only applicable in the Neighborhood Recovery Areas for a limited time period, even though similar issues are found throughout the floodplain.

In response, ZCFR would allow nearly all non-conforming uses and non-complying buildings to be elevated, retrofitted, or reconstructed to meet Flood-Resistant Construction Standards and measure height from the Reference Plane while retaining existing non-conformances and non-compliances. This allowance would include the condition that less than 75 percent of the floor area be damaged or demolished (single- and two-family residences in districts that permit them would maintain their higher threshold). Relief beyond this threshold would be available for non-conforming uses and non-complying buildings damaged in any future disaster, as described in the Disaster Recovery Rules section of Goal 4 below.

In addition, non-compliances could be created or increased, as long as the change to the building would not exceed specified parameters. It would be possible to retain and relocate non-complying floor area (often located in basements) above the Reference Plane, provided that the floor area does exceed the maximum allowed in the applicable zoning district by 20 percent. Similarly, it would be possible to increase the height of a building with non-complying height (as

measured from the lowest floor to the highest point of the roof), provided that the elevated building does not exceed the maximum height allowed by the applicable zoning district by 10 percent or 10 feet, whichever is less, as measured from the Reference Plane. Non-compliances could also be created or increased for open areas (yards, courts, and open spaces, including minimum distance between buildings) to accommodate resiliency measures on constrained sites.

Building on the provisions of the 2015 Recovery Text, ZCFR would also allow non-conforming residential buildings in heavy commercial districts (C8) and in all manufacturing districts throughout the floodplain to be elevated, retrofitted, or reconstructed to meet Flood-Resistant Construction Standards and measure height from the reference plane, as long as the buildings are located within predominantly residential areas in these districts. In addition, the residential floor area in these buildings could not be increased and the maximum height for single- and two-family residences would be 35 feet (multi-family buildings, generally rare in these areas, would be able to use the applicable zoning district height).

Providing Discretionary Actions to Address Special Situations

ZCFR would modify the existing special permit that can be granted by the NYC Board of Standards and Appeals (BSA) to facilitate resiliency improvements in unique conditions and also create a new BSA special permit to allow alternative uses on ground floors in residence districts.

BSA Resiliency Special Permit

ZCFR would expand upon the existing BSA special permit to allow it to better fulfill its original mission of promoting compliance with Appendix G. ZCFR would also move the text to ZR Section 73-71.

There are often building or site conditions that cannot be fully addressed by modifications to zoning regulations and therefore require review on a case-by-case basis. The 2013 Flood Text recognized this by including a resiliency special permit (ZR Section 64-92), whereby the BSA could modify zoning regulations (predominantly related to the building envelope) if it found that

the existing rules created practical difficulty in complying with Appendix G. While this special permit has proven necessary in many situations, some of the limits placed on the possible modifications available have made it difficult to undertake resiliency improvements. For example, maximum height regulations could not be increased by more than 10 percent or 10 feet (whichever is lower), which proved inconsequential in many low-density zoning districts given their low maximum height. Additionally, regulations for use, parking or floor area were not available for modification, despite being necessary in many situations, particularly through the City's Build It Back program.

The modifications in ZCFR would change the maximum height limitations to 10 percent or 10 feet (whichever is higher) to help accommodate different retrofitting needs, which often require a building's ground floor to be evacuated and the floor space relocated to the top of the structure. While continuing to allow yard and permitted obstruction modifications, a wider range of zoning regulations could also be modified through the special permit. Floor area regulations could be modified to encourage below-grade spaces (typically exempted from floor area calculations) to be raised above the FRCE (where they would not be exempted). This allowance would be limited to a maximum increase of 20 percent above what is permitted in the zoning district or 10,000 square feet, whichever is less. In addition, some parking and use regulations could also be requested. For all these modifications, the BSA would have to find that there would be practical difficulty in meeting Flood-Resistant Construction Standards absent the modifications.

BSA Ground Floor Use Special Permit

ZCFR would create a new discretionary action to permit ground floor offices in residence districts, where appropriate, to encourage dry-floodproofing and benefit the streetscape in these areas.

While ZCFR includes strategies to encourage buildings to become more resilient, public input has noted the limited options available for residential buildings because Appendix G requires ground floors to be wet-floodproofed and therefore limited solely to parking, storage or access.

This is a particular issue in residence districts, where the only permitted option for dry-floodproofed ground floors are community facility uses.

ZCFR would therefore create a separate BSA special permit for buildings located in residence districts in the floodplain. This special permit would allow office uses on the ground floor if the space is dry-floodproofed and meets certain conditions focused on ensuring that the use fits into existing residential context. Parking and signage regulations typically applicable to doctors' offices would apply to the use.

Allow for adaptation over time through incremental retrofits.

While the proposal is primarily focused on encouraging all buildings in the floodplain to fully meet flood-resistant construction standards, there are situations where specific conditions, such as regulatory obstacles or cost constraints, may prevent a building from reaching a higher level of resiliency. ZCFR includes optional modifications that would encourage buildings to become more resilient over time without having to immediately comply with set standards. These modifications, which would also be available to buildings that meet Flood-Resistant Construction Standards, include provisions to facilitate location of mechanical equipment and other critical spaces above the FRCE, allowances for some specific flood protection measures, and parking design modifications in low-density residence districts.

Locating Mechanical Equipment Above Flood Elevations

ZCFR would help protect mechanical equipment from flood damage by facilitating elevation above flood levels, often the first and most cost-effective resiliency strategy for existing buildings, as it requires few changes to the building's structure or floor elevations.

The 2013 Flood Text allowed mechanical equipment, typically found in basements and cellars, to be relocated to other areas within buildings or in required open areas. In some instances, these have been found to be insufficient and have therefore hampered resiliency improvements. Owners of residential campuses who sought to construct a new separate structure to house

mechanical equipment above expected flood levels have been hindered by zoning regulations that require minimum distances between buildings. ZCFR would improve upon these existing 2013 Flood Text provisions for mechanical equipment by promoting an expanded set of resiliency improvements.

Within and on Top of Buildings

ZCFR would facilitate the relocation of mechanical equipment from basements and cellars to locations higher inside, or on top of, buildings.

The 2013 Flood Text included allowances for larger bulkheads on the top of multi-family buildings and for existing commercial or manufacturing buildings. It also included modifications in lower-density residence districts to facilitate the relocation of equipment from below-grade spaces to elsewhere within the building. Bulkheads were already considered permitted obstructions and permitted to extend above any required maximum heights or sky exposure planes if they remained within certain size limitations. The 2013 Flood Text increased these dimensions in the floodplain to encourage mechanical equipment to be moved onto roofs where they are more protected from flooding. For buildings in R5 through R10 districts, and in commercial and manufacturing districts, these changes permitted a 10 percent increase in bulkhead coverage. Alternatively, for existing buildings, it allowed an approximately 30 percent increase of their permitted height. Bulkheads in R3 and R4 Residence Districts were permitted smaller increases commensurate with their smaller scale. Screening was required for all bulkheads. ZCFR would maintain these provisions, while increasing their applicability for all new and existing buildings in residence, commercial and manufacturing zoning districts. While there are no restrictions regarding locating mechanical equipment in the cellars of non-residential structures, it is safer in the long term to locate such equipment above the flood level.

In addition, the 2013 Flood Text also exempted buildings in the floodplain from limitations on interior mechanical space found in many lower-density residence districts, as this tended to force

mechanical equipment into basements and cellars. This exemption would continue in ZCFR to ensure that mechanical equipment can be placed above the FRCE.

Open Areas

ZCFR would also facilitate the placement of mechanical equipment above the FRCE outside of buildings to address situations where the structures cannot physically sustain additional loads or where centralizing this equipment in a single structure would be more efficient.

The 2013 Flood Text included allowances for mechanical equipment in various open areas regulated by underlying zoning. The equipment can be considered permitted obstruction within required yards, courts and open spaces depending on the building type and if it is a new or existing structure. It also has to comply with certain location and height limitations. Coverage limitations for this equipment generally do not apply when equipment is located within a required yard (they only apply when the equipment is located in required open space). These measures offered alternative locations for necessary mechanical equipment in lieu of basements and cellars. The provisions are available for existing single- and two-family residences as well as all other new and existing buildings.

ZCFR would consistently apply these allowances to all buildings regardless of whether they are new or existing by allowing mechanical equipment to be placed on required yards, courts and open spaces, provided that certain parameters are met. ZCFR would modify some of the dimensional limitations to provide more rational standards to address various design challenges that have been identified since 2013. Mechanical equipment that is unenclosed would have to be located a minimum of five feet from property lines, with a potential reduction to three feet for substandard lots. Similar to the 2013 Flood Text, coverage limitations would continue to apply only when the equipment is placed on required open space (limited to 25 percent of the minimum required open space). Coverage would be further restricted to 25 square feet if the equipment is located between the building and the front lot line (including front yards), in order to minimize potential effects on the street. The height would be limited to certain heights above the Reference

Plane depending on the zoning district (10 feet in low-density residence districts, 15 feet in other residence districts, and 23 feet in Commercial and Manufacturing Districts). All equipment would be required to be screened by vegetation when located in front yards or between the street line and the street wall and when placed in other locations, if more than one piece of equipment is provided, would require screening by materials that are at least 50 percent opaque.

Finally, to allow for the construction of new utility structures on larger campus-style housing sites, ZCFR would permit buildings used predominantly for mechanical equipment to be considered permitted obstructions on properties larger than 1.5 acres. The structure's coverage would similarly be limited to 25 percent of the minimum required open space, and it would be required to be located at least 30 feet from any legally required windows with the exhaust stacks located above adjacent residential buildings. The structures would be subject to underlying height and setback controls and would need to comply with ZCFR's streetscape provisions at the ground level.

Locating Spaces Above Flood Elevations

Beyond mechanical equipment, there are situations where elevating key support spaces would improve the long-term resiliency of buildings and their uses. ZCFR therefore includes modifications to address three of these situations.

Many retail stores rely on basement and cellar space to support their at-grade retail, but zoning regulations often prohibit these spaces from being located on the second floor, which limits the store's ability to become more resilient. ZCFR would therefore include two modifications to address this issue. In low- and medium-density C1 and C2 local commercial districts, where underlying zoning regulations limit commercial uses to the first story in mixed-use buildings, ZCFR would allow commercial uses on the second story in buildings in the floodplain. This would give businesses an opportunity to move key spaces out of basements or cellars. The space within the second floor would still be counted towards floor area regulations.

In commercial and manufacturing zoning districts with a low maximum floor area ratio (FAR), buildings may have little available floor area to raise key spaces above the flood elevation. To remedy this, ZCFR would add a floor area exemption of up to 500 square feet to provide businesses the option of elevating important spaces, such as offices or storage rooms, above the FRCE where the permitted commercial or manufacturing FAR is less than or equal to 1.0.

Lastly, existing residential buildings in low-density residence districts are often hindered by underlying zoning regulations when attempting to fill in basements or cellars and relocate the required parking to other portions of the lot. The 2013 Flood Text included provisions to address this. ZCFR would similarly allow below-grade parking in existing residential buildings in R1 through R5 Residence Districts (with the exception of R4B and R5B) to be relocated to front, side or rear yards. To be granted this allowance, below-grade spaces would have to be removed and filled, in compliance with Flood-Resistant Construction Standards. In addition, ZCFR would continue to allow parking spaces and driveways to be covered with dustless gravel for all single- and two-family residences in R1 through R5 Residence Districts.

Incorporating Flood Protection Measures

ZCFR would allow more flood protection measures as permitted obstructions to accommodate their installation when required for compliance with Flood-Resistant Construction Standards and in situations where alternate flood protection strategies may be warranted.

The 2013 Flood Text allowed several flood protection measures, such as flood barriers and associated emergency egress, as permitted obstructions in various required open areas in recognition that they are required in front of building entrances. However, practitioners and other City agencies have noted the difficulty in finding on-site storage within buildings for temporary measures such as flood panels, and have identified additional viable measures that are not included, limiting the use of these measures in the floodplain.

ZCFR would therefore maintain the existing flood protection measures listed as permitted obstructions, with the addition of landscaped berms and associated floodgates. ZCFR would also allow space used for the storage of temporary flood panels to be exempted from floor area calculations, with a maximum exemption of 15 square feet for each linear foot of protection and no more than 1,000 square feet of exemption per zoning lot. These standards account for the space that panels, trolleys, and deployable access take up in a typical building configuration.

Accommodating Current and Future Flood Elevations on Waterfront Sites

ZCFR would modify provisions applicable in waterfront areas to better allow for coastal flood resilient design.

In 1993, DCP enacted comprehensive waterfront rules (N 930327(C) ZRY) that required developments on the waterfront to provide public access in the form of esplanades and ancillary spaces. The zoning text set forth minimum amounts and dimensions for these spaces and stipulated necessary amenities that must be provided, including circulation paths, planting, seating, lighting, and other elements to help ensure that these are successful public spaces.

However, practitioners have noted how some of these requirements make it difficult, if not impossible, to integrate contemporary resiliency measures into the waterfront spaces and address sea level rise. The 2013 Flood Text provided some limited allowances for the grading of waterfront yards and visual corridors to increase flood resilience, but practitioners have identified other rules that could also be improved. These include limits on site grading and height for waterfront yards, open spaces, and paths.

ZCFR would permit the construction of bi-level esplanades that facilitate waterfront public access both close to the shoreline at the water level and at a higher elevation to meet flood design elevations at the building level. To facilitate these bi-level designs, ZCFR would also allow for increased retaining wall heights (generally up to three feet), provide new planting design options,

and provide slight reductions to the minimum required planting areas, and screening buffers so that access requirements can be satisfied.

ZCFR would facilitate the elevation of waterfront public access areas while maintaining visual connectivity to the water by raising the required level of visual corridors on upland streets from three feet above curb level to five feet above curb level. In addition, flood protection measures, such as temporary flood control devices and associated permanent fixtures, structural landscaped berms, flood gates, and associated emergency egress systems, would be permitted as obstructions in both waterfront yards and visual corridors, subject to dimensional limitations up to the FRCE or five feet above the lowest adjacent grade, whichever is higher.

Finally, to encourage waterfront sites to include soft shorelines (such as natural aquatic grasses) as a resiliency measure, ZCFR would allow the width of the required waterfront yard and shore public walkway to be reduced for soft shorelines by up to seven feet along up to 30 percent of the shoreline length of such yard.

Facilitate future recovery by reducing regulatory obstacles

ZCFR would include modifications to expedite future recovery processes. Hurricane Sandy demonstrated that areas affected by the storm went beyond the floodplain and that the regulations that would facilitate recovery would be useful for other types of disasters. Thus, these select rules would be applicable citywide. Topics addressed in this section include mechanical equipment and vulnerable populations, as well as zoning rules available after a disaster occurs.

Power Systems and Other Mechanical Equipment

ZCFR 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. Recovery efforts from Hurricane Sandy also identified issues with existing zoning regulations for mechanical equipment both within and outside of the floodplain. As described below, both of these issues

extend beyond the floodplain and therefore modifications to address them are required on a citywide basis.

Hurricane Sandy caused a wide array of power system disruptions well beyond the floodplain, and the city's power grid has seen other recent disruptions through events such as blackouts. Allowing power systems to be more easily located around the city would help support back-up energy needs and the overall energy grid. The 2013 Flood Text took the first step by allowing back-up systems, such as emergency generators, to be considered permitted obstructions in the required yards and open spaces for single- and two-family residences in the floodplain.

ZCFR would expand this approach citywide in a more consistent fashion. Power systems (including generators, solar energy systems, fuel cells, batteries, and other energy storage systems) would be added as permitted obstructions, subject to dimensional limitations, that could encroach in any required open area in all zoning districts citywide. Similar to the limitations for the broader mechanical equipment category in the floodplain, power systems would have to be placed a minimum of five feet from property lines. Coverage would be limited to 25 percent of the minimum required open space. However, the coverage would be restricted to 25 square feet if the equipment is located between the building and the front lot line to minimize effects on the street. In this instance, planting would also be required. The height would be limited to certain heights above adjoining grade, or the Reference Plane for lots in the floodplain, depending on the zoning district. Exempted equipment would be subject to requirements for enclosure or screening, depending on the equipment type and applicable zoning district.

In addition, recovery efforts after Hurricane Sandy have highlighted shortcomings with the floor area exemptions provided for mechanical equipment in the ZR that have hampered resiliency projects. Space used for mechanical equipment is exempted from floor area calculations in all zoning districts citywide. However, it has not been clear whether the space necessary for routinely accessing and servicing the equipment is also exempted, which has led to inconsistent outcomes. This has also, in some situations, made it difficult to retrofit buildings in the

floodplain by moving mechanical equipment from below-grade locations, where they are fully exempted from floor area calculations, to upper areas, where they may not be exempted. To address this situation in a comprehensive manner across the city, ZCFR would clarify that the floor area exemption for mechanical equipment applies to mechanical, electrical and plumbing equipment (MEP), as well as to fire protection and power systems, and necessary maintenance and access areas. This is consistent with DOB's general practice and would ensure that buildings across the city would be treated consistently.

Ramps and Lifts

ZCFR would provide rules for accessible design that are consistent throughout the city. The 2013 Flood Text classified ramps and lifts as permitted obstructions in various forms of required open areas to help facilitate the elevation of living spaces. But in areas beyond the floodplain, these elements are permitted in required open areas in a piecemeal fashion. Lifts are classified as permitted obstructions in residential courts, yet they are not considered permitted obstructions in required yards. While DCP has been gradually adding them to the ZR as permitted obstructions through different text amendments, ZCFR would provide full consistency across the city by classifying both ramps and lifts as permitted obstructions in all required open areas.

Vulnerable Populations

ZCFR would limit the growth of vulnerable populations in nursing homes in high-risk areas of the floodplain.

Hurricane Sandy and other storms across the nation have exposed the difficulties facing nursing home residents in high-risk areas. Nursing homes are licensed to house populations that require continual medical care, but research shows that this dependency can be strained, whether nursing homes shelter in place or evacuate prior to a coastal storm event. While all nursing homes in hurricane evacuation zones in the city are subject to mandatory evacuations during a declared emergency, DCP believes it would be appropriate to limit the growth of nursing homes in high-

risk areas to lessen the health consequences and logistical challenges of evacuating the residents of these facilities.

ZCFR would therefore prohibit the construction of new nursing homes and restrict the enlargement of existing facilities within the 1% annual chance floodplain and other selected geographies likely to have limited vehicular access because of a storm event. The modification would restrict the enlargement of existing nursing homes in this geography to a maximum of 15,000 square feet to allow for improvements, including those related to resiliency. These restrictions would also apply to the nursing home portions of Continuing Care Retirement Communities, as defined in the NYS Public Health Law. The CPC special permit (ZR Section 74-901) that permits nursing homes in areas where they are not allowed as-of-right (i.e., R1 and R2 districts and certain community districts) would not be available in this geography.

Disaster Recovery Rules

ZCFR would include rules that could be made available to facilitate the recovery process from future disasters, some of which would be implemented immediately to help address the COVID-19 pandemic and its associated economic effects.

The need to adopt the 2013 Flood Text and 2015 Recovery Text as temporary zoning rules on an emergency basis after Hurricane Sandy demonstrated that a lengthy process to update zoning regulations can present obstacles to a fast-paced disaster response. In addition, while the Mayor can issue Emergency Orders to temporarily remove legislative obstacles to facilitate recovery efforts, including rules from the ZR, that process is limited in time (the duration of the disaster), which may not be sufficient for a longer-term recovery. That became clear after Hurricane Sandy and has been further demonstrated during disaster response to the COVID-19 pandemic.

ZCFR would include a series of disaster recovery provisions that could be made available through a text amendment when a disaster occurs. Adding these provisions to the ZR would offer a useful roadmap for the public, planners, and decision-makers when working to recover from a

disaster. Applicable recovery provisions would be selected based on the issues caused by the disaster and would be available for a limited time period (set at the time of the text amendment). The provisions could be limited to designated recovery areas, the extent of which would be determined based on impacts and the City's recovery plans.

The recovery provisions would include a range of rules that could facilitate the recovery process from disasters that cause physical impacts. The 2013 Flood Text and the 2015 Recovery Text included a set of rules that facilitated the reconstruction and retrofit of Hurricane Sandy-damaged buildings, and therefore could also be useful after any other disasters that lead to a concentration of physical damage in the city. ZCFR would build upon this set of provisions and include modifications to the damage and destruction thresholds set forth in the underlying zoning rules to allow the reconstruction of non-complying buildings and non-conforming uses. It would also include modifications to building envelope rules to allow non-compliances to be increased, or even created, in the event new regulations would require that damaged buildings be replaced in a slightly different shape and form. These provisions would also include an allowance for property owners to use their tax lot as their zoning lot when applying zoning rules, which was found necessary in many waterfront communities. Lastly, it would allow the documentation process for obtaining DOB permits to be simplified for disaster-damaged buildings.

The recovery provisions would also facilitate the recovery process from a wider range of disasters including those that do not involve physical impacts, such as pandemics. This set of provisions is mostly drawn from the lessons learned during the COVID-19 pandemic response. The provisions would provide a framework to allow uses in zoning districts where they are not typically permitted, to better respond to the situation then at hand. This framework would also allow possible relief from zoning rules that require permits to be sought within a specific timeframe, and those that require a certain level of construction and operation to be completed to vest a project. It would also include possible relief from provisions that only allow non-conforming uses to remain inactive for a limited period (generally two years) before they can no longer legally reopen.

The Mayor's Executive Order No. 98 (March 12, 2020), which provided short-term relief from regulations hindering the pandemic recovery effort, included relief from construction timeframes and non-conforming use provisions. However, these allowances will cease once the State of Emergency ends, and therefore the Executive Order expires. Consistent with the general intent of the disaster recovery rules and the Mayor's Executive Order, ZCFR would extend the available timeframe for non-conforming uses to reactivate by an additional two years. In addition, ZCFR would allow for the extension of the timeframe required for substantial construction to take place under CPC special permits and authorizations for an additional term. These changes would provide greater certainty to residents, businesses and building owners, and therefore support the city's recovery from the ongoing pandemic.

Uses in Waterfront Recreation Districts

Lastly, ZCFR would modify the zoning requirements that have made it difficult for eating or drinking establishments in some lower-density waterfront areas to make long-term resiliency improvements.

In C3 and C3A commercial districts that permit waterfront recreation uses, which are mapped along the city's waterfront in limited locations, businesses are required to obtain a BSA special permit to operate, renewable every five years. Local elected officials and business owners have noted how this short timeframe adds uncertainty that makes it difficult for these establishments to invest in resiliency. Therefore, ZCFR would extend the initial special permit term from five to 10 years for new applicants. Additionally, for existing establishments with a previously approved special permit, the permit would allow the BSA to determine the required term moving forward.

Overlap with special purpose districts

While special purpose districts cater to a range of locally specific conditions, 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 district rules that overlap with the

floodplain. ZCFR would allow the optional provisions to supersede regulations applicable in all areas within any special purpose district that geographically overlaps with the 1% and 0.2% annual chance floodplains. Additionally, select provisions in these special purpose districts would be modified to align with ZCFR'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.

ENVIRONMENTAL REVIEW

The application (N 210095 ZRY) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP192Y.

It was determined that this application may have a significant effect on the environment, and that an Environmental Impact Statement would be required. A Positive Declaration was issued on May 10, 2019, and distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on May 10, 2019. A public scoping meeting was held on the Draft Scope of Work on June 13, 2019. A Final Scope of Work, reflecting the comments made during the scoping, was issued on October 16, 2020.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on October 16, 2020. Pursuant to SEQRA regulations and CEQR procedures, a joint public hearing was held on the DEIS on February 3, 2021. A Final Environmental Impact Statement (FEIS) reflecting the comments made during the public hearing was completed and a Notice of Completion for the FEIS was issued on March 5, 2021. The proposed action as analyzed in the FEIS identified significant adverse impacts related to historic and cultural resources and hazardous material.

The identified significant adverse impacts and proposed mitigation measures under the proposed action are summarized in Chapter 21 “Mitigation” and Chapter 22 “Alternatives” of the FEIS.

PUBLIC REVIEW

The application (N 210095 ZRY) was duly referred on October 19, 2020, to all 59 Community Boards in all five boroughs, to all Borough Boards, and to all Borough Presidents for information and review, in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Forty-one Community Boards adopted resolutions regarding the proposed zoning text amendment, many of which included comments on the proposal and recommendations for modifications. The complete recommendations received from all Community Boards are attached to this report. A summary of the Community Board votes and of comments received in their recommendations follows:

Community Board	Recommendations	Conditions	Comments
Bronx CB 2	Approval	No	No
Bronx CB 5	Approval	No	Yes
Bronx CB 6	Approval	No	No
Bronx CB 7	Approval	No	Yes
Bronx CB 8	Disapproval	No	No
Bronx CB 9	Approval	No	No
Bronx CB 10	Approval	No	No
Bronx CB 11	Approval	No	No
Bronx CB 12	Approval	No	No
Brooklyn CB 2	Approval	No	Yes
Brooklyn CB 6	Approval	No	Yes
Brooklyn CB 10	Approval	No	Yes

Brooklyn CB 11	Approval	Yes	No
Brooklyn CB 13	Approval	No	No
Brooklyn CB 15	Approval	No	Yes
Manhattan CB 1	Disapproval	Yes	No
Manhattan CB 2	Approval	Yes	No
Manhattan CB 3	Disapproval	Yes	No
Manhattan CB 4	Approval	Yes	No
Manhattan CB 5	Approval	Yes	No
Manhattan CB 6	Disapproval	Yes	No
Manhattan CB 7	Approval	No	Yes
Manhattan CB 8	Approval	Yes	No
Manhattan CB 9	Approval	Yes	No
Manhattan CB 10	Approval	No	No
Manhattan CB 11	Approval	Yes	No
Manhattan CB 12	Approval	No	Yes
Queens CB 1	Approval	Yes	No
Queens CB 2	Approval	No	No
Queens CB 3	Approval	No	Yes
Queens CB 4	Approval	No	No
Queens CB 5	No Objection	No	No
Queens CB 7	Approval	No	No
Queens CB 9	Approval	No	Yes
Queens CB 10	Approval	Yes	No
Queens CB 11	Approval	Yes	No
Queens CB 12	Approval	No	No
Queens CB 14	Approval	Yes	No
Staten Island CB 1	Approval	No	No
Staten Island CB 2	No Objection	No	No

Staten Island CB 3	Approval	No	No
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Overall, 41 out of 59 Community Boards submitted recommendations. Of these, 24 recommended approval, 11 recommended approval with conditions, three recommended disapproval with conditions, one recommended disapproval, and two did not object to approval. Most Community Boards expressed support for the project's overall goal of encouraging resilient building design in the floodplain and recognized the need to advance resiliency efforts beyond what is currently allowed in the ZR. However, Community Boards raised concerns about a variety of zoning and non-zoning issues relating largely to the applicability of the zoning text and to the need for financial relief in undertaking resiliency improvements that are being facilitated by the proposal. These concerns, along with other more specific recommendations on various aspects of the proposal, are further detailed below.

Topics Related to ZCFR

Applicability

The majority of Community Board recommendations touched on the applicability of the proposal in a variety of ways.

One Community Board in Manhattan wanted to see development in vulnerable areas being reduced and redirected to more sustainable areas. Another Manhattan Community Board suggested that a study should be made to determine appropriate density in high-risk areas, while a Community Board in Queens suggested that additional housing should only be added if it could be assured that new residents can evacuate.

Some Community Boards had comments about FEMA's updates to the FIRMs, currently scheduled for release in 2024, and noted that the redefined floodplain could result in more areas being included within the project's applicability. In a few instances, it was suggested that floodplain modifications should come before the Community Board for approval. One

Community Board in the Bronx commented that FEMA's FIRMs update would occur in less than one year and that therefore the proposal is premature.

Some Community Boards in Manhattan and in the Bronx raised concerns about the overlap between areas in the floodplain and areas in special purpose districts and historic districts. They noted that special purpose districts and historic districts contain unique regulations to generate specific design outcomes and questioned how the rules in the proposal would interact with those regulations. Some Community Boards expressed concern regarding the potential of NYC Landmarks Preservation Commission (LPC) restrictions to hinder resiliency efforts. However, numerous Community Boards feared that increased building heights allowed under the proposal could affect the unique qualities of historic and special purpose districts, with some requesting that changes to buildings in these areas be subject to CPC approval with Community Board notification (or LPC approval, if applicable).

Building Envelope

A number of Community Boards in Manhattan raised concerns about the treatment of new and existing buildings: they wanted new ZCFR rules to apply only to existing buildings, particularly height regulations and floor area exemptions (see further information in the Ground Floor Regulations section below). They indicated that it would be difficult for many existing buildings in their community districts to take advantage of these allowances compared to new buildings, which could lead to inequitable outcomes.

Numerous Community Boards in Manhattan also raised concerns about increased building heights allowed under the proposal. Specifically, they opposed measuring new buildings from the Reference Plane, recommending instead that these buildings should get no height relief. One Community Board suggested that existing buildings should be measured from the FRCE in lieu of the Reference Plane, and another advised that existing buildings that use ZCFR's dry-floodproofing floor area exemption should only be allowed one additional story and no more than 15 feet above the height of the existing building.

Ground Floor Regulations

Community Boards submitted differing recommendations regarding the floor area exemptions included in the proposal. While Community Boards generally supported the dry-floodproofing exemption for existing buildings, some requested that no floor area exemptions be given to new buildings. Others recommended that existing buildings should have a cap on how much floor area could be exempted for wet-floodproofed spaces. Conversely, one Community Board in Queens recommended that the proposal should enable more floor area exemptions for single- and two-family homes, particularly because below-grade spaces are not allowed by Appendix G for residential buildings.

Discretionary Actions

A few Community Boards suggested that any anticipated special situations should be addressed in the zoning text itself rather than by a BSA special permit.

Mechanical Equipment

Numerous Manhattan Community Boards indicated that the proposal's allowance for more flexible siting of mechanical equipment could lead to mechanical equipment consuming much-needed open space in dense neighborhoods. One Community Board suggested that this flexibility should be limited to low-density areas. However, another Community Board suggested that mechanical equipment could be placed in open spaces in high-density areas, but only when structurally necessary. One Community Board requested that proposals for MEP buildings (permitted on housing campuses) should come to the Community Board for review.

Spaces Above Flood Elevations

One Community Board was concerned that allowing commercial uses on the second story of buildings that do not contain cellar space could affect affordable housing.

Waterfront Rules

One Queens Community Board recommended that required waterfront yards applicable in waterfront areas be widened beyond 40 feet to provide additional protection to upland areas.

Power Systems

One Manhattan Community Board expressed concern regarding the proposal that power systems be considered permitted obstructions because diesel generators could affect air quality and noise in rear yards.

Vulnerable Populations

A few Community Boards in Manhattan and Queens asked that additional types of vulnerable populations beyond nursing homes be analyzed, questioning whether other types of vulnerable populations should be considered when limiting development in the floodplain. One Community Board in Manhattan expressed concern regarding the restriction on nursing homes, noting that it could hinder the expansion of a much-needed use. This Community Board recommended that the risks that these facilities face should be mitigated by emergency protocols and infrastructure upgrades, rather than by zoning.

Disaster Rules

Some Community Boards in Manhattan and the Bronx raised questions about why the proposal includes rules that go beyond coastal flooding and asked for more guidelines that explain the invocation of the rules. One Manhattan Community Board raised a concern that the proposed modifications to discontinuance provisions of existing non-conforming uses to address the COVID-19 pandemic is concerning due to noise issues arising from commercial uses within residence districts.

Other Resiliency-Related Topics*Financial Assistance*

The majority of Community Boards in Manhattan, Queens, Brooklyn and the Bronx had non-zoning concerns related to the need for financial assistance in undertaking resiliency improvements, specifically in the form of low-cost loans, subsidies, and tax-abatements. Many Community Boards worried that retrofitting and creating resilient buildings would be difficult without such forms of financial assistance. Some Community Boards argued that the proposed rules without subsidies could end up exacerbating inequality by making it easier for new buildings to use ZCFR's provisions, while retrofitting existing buildings would remain financially difficult.

Flood Insurance

A few Community Boards in Manhattan encouraged the City to further study the magnitude of insurance savings that could be realized by building owners who retrofit their properties to be more resilient, and that these results should be publicized to increase awareness.

Infrastructural Improvements

A couple of Community Boards in Manhattan and Queens commented on infrastructural improvements, including comments about how to preserve park land at risk of flooding, and about the need for FEMA flood maps to take coastal protection projects into account.

Borough Board Review

The complete Borough Board resolutions are appended to this report, and are summarized below.

Manhattan

On January 21, 2021 the Manhattan Borough Board voted unanimously (18-0-0) to adopt a resolution to recommend approval of the application, with conditions. The resolution described a number of comments and conditions, including the following:

- “• Within Historic Districts, require special permit approval from the City Planning Commission (CPC) for any new building to utilize this text amendment, with proper review from relevant Community Boards and Borough Presidents, and require that any design and zoning changes pursuant to this text amendment be subject to the approval of the Landmarks Preservation Commission;
- Within special zoning districts, require special permit approval from the CPC for any new building to utilize this text amendment, with proper review from relevant Community Boards and Borough Presidents;
- For new buildings along primary streets in Commercial Districts, require dry-floodproofing without any zoning exemptions or changes attached;
- For existing buildings along primary streets in Commercial Districts, limit height increases due to exempted ground floor area related to dry-floodproofing to one floor of no more than 15 feet above the existing building;
- For new buildings outside of primary streets in Commercial Districts, require wet-floodproofing or dry-floodproofing without zoning exemptions or changes attached;
- For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
- For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
- For small property owners who are seeking or are required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures;
- Require that the proposed Section 64-312 “Permitted obstructions in required yards, courts, and open spaces for all zoning lots” only apply to R1 through R5 Residence Districts;
- Clearly define “primary street frontages” in Commercial Districts where dry-floodproofing provisions would apply;
- Restrict the definition of “severe disaster” to natural disasters related to flooding for the purposes of this text amendment;
- In relation to the concurrent Governors Island rezoning, ensure that both zoning actions are coordinated in order to ensure that no information, briefing, or proposal be undermined or contradicted, that each proposal be as transparent as possible, and each be amended to be consistent with and to complement the other;
- Include a maximum number of variances that can be allowed by the Board of Standards and Appeals;
- Require that DCP and other city agencies provide full transparency regarding any resiliency-related studies conducted within Manhattan;
- Require that relevant Community Boards be properly consulted regarding any establishment of a Designated Recovery Area in the event of a future disaster;
- Require that DCP study other sites of vulnerable populations within the floodplain in addition to nursing homes, and the potential restriction of these uses within the floodplain; and

- Regarding the East Side Coastal Resiliency project, require the City to urge FEMA to update relevant flood maps when this project is completed.”

Brooklyn

On January 5, 2021 the Brooklyn Borough Board voted 16 in favor, none in opposition, and two abstentions to adopt a resolution to recommend approval of the applications, with the following comment:

- “• The Administration and City Council, in order to assist those households that would otherwise be paying more than 30 percent of their household income on additional housing costs to pay for mandatory flood insurance or alternative refinancing or secondary mortgages to fund the rebuilding or elevating of their homes, should include for the provision of financial assistance for homeowners to make such improvements through offerings such as low-cost loans, real estate tax abatements or exemptions, and other financial mechanisms, for household earning up to 250 percent of Area Median Income (AMI).”

Borough President Review

The complete Borough President resolutions are appended to this report, and are summarized below.

Bronx

On January 28, 2021, the Bronx Borough President submitted a recommendation in favor of approval of the application.

Brooklyn

The Brooklyn Borough President issued a letter dated January 6, 2021, reiterating the comments of the Borough Board.

Manhattan

The Manhattan Borough President issued a letter dated December 28, 2020 recommending approval of the application with the following conditions:

- “• Continue to have these provisions apply to buildings rather than zoning lots within the floodplain, so as to differentiate between new and existing buildings;
- Within Historic Districts, require proper notification to relevant Community Boards and Borough Presidents, and require that any design and building envelope changes pursuant to this text amendment be subject to the approval of the Landmarks Preservation Commission;
- Within special zoning districts, require proper notification to relevant Community Boards and Borough Presidents;
- For new buildings along primary streets in Commercial Districts, require dry-floodproofing without granting any zoning exemptions or changes;
- For existing buildings along primary streets in Commercial Districts, limit height increases due to exempted ground floor area related to dry-floodproofing to one floor of no more than 15 feet above the existing building;
- For existing buildings in Commercial Districts or R6 through R10 districts, apply the optional floor area exemption for dry-floodproofing (proposed ZR § 64-322(c)(1)(2), to promote such resiliency measures in these areas;
- For new buildings outside of primary streets in Commercial Districts, require wet-floodproofing or dry-floodproofing without granting any zoning exemptions or changes;
- For existing buildings outside of primary streets in Commercial Districts, when wet-floodproofing is applied, limit the floor area exemption (proposed ZR § 64-322(c)(2)(3)) to 10,000 square feet;
- For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
- For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
- For small property owners who are seeking or required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures; and
- Proposed ZR § 64-312(a) should only be applicable to Residence Districts R1 through R5.”

Staten Island

On January 28, 2021, the Staten Island Borough President submitted a recommendation in favor of approval of the application.

City Planning Commission Public Hearing

On January 20, 2021, (Calendar No. 1) the CPC scheduled February 3, 2021, for a public hearing on this application (N 210095 ZRY). The hearing was duly held on February 3, 2021 (Calendar No. 23). There were 12 speakers in favor of the application and two in opposition:

Speakers in opposition included members of the Riverdale Nature Preservancy and the Bronx Council for Environmental Quality, who both included written testimony.

A representative of the Riverdale Nature Preservancy provided testimony in opposition to the proposal, though they supported aspects of it, such as revised permitted obstruction and waterfront regulations. They suggested that the proposal should limit new development in the floodplain. They noted that Article VI, Chapter 4 of the ZR as it currently exists needs revamping, but stated that the as-of-right provisions, particularly the Reference Plane, were confusing and needed clarification. In addition, they raised concerns about ZCFR rules overriding Special Natural Area District (SNAD) rules and opposed the proposal's expanded BSA special permits. Furthermore, they recommended that the disaster relief provisions of the proposal should have clearer processes for establishing disaster recovery areas.

A representative of the Bronx Council for Environmental Quality spoke in opposition to the proposal, arguing that ZCFR locks in development policies that contribute to current flooding problems. They stated that the proposal does not prioritize green alternatives and infrastructure and that ZCFR missed an opportunity to require flood mitigation alternatives in the ZR that differ from hardscapes and impervious surfaces. They further noted that the proposal should wait until FEMA releases its updated flood maps, and raised concerns that the proposal does not create funding mechanisms for homeowners trying to undertake resiliency improvements. In addition, they worried that ZCFR's disaster relief provisions give too much power to the Mayor and other City agencies.

Speakers in favor included a representative of the Manhattan Borough President's Office; the Deputy Director for Land Use and Buildings at the NYC Mayor's Office of Resiliency (MOR); members from local community groups and organizations including the Center for NYC Neighborhoods, NYC Audubon, Regional Plan Association (RPA), Waterfront Alliance, Municipal Art Society (MAS), Resilient Red Hook Committee, and Enterprise Community Partners; a member of the Citizens Housing Planning Council; and other individuals. Neighborhood Housing Services of Brooklyn CDC, Inc., Operation Resilient Living and Innovation Plus (ORLI+), RPA, MAS, and Resilient Red Hook Committee provided written testimony in favor of the application.

Many speakers noted that, while zoning is a critical tool, it should not be the only tool for achieving resiliency and highlighted that financial assistance at the State and federal level is critical to allow homeowners to undertake resiliency improvements.

A representative of Neighborhood Housing Services of Brooklyn CDC, Inc. provided written testimony in support of the proposal, noting that it could be a valuable tool giving residents flexibility to transform their communities.

Members from ORLI+ provided written testimony in support of the proposal. They commended ZCFR as a robust response to the city's climate change risks that looks to advance the goals of enhanced resilience in the built environment. They expressed support for the proposal's streetscape regulations, focus on long-term design, and flexibility for property owners to address resiliency incrementally. They did, however, suggest that ZCFR's applicability should be expanded to lots within the future 1% annual chance floodplain as shown in the NPCC's 2080s high-end floodplain projections, and that the proposal should require green alternatives and infrastructure improvements. They also echoed comments made by the Manhattan Borough President's Office regarding limiting applicability of height and floor area allowances to new buildings, and the need for financial assistance programs and other incentives for floodproofing of affordable housing units.

A representative of the Citizens Housing Planning Council commended the collaborative outreach effort that informed the proposal. They noted that feedback from the planning and design industry had been incorporated into the zoning text, including comments about the expansion of applicability into the 0.2% chance floodplain and about streetscape requirements.

A representative of the Center for NYC Neighborhoods expressed support for the proposal. They stated that the ZCFR would help increase resiliency, lower insurance premiums, and improve the ability for property owners to make long-term investments in their homes. They also noted that the proposal complements much of their work by expanding applicability to include the 0.2% chance floodplain and would allow homeowners to more easily elevate their homes and mechanical systems.

A representative of the RPA referenced the city's 520 miles of shoreline, which places the city at higher risk from rising sea levels. They stated that because of this heightened risk the city must take immediate action to become more resilient. While they noted that strategic buyouts and other resiliency efforts are necessary, they detailed that ZCFR incorporates lessons learned from Hurricane Sandy and anticipated damage from present and future flood zones. In addition, they supported the proposal's restriction on nursing homes in the floodplain.

The Deputy Director of Land Use and Building at MOR also noted that adapting to climate change will require multiple lines of defense, and that ZCFR is one of those lines. They stated that rigorous standards and flexible provisions are necessary to combat climate change, and that the proposal exemplifies this approach. They referenced a number of programs designed to assist homeowners in the floodplain and asserted that ZCFR is a necessary first step toward resiliency.

A representative of the Waterfront Alliance described the City's robust community engagement effort post-Sandy, citing how over 2,500 New Yorkers participated in the process of creating the proposal. They noted that provisions encouraging soft shorelines will allow for ecologically

productive shorelines, and stated that ZCFR is a positive and impactful step in the right direction toward resiliency.

A representative of MAS supported the project, though attested that the City must partner with local, State, and federal agencies to provide financial assistance to homeowners who are upgrading their homes, noting that, otherwise, financially vulnerable homeowners would remain at risk. They recommended that the proposal expand applicability using 2080 projected flood levels instead of the 2050 projections given the vast scale of potential climate change impacts. In addition, they supported the suggestion of Manhattan Community Board 1 and the Manhattan Borough President that hospitals should be restricted in the floodplain, and that CPC permit approval should be required for buildings in historic districts. They also raised concerns about how zoning lot mergers and new development could take advantage of these regulations.

A representative of the Resilient Red Hook Committee spoke in support of the proposal with a number of recommendations, including that small businesses such as doctor's and lawyer's offices should not require a BSA special permit to locate in residence districts, and that the proposed dry-floodproofing floor area exemptions should be increased beyond 30 feet.

A member of the public stated that ZCFR's detail-oriented, collaborative process is a model for how planning could be done in the future, while noting that the proposal should be only the first step toward achieving resiliency.

A representative of the Manhattan Borough President noted that zoning should not be the only tool used to achieve resiliency, and that a multi-faceted approach at the local, State, and federal level is needed. They reiterated concerns raised in the Borough President's recommendation regarding historic districts and how certain regulations such as dry-floodproofing measures could allow new construction to disrupt neighborhood character.

A representative of Enterprise Community Partners spoke in support of the proposal, stating that ZCFR would allow homeowners to build and retrofit more resilient homes.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the text amendment (N 210095 ZRY), as modified herein, is appropriate.

The Commission notes that ZCFR is one component of a wide range of efforts to realize the vision of a more resilient city. ZCFR will update and make permanent the current temporary regulations put in place after Hurricane Sandy to remove zoning barriers that hinder existing buildings, new buildings and waterfront open spaces from meeting resiliency standards, while also addressing sea level rise. ZCFR also includes special provisions to help facilitate the city's long-term recovery from the COVID-19 pandemic and its associated economic effects, and addresses other zoning regulations applicable citywide that could impede disaster recovery. The Commission recognizes the importance of addressing these pressing issues and notes that the proposal will allow homeowners and business owners who live and work in the city's floodplain to incorporate resiliency measures to reduce damage from future coastal flood events, be resilient in the long-term by accounting for climate change, and potentially save on long-term flood insurance costs.

The Commission notes that ZCFR incorporates lessons learned and initiatives implemented through the City's recovery efforts since Hurricane Sandy, and was developed based on analysis of resilient construction in the floodplain, through widespread coordination with other City agencies, and community feedback received during an extensive public engagement process. The Commission applauds DCP's significant work and outreach efforts on ZCFR.

The Commission has carefully considered the recommendations made by Community Boards, Borough Boards, Borough Presidents, and others at the public hearing. While the Commission heard testimony about individual elements of ZCFR, much of the commentary was focused on resiliency items outside of the scope of the proposed text amendment. The Commission will address items related to ZCFR and other resiliency-related topics separately, beginning with comments related to ZCFR structured around the proposal's goals.

Topics Related to ZCFR

Goal 1. Encourage resiliency throughout the current and future floodplains

ZCFR will allow buildings owners to proactively incorporate resiliency improvements in their buildings by expanding applicability to the entire floodplain. Whereas today buildings that are wholly or partially located within the 1% annual chance floodplain can use the 2013 Flood Text, the proposal will expand this to all zoning lots that are wholly or partially located within both the 1% and 0.2% annual chance floodplains. The Commission notes that this will better enable property owners to incorporate resiliency measures, even when those are not required to comply with Appendix G. The Commission believes that this expansion is appropriate and a major step forward for the city's long-term resiliency.

Future Floodplain and Future Maps

One Community Board in the Bronx suggested that FEMA's update to the FIRMs, which establish the location of the 1% and 0.2% annual chance floodplains, will occur in less than a year, claiming that ZCFR is premature. However, the Commission notes that FEMA's target release date for the map update is still several years away (it is currently scheduled for 2024). The Commission believes that ZCFR's timing is appropriate, as there is no reason to delay regulations that will allow the city's floodplain community to more easily advance long-term resiliency. Given the scale of the city's resiliency issues, the Commission believes that these rules should be put in place as soon as possible. The Commission also notes that ZCFR's applicability is based on the flood maps used for Appendix G compliance purposes, which will allow the proposal's applicability to automatically change if the applicable flood maps are

modified, whether in response to rising sea levels or infrastructure projects that decrease flood risk. The Commission therefore believes that the proposal and its relationship to flood map changes is appropriate and that no changes are warranted.

The Commission also heard testimony from organizations asking that the expansion area encompass the 2080 projected 1% annual chance floodplain to better reflect the usable lifespan of buildings. The Commission notes that the 0.2% floodplain expansion area in ZCFR is a proxy for the high-end projection of the 2050 1% annual chance floodplain (generally the equivalent mid-range projections in the 2080s and 2100s). Recognizing that flood projections are not a fixed number but rather a large range, particularly beyond the 2050s, the Commission believes that the proposed expansion area is an important first step as the City and FEMA continue to develop future flood-risk maps. Further, the 0.2% annual chance floodplain is already included within accepted regulatory maps and is an efficient way for the City to advance resiliency efforts.

Historic districts and special purpose districts

A general concern was raised by a few Community Boards, the Manhattan Borough President and a non-profit organization regarding how ZCFR would modify the rules applicable in special purpose districts and historic districts. In a few instances, it was suggested that use of the resiliency measures in ZCFR should require the Commission's approval through a special permit.

The Commission notes that the 2013 Flood Text is already applicable in historic districts in the 1% annual chance floodplain and that ZCFR will expand this to include the 0.2% annual chance floodplain. The Commission further recognizes that the LPC will continue to have jurisdiction over the approval process for retrofits of existing historic structures and for new construction proposed throughout the floodplain (as it has such powers throughout the city). By enabling ZCFR to apply within these areas, building owners in historic districts will have a greater ability to make resiliency improvements or to build resiliently. The concerns raised mainly focused on the additional height permitted by ZCFR and its potential effects on these areas. However, the

Commission notes that LPC reviews the proposed height of new construction or additions to existing structures, and may impose height limits lower than what zoning regulations allow. The Commission believes that the proposal will provide LPC with appropriate tools to promote resiliency while maintaining the historic character of these areas in the floodplain, and that therefore no changes are warranted.

The Commission also notes that the 2013 Flood Text is already applicable in special purpose districts in the 1% annual chance floodplain and that ZCFR will expand this to special purpose districts in the 0.2% annual chance floodplains consistent with its overall goal of encouraging resiliency in the current and future floodplains. While the Commission acknowledges that special purpose districts respond to a range of locally specific conditions, the coastal flood risks that ZCFR looks to address are as applicable in the floodplain's special purpose districts as they are to areas outside of special purpose districts. Removing as of right applicability in special purpose districts would be inconsistent with how these areas are treated by the current 2013 Flood Text, and would make it harder for buildings there to address sea level rise. The Commission believes all buildings in the floodplain should have opportunities to best address these issues wherever they are located. More particularly, the Commission notes that many special purpose districts in the floodplain look to ensure a vibrant streetscape through special ground floor rules. The Commission notes that ZCFR includes several provisions meant to encourage resilient designs that can also contribute to the city's streetscape, such as the proposal's expanded streetscape framework. Removing these rules from being applicable within special purpose districts would make it harder to achieve their intended purposes, particularly in those areas in the 0.2% annual chance floodplain which were often developed before Hurricane Sandy and may not have fully considered resiliency issues.

The Commission also reviewed concerns about two specific special purpose districts: the Special West Chelsea District (SWCD) in Manhattan and the Special Natural Areas District (SNAD) in the Bronx. The local Community Board raised concerns about how ZCFR would affect the SWCD's various rules, with particular emphasis on maximum heights. The Commission notes

that the 2013 Flood Text regulations are already applicable within the areas of this special purpose district within the 1% annual chance floodplain. DCP assessed recent construction in this area and found a number of buildings using the current as of right zoning relief afforded to buildings there, including the “bump up” provision to raise heights by up to 12 feet and the allowance to raise ground floors up to the FRCE. The Commission notes that ZCFR’s modifications to the 2013 Flood Text will actually reduce heights from the current bump up, and will provide a better incentive to place ground floors at street level which will improve the streetscape of resilient buildings. Ultimately, the Commission believes that ZCFR’s modifications will better ensure that resilient buildings continue to contribute to their surroundings within this and other special purpose districts. One Bronx Community Board and a local environmental conservation organization expressed concern that ZCFR’s regulations will supersede the SNAD requirements. While only a very small portion of the SNAD area in the Bronx is located in the floodplain, the Commission believes that it is still important for ZCFR to apply so that the limited number of applicable sites can proactively incorporate resiliency strategies, like all other sites within the floodplain.

Overall, the Commission believes that ZCFR’s optional relief should be available as of right in all special purpose districts in the floodplain — as the 2013 Flood Text provisions are today — so that buildings there can meet resiliency standards. The Commission further believes that the proposal’s focus on improving ground floors is in line with the goals of existing special purpose districts. Therefore, the Commission believes that the proposal is appropriate and no changes are warranted.

Goal 2. Support long-term resilient design for all building types

The Commission believes that the proposal appropriately addresses the wide variety of building types found throughout the floodplain and provides necessary modifications to the existing 2013 Flood Text that would otherwise hinder resiliency improvements. The proposal better enables property owners to advance a variety of resiliency measures: from physically elevating existing homes, to evacuating spaces below the FRCE and relocating them to the top of the structure.

These optional rules generally modify existing regulations for building envelopes and ground floors, while addressing more unique situations, such as small lots in low-density areas, non-complying buildings, non-conforming uses, and buildings that require more relief than the as of right rules can offer. When any of these allowances are used, buildings will have to comply with Flood-Resistant Construction Standards and a new set of streetscape regulations, which the Commission believes are necessary to promote long-term resilient design and a vibrant public realm. While few of these elements generated much public comment, the Commission did hear testimony regarding whether new and existing buildings should be treated differently, and whether the proposed BSA special permits are necessary.

New Versus Existing Buildings (height and floor area regulations)

The Commission received comments from a few Manhattan Community Boards, as well as the Borough Board and the Borough President's Office, requesting that ZCFR's height allowances and floor area exemptions for floodproofed spaces only apply to existing buildings, since new buildings in the 1% annual chance floodplain are already required to meet Flood-Resistant Construction Standards.

The Commission notes that zoning regulations have provided relief to both new and existing buildings for over 30 years so that they can accommodate flood protection measures. In 1989, the Commission responded to requests from communities that maximum heights be measured from the BFE (as opposed to grade level) to ensure that property owners would not lose buildable space when meeting FEMA's requirements for new construction. Floor area exemptions were also introduced for spaces located below the flood level through modifications to the Cellar definition in the ZR, since these spaces have limited use in residential buildings meeting the Flood-Resistant Construction Standards (only parking, storage and building access is allowed within such spaces).

The 2013 Flood Text continued this trend of treating existing and new buildings similarly by allowing them both to be measured from the new, higher FRCE. In addition, the 2013 Flood Text

allows both new and existing buildings to measure their height from an even higher elevation (nine, 10 or 12 feet) depending on the building type and zoning district through what is commonly called the “bump up” provision. Through outreach efforts, DCP heard that the bump up has been helpful in allowing property owners to incorporate sea level rise into their building’s design and reduce the number of low-quality crawl spaces that often include blank walls. But, DCP also received feedback that the current framework was confusing and often led to inconsistent outcomes even along the same street. While some floor area provisions were only made applicable to existing buildings in the 2013 Flood Text, the most impactful allowance applied to both new and existing buildings, specifically that all spaces below the FRCE were considered to be a cellar, and therefore not counted as floor area. DCP found that it mainly allowed new buildings to exempt their entire ground floor level and led to some buildings being out of scale with their surroundings.

Given this long history of treating new and existing buildings similarly when it comes to resiliency, the Commission believes it is appropriate and more equitable to continue with this approach. The Commission notes that ZCFR would address the issues with the current provisions by replacing the bump up provision with the Reference Plane that would be available to all buildings in the floodplain, but lowered to a maximum height of 10 feet in the 1% annual chance floodplain and established to a height of five feet in the 0.2% annual chance floodplain. The various floor area exemptions would be simplified by permitting wet-floodproofed spaces to be discounted in all buildings and limit the floor area exemption for dry-floodproofed ground floor spaces to a maximum depth of 30 feet in all buildings. These changes would better enable all property owners to proactively meet Flood-Resistant Construction Standards, but also to exceed these standards if a property owner opts to include future sea level rise projections into the design, without having to lose buildable space. It would also allow buildings to address sea level rise and provide an improved ground floor because, absent ZCFR’s additional height and modified floor area exemptions, buildings’ designs would often lead to crawl spaces with low ceilings and blank walls.

There were a number of Manhattan Community Boards that agreed that additional height should be available for existing buildings to retrofit, but believed that this should only be up to the FRCE and that the Reference Plane should not be available. As noted previously, the Reference Plane builds upon the current bump up provisions that are already available for many new and existing buildings in the floodplain. Removing this allowance would make it harder for many existing buildings to become resilient, particularly for existing large and/or attached buildings that often cannot be physically elevated and so need additional height to relocate an existing floor higher in the structure.

The Commission heard testimony about the wet-floodproofing exemption. A few Manhattan Community Boards and the Borough President recommended that existing buildings should have a cap on how much floor area can be exempted. Conversely, a Queens Community Board recommended that the proposal should exempt other spaces for single- and two-family homes since below-grade spaces are not permitted by Appendix G. The Commission notes the wide variety of buildings and building sizes in the floodplain and believes that any single maximum exemption would not be able to address the needs of the floodplain. The Commission also notes that Appendix G only permits these spaces to be used for parking, storage and building access, so exempting living spaces would not be in line with these requirements. As such, the Commission believes that the wet-floodproofing exemption is appropriate.

One Manhattan Community Board, the Borough Board and the Borough President also suggested that ZCFR should simply require dry-floodproofing along commercial corridors. The Commission notes that locating dry-floodproofed space close to grade can be a very expensive undertaking, which is why the 2013 Flood Text attempted to incentivize it with a floor area exemption. Absent this, it is very likely that ground floor spaces would be raised to the FRCE, weakening the streetscape of the city's commercial corridors. Given the importance of maintaining commercial spaces at street level, the Commission believes that it is appropriate to continue to provide the floor area exemption for the dry-floodproofed spaces that ZCFR proposes.

A few Manhattan Community Boards also recommended that along commercial corridors, for buildings that use the dry-floodproofing floor area exemption, extra height should be capped to one additional story or 15 feet, whichever is lower. The Commission acknowledges this recommendation to cap additional height along commercial corridors, but believes that the proposal provides appropriate flexibility for height and floor area along these important corridors.

Given the above, the Commission believes that the proposal's elements regarding height and floor area relief for new and existing buildings are appropriate and that no substantive changes are warranted. The Commission is, however, modifying portions of the proposed text amendment to improve the overall clarity of these regulations.

Providing Discretionary Actions to Address Special Situations

The Commission heard testimony from a few Community Boards and others that any anticipated special situations should be addressed in the zoning text itself rather than through BSA special permits. While the Commission agrees that ZCFR should provide as many as-of-right rules as possible to encourage resiliency improvements, there is a vast and diverse building stock in the floodplain and not all buildings in all situations can be satisfactorily addressed by as-of-right rules. As such, the Commission believes that the proposed discretionary actions that would allow for additional flexibility to encourage resiliency are necessary and appropriate.

Goal 3. Allow for adaptation over time through incremental retrofits

While the proposal is primarily focused on encouraging buildings in the floodplain to fully meet or exceed Flood-Resistant Construction Standards, the Commission notes that there are situations where specific conditions, such as regulatory obstacles, or cost constraints tied to resiliency improvements, may prevent a building from reaching the necessary level of resiliency. For this reason, ZCFR includes optional modifications that will encourage buildings to become more resilient over time without having to fully comply with those standards. These modifications

include provisions to locate mechanical equipment and other important building spaces above the flood elevation, to allow a wider range and easier storage of flood protection measures, and to provide flexibility on waterfront sites to incorporate more resilient designs that can better absorb storm surges. The Commission believes that these are all appropriate and notes that few of these elements generated much public comment. However, the Commission did hear testimony regarding the allowance to place mechanical equipment in required open spaces and heard testimony about raising below-grade spaces above flood level within mixed-use buildings, and so focuses on these topics next.

Mechanical Equipment Above Flood Elevation

A number of Manhattan Community Boards raised concerns that mechanical equipment in open areas required by zoning can consume the existing open space in dense neighborhoods throughout the Borough. One Community Board, the Borough Board and the Borough President suggested that the MEP equipment allowances should only be kept in low-density areas, whereas another Community Board suggested that the MEP allowances could be available in high-density areas, but only where it is structurally necessary to place MEP within open areas. The Commission notes that the current 2013 Flood Text already permits MEP to be placed (subject to dimensional limitations) in open areas in the floodplain and believes that it is important to keep this allowance, since placing MEP equipment safely above the flood level is one of the most important resiliency improvements. In residential buildings, MEP cannot be placed below grade and upper portions of the building may not be suitable to house it. By locating MEP above expected flood levels, buildings will sustain less damage and recover more quickly after a coastal storm.

Another Manhattan Community Board raised concerns about the proposal to permit buildings containing MEP on large, campus-style housing sites. The Community Board recommended that the buildings should come to the Community Board for approval. The Commission notes this element of the proposal was developed in close coordination with NYC Housing Preservation and Development (HPD) and the NYC Housing Authority (NYCHA), who identified zoning

impediments that restrict their ability to elevate MEP equipment on their campuses. The Commission notes that HPD and NYCHA have had years of experience in advancing their resiliency portfolio post-Sandy and agrees with their recommendation. This allowance will speed up resiliency improvements on campus housing sites, and therefore the Commission believes it is necessary and appropriate.

Based on the above, the Commission believes that the proposal is appropriate and that no changes are warranted.

Spaces Above Flood Elevations

One Community Board in Manhattan raised a concern with the proposal to allow the second story in mixed-use buildings to be used for commercial uses to replace the cellar area, which often provides support space for ground floor retail uses. This Community Board was concerned that this allowance could affect buildings with existing affordable housing units on that story. The Commission notes that this allowance is not expected to induce owners to retrofit existing buildings. The Commission further notes that incorporating resiliency measures into a building does not affect how rent stabilization provisions apply to the property. In the case of rent regulated apartments, the NYS Division of Homes and Community Renewal apply limits on permitted rent increases and restrictions on termination of leases in the same way that they do for all other buildings. NYS legislation also recently imposed significantly stricter limitations on rent increases permitted based on improvements to the building or individual units, and eliminated pathways to remove units from rent stabilization. In light of this, the Commission believes that the proposal will not negatively affect affordable housing but will instead offer support for ground floor retail spaces looking to become more resilient, and is therefore appropriate.

Goal 4. Facilitate future recovery by reducing regulatory obstacles

The proposal includes modifications to expedite future recovery processes after a storm event and other types of disasters. These select rules are applicable citywide. The Commission agrees

that these citywide regulations are necessary and will better equip the City in future recovery processes by removing regulatory obstacles. The proposed allowances for ramps and lifts, and restaurants in waterfront zoning districts generated little public comment. However, the Commission did hear testimony regarding the new regulations for power systems, vulnerable populations, and disaster recovery. The Commission therefore focuses on each of these topics separately.

Power Systems and Other Mechanical Equipment

One Manhattan Community Board raised concerns about allowing diesel generators because of their effect on air quality and noise. The Commission notes that DCP worked closely with other City agencies to design a proposal that would allow power systems to be considered permitted obstructions in open areas required by zoning if they comply with size and locational criteria meant to ensure that the equipment does not present conflicts with its surroundings. The Commission notes that the equipment would also be subject to the NYC Building Code, Noise Code and the Department of Environmental Protection regulations that address fuel types, noise, and maximum energy load for the systems. In addition, the Commission notes that the 2013 Flood Text already allows generators serving single- and two-family homes in the floodplain as permitted obstructions in open areas, and DCP has not received negative feedback concerning this. In light of the above, the Commission believes that the allowance for power systems is appropriate and will help the city recover quickly from any future electrical problems.

Vulnerable Populations

The Commission notes that nursing homes house a uniquely vulnerable population that requires continuous medical care. Research shows that this dependency can be strained, whether nursing home residents are required to shelter in place or evacuate prior to a coastal storm. Therefore, the Commission believes that it is appropriate to limit the growth of nursing homes in high risk areas and areas that will have limited vehicular access during a storm event.

The Commission received recommendations from a few Community Boards in Queens and in Manhattan, including the Manhattan Borough Board, who suggested that the City analyze whether additional types of vulnerable populations beyond nursing homes should be limited in the floodplain. The Commission notes that not all vulnerable facilities are required to evacuate during an emergency event. Hospitals, for example, may have the legal ability (regulated by the State) and the resources to shelter in place. Vulnerable populations that do not require medical support in other types of facilities may be able to evacuate more safely during an emergency. For these reasons, the Commission believes that ZCFR's nursing home restriction is an appropriate and vital first step to address vulnerable populations in the floodplain.

Disaster Recovery Rules

The proposal includes rules that could be made available to facilitate and speed the recovery process from future disasters, some of which would be implemented now to help address the COVID-19 pandemic and its associated economic effects. The Commission believes that this is appropriate as it will better prepare the city in the event of a future disaster. The Commission notes that the need to adopt temporary rules on an emergency basis after Hurricane Sandy demonstrated that the lengthy project development and review process slowed the disaster response.

Two Community Boards, the Manhattan Borough Board and an environmental organization asked for further guidelines that explain how these rules would be adopted after a disaster occurs. The Commission notes that the current proposal establishes a framework for recovery by including a series of provisions that can be made available at the time of a disaster through a future zoning text amendment. Establishing the framework now, will save time in the future as the city works to recover from a future disaster. The specific provisions that are made available, as well as their geographic and time applicability, will be determined at the time of the disaster through the text amendment process, which requires referral to all affected Community Boards and Borough Presidents, as well as approval by the CPC and City Council. Finally, the Commission notes that future disasters may extend well beyond the floodplain, as the citywide

effects of the COVID-19 pandemic clearly illustrate, and thus agrees that the proposed framework will apply wherever a disaster may strike.

A separate Manhattan Community Board and an organization raised concerns with the proposal to extend by an additional two years the available timeframe for non-conforming uses to reactivate because of local noise issues due to having non-conforming commercial uses in residence districts. The Commission believes that the additional two-year relief is appropriate to facilitate the City's recovery from the COVID-19 pandemic – essentially it provides more time for uses that existed before the pandemic to return. Specific concerns about noise can be addressed through the City's Noise Code.

Other Resiliency-Related Topics

The Commission notes that a great deal of the testimony about ZCFR was related to broader resiliency concerns beyond the proposal itself. These included other resiliency infrastructure projects and the need for financial assistance to address the costs of resiliency improvements.

Zoning Changes

The Commission heard testimony that ZCFR should limit development throughout the floodplain given the long-term issues that this area faces. The Commission notes that ZCFR, like the 2013 Flood Text before it, looks to maintain prevailing land uses and the planned density in neighborhoods across the floodplain, while helping buildings and neighborhoods of all types to be resilient in the long term. The Commission believes that any changes to permitted densities require a more focused analysis at the neighborhood level, as with the new Special Coastal Risk District that the Commission is currently reviewing at Gerritsen Beach (C 210130 ZMK). As such, the Commission believes that ZCFR's approach to the current zoning regulations is appropriate.

Infrastructure Improvements

Some Community Boards commented on infrastructure improvements in their district, particularly asking to preserve parkland at risk of flooding. The Commission notes that ZCFR is

only one component of a wide range of efforts by the City to make the city more resilient. Infrastructure projects, like the South Shore Damage Reduction Project and the East Side Coastal Resiliency Project that was recently approved by the Commission (C 190357 PQM), are a critical piece of this effort. For ZCFR to be most successful over time, the Commission believes that infrastructure improvements like these will be needed in areas across the city, and encourages the City's efforts to develop and complete these projects.

Financial Assistance

The Commission heard much testimony about the need for financial assistance programs, such as low-cost loans, subsidies and tax abatements, to help communities and individual owners realize the resiliency improvements facilitated by the proposal, which can also lead to the shorter-term benefit of reducing flood insurance premiums. The Commission acknowledges the costs related to undertaking resiliency improvements. While the Commission believes that ZCFR is an appropriate and vital step to address coastal flooding at the building scale, the Commission encourages the City to continue to explore pre-disaster financial assistance programs to encourage resiliency across the floodplain.

Green Infrastructure

The Commission received testimony from a non-profit organization stating that ZCFR should incentivize green infrastructure. The Commission notes that any green infrastructure requirements would be best addressed through amendments to the NYC Building Code. The Commission further notes that the current regulations and ZCFR will not create any impediments to incorporating green infrastructure on a site. Finally, the Commission appreciates the work that many City agencies, particularly DEP, are undertaking to address inland flooding through green infrastructure programs.

Conclusion

The Commission notes that ZCFR is the third major text amendment to address coastal flooding since Hurricane Sandy in 2012. The first two texts were focused on supporting the recovery effort from the hurricane, while ZCFR looks to build on these earlier efforts, and lessons learned

since then, to put in place permanent rules that can help move the city toward a more resilient future. The Commission applauds DCP's continual efforts to address coastal flooding, as well as the support provided to create this proposal by other City agencies, communities in the floodplain, elected officials, Community Boards, and the design community. Since the situation in the floodplain will continue to change over time, the Commission urges all of these parties to continue to work together to plan for the city's evolving floodplain.

Finally, the Commission notes that ZCFR is also the first text amendment to address the COVID-19 pandemic, the most significant public health event in over 100 years. While the pandemic is still evolving and its long-term implications remain unclear, the Commission appreciates that DCP has used ZCFR to take the first steps to address the associated economic effects that have been experienced this past year. Moving forward, the Commission can foresee the need for a longer-term effort to facilitate pandemic recovery, and believes that the Department's work and engagement on coastal flood resiliency offers an excellent model for undertaking this effort.

RESOLUTION

RESOLVED, that having considered the FEIS, for which a Notice of Completion was issued on March 5, 2021, with respect to this application (CEQR No. 19DCP192Y), the CPC finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action, as analyzed is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable. The report of the CPC, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, that the CPC, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with Waterfront Revitalization Program (WRP) policies; and be it further

RESOLVED, by the CPC, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter underlined is new, to be added.

Matter ~~struck out~~ is to be deleted.

Matter within # # is defined in Section 12-10 or other, as applicable.

* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

ARTICLE I GENERAL PROVISIONS

* * *

Chapter 1 Title, Establishment of Controls, and Interpretation of Regulations

* * *

11-30 BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT

* * *

11-33 Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment

* * *

11-339**Post-Hurricane-Sandy construction****Building permits issued in the flood zone**

The provisions of this Section shall apply within the #flood zone#. The provisions of this Section are subject to all provisions of Title 28 of the Administrative Code of the City of New York and Appendix G of the Building Code of the City of New York New York City Building Code, or its successors, including those pertaining to expiration, reinstatement, revocation and suspension. Changes in #flood maps# shall be considered an amendment of the Zoning Resolution pursuant to for the purposes of applying the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT).

- (a) ~~Applications for approval of construction documents approved pursuant to Executive Order 230~~

~~If an application for approval of construction documents has been approved on or before October 9, 2013, pursuant to Executive Order No. 230 (Emergency Order to Suspend Zoning Provisions to Facilitate Reconstruction in Accordance with Enhanced Flood Resistant Construction Standards), dated January 31, 2013, and its successors, including Executive Order No. 427 in effect on October 9, 2013, relating to #Hurricane Sandy# as defined in Section 64-11 of this Resolution, a building permit authorizing such construction may be issued pursuant to the regulations of this Resolution in effect at the time of such approval of construction documents, and such construction may continue until October 9, 2019. After such date, the vesting provisions of Section 11-30 shall apply.~~

- (b)(a) Construction approved pursuant to previous versions of #flood maps#

If, within one year prior to a change in the #flood maps# affecting a property, the Department of Buildings issued ~~an approval of construction documents or issued~~ a building permit for construction on that property pursuant to the previous #flood maps#, the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), shall be deemed modified so as to substitute the previous #flood maps# for the current #flood maps#, and such construction may continue pursuant to such prior #flood maps# until ~~October 9, 2019~~ two years after the date of adoption of the new #flood maps#. After this date, the vesting provisions of Section 11-30 shall apply.

- (c) ~~Provisions applying in the event that Flood Resilience Zoning Text Amendment expires~~

~~This provision shall become effective only upon the expiration of Article VI, Chapter 4, adopted on October 9, 2013. If an application for approval of construction documents has been approved on or before the expiration of Article VI, Chapter 4, a building permit authorizing such construction may be issued pursuant to Article VI, Chapter 4, and such~~

~~construction may continue until a date six years after the expiration of Article VI, Chapter 4. After such date, the vesting provisions of Section 11-30 shall apply.~~

- ~~(d)~~(b) Provisions applying when Appendix A (Special Regulations for Neighborhood Recovery) of Article VI, Chapter 4 expires

This provision shall become effective only upon the expiration of Appendix A of Article VI, Chapter 4, adopted on July 23, 2015. If a building permit authorizing construction pursuant to Appendix A has been approved on or before the expiration of such Appendix, construction may continue up to two years after the expiration. After such date, the provisions of Section 11-30 shall apply.

* * *

Chapter 2 Construction of Language and Definitions

* * *

12-10 DEFINITIONS

* * *

~~Base flood elevation~~

[Note: Existing text to be deleted and replaced by the definition of “flood-resistant construction elevation” in Section 64-11]

~~The “base flood elevation” is the level in feet of the flood having a one percent chance of being equaled or exceeded in any given year, as indicated on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency.~~

Base plane

The “base plane” is a plane from which the height of a #building or other structure# is measured as specified in certain Sections. For #buildings#, portions of #buildings# with #street walls# at least 15 feet in width, or #building segments# within 100 feet of a #street line#, the level of the #base plane# is any level between #curb level# and #street wall line level#. Beyond 100 feet of a #street line#, the level of the #base plane# is the average elevation of the final grade adjoining the #building# or #building segment#, determined in the manner prescribed by the New York City Building Code for adjoining grade elevation. ~~In either case, in the #flood zone#, either the #base flood elevation# may be the level of the #base plane# or #building# height may be measured from~~

~~the #flood-resistant construction elevation#, as provided in Article VI, Chapter 4.~~ For the purposes of this definition, #abutting buildings# on a single #zoning lot# may be considered a single #building#. In addition, the following regulations shall apply:

- (a) Within 100 feet of a #street line#:
- (1) The level of the #base plane# for a #building# or #building segment# without a #street wall# shall be determined by the average elevation of the final grade adjoining such #building# or #building segment#.
 - (2) Where a #base plane# other than #curb level# is established, the average elevation of the final grade adjoining the #street wall# of the #building# or #building segment#, excluding the entrance to a garage within the #street wall#, shall not be lower than the level of the #base plane#, ~~unless the #base plane# is also the #base flood elevation#.~~
 - (3) Where the average elevation of the final grade adjoining the #street wall# of the #building#, excluding the entrance to a garage within the #street wall#, is more than two feet below #curb level#, the level of the #base plane# shall be the elevation of such final grade, ~~unless the #base plane# is also the #base flood elevation#.~~ This paragraph shall not apply to #buildings developed# before June 30, 1989, in R2X, R3, R4 or R5 Districts. Furthermore, this paragraph shall not apply to #buildings# in C1 or C2 Districts mapped within R2X, R3, R4 or R5 Districts, or in C3 or C4-1 Districts, unless such #buildings# are located on #waterfront blocks#.

* * *

Floor area

"Floor area" is the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#. In particular, #floor area# includes:

* * *

- (h) floor space in #accessory buildings#, except for floor space used for #accessory# off-street parking or #accessory# mechanical equipment;

* * *

However, the #floor area# of a #building# shall not include:

* * *

- (8) floor space used for #accessory# mechanical equipment, including equipment serving the mechanical, electrical, or plumbing systems of #buildings# as well as fire protection systems, and power systems such as solar energy systems, generators, fuel cells, and energy storage systems. Such exclusion shall also include floor space for necessary maintenance and access to such equipment. ~~except that~~ However, such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#;

* * *

Flood maps

[Note: Existing text moved to Section 64-11 and modified]

~~“Flood maps” shall be the most recent advisory or preliminary maps or map data released by the Federal Emergency Management Agency (FEMA) after October 28, 2012, until such time as the City of New York adopts new final Flood Insurance Rate Maps. When new final Flood Insurance Rate Maps are adopted by the City of New York superseding the Flood Insurance Rate Maps in effect on October 28, 2012, #flood maps# shall be such new adopted final Flood Insurance Rate, Maps.~~

Flood zone

~~The “flood zone” is the area that has a one percent chance of flooding in a given year, shall include the #high-risk flood zone# and the #moderate-risk flood zone#, as defined in Section 64-11 (Definitions) and as indicated on the effective Flood Insurance Rate Maps, plus any additional area that has a one percent chance of flooding in a given year, as indicated on the #flood maps#.~~

* * *

Designated recovery area

A “designated recovery area” shall be an area which experienced physical or non-physical impacts from a #severe disaster#, in accordance with recovery plans, as applicable.

* * *

Severe disaster

A “severe disaster” shall include any event within any boundary of the City of New York, for which the Mayor proclaims a local state of emergency, or the Governor declares a disaster emergency.

* * *

Chapter 3

Comprehensive Off-street Parking and Loading Regulations in the Manhattan Core

* * *

13-20

SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES

* * *

13-22

Applicability of Enclosure and Screening Requirements

* * *

13-221

Enclosure and screening requirements

(a) #Accessory# off-street parking facilities

All #accessory# off-street parking spaces shall be located within a #completely enclosed building#, with the exception of parking spaces #accessory# to a hospital, as listed in Use Group 4, and as provided in Section 13-45 (Special Permits for Additional Parking Spaces). In addition, such parking facilities shall comply with the following provisions:

(1) Screening

Any portion of an #accessory# off-street parking facility that is located above #curb level# shall comply with the applicable parking wrap and screening provisions set forth in Section 37-35.

(2) Transparency

Portions of ground floor #commercial# and #community facility uses# screening the parking facility in accordance with the provisions of paragraph (a) of Section 37-35 shall be glazed with transparent materials in accordance with Section 37-34.

However, for #buildings# where the #base flood elevation# is higher than the level of the adjoining sidewalk, all such transparency requirements shall be measured from the level of the #flood-resistant construction elevation#, as defined in Section 64-11, instead of from the level of the adjoining sidewalk.

For #zoning lots# with multiple #street wall# frontages, the transparency provisions of this paragraph, (a)(2), need not apply to #street walls# that are located entirely beyond 100 feet of any portion of the #accessory# parking facility, as measured in plan view, perpendicular to such parking facility.

* * *

ARTICLE II RESIDENCE DISTRICT REGULATIONS

* * *

Chapter 2 Use Regulations

* * *

22-10 USES PERMITTED AS-OF-RIGHT

* * *

22-13 Use Group 3

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

A. #Community facilities#

Colleges or universities¹, including professional schools but excluding business colleges or trade schools

College or school student dormitories and fraternity or sorority student houses¹

Libraries, museums or non-commercial art galleries

#Long-term care facilities#^{2,3,4}

* * *

Philanthropic or non-profit institutions with sleeping accommodations^{4,5}

#Schools#

B. #Accessory uses#

¹ Not permitted in R1 or R2 Districts as-of-right

² In R1 and R2 Districts, permitted only by special permit by the City Planning Commission pursuant to Section 74-901 (Long-term care facilities)

³ In Community District 11 in the Borough of the Bronx, Community District 8 in the Borough of Manhattan, ~~Community District 14 in the Borough of Queens~~ and Community District 1 in the Borough of Staten Island, #developments# of nursing homes, as defined in the New York State Public Health Law, or #enlargements# of existing nursing homes that increase the existing #floor area# by 15,000 square feet or more, are permitted only by special permit by the City Planning Commission pursuant to Section 74-901 (Long-term care facilities). However, such special permit may not be applied to #developments# or #enlargements# that are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes)

⁴ In #high-risk flood zones#, as defined in Section 64-11 (Definitions), or within the areas set forth in APPENDIX K (Areas With Nursing Home Restrictions), the #development# or #enlargement# of nursing homes and nursing home portions of continuing care retirement communities, as such facilities are defined in the New York State Public Health Law, are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes)

^{4,5} The number of persons employed in central office functions shall not exceed 50, and the amount of #floor area# used for such purposes shall not exceed 25 percent of the total #floor area#, or, in R8, R9 or R10 Districts, 25,000 square feet, whichever is greater

* * *

22-16**Special Regulations for Nursing Homes**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, the #development# of nursing homes and nursing home portions of continuing care retirement communities, as defined in the New York State Public Health Law, or the #enlargement# of an existing nursing home that increases such #floor area# by more than 15,000 square feet, shall not be permitted on any portion of a #zoning lot# that is located within the #high-risk flood zone#, as defined in Section 64-11 (Definitions), or within the areas set forth in APPENDIX K (Areas With Nursing Home Restrictions).

In addition, in Community Districts where #long-term care facilities# are allowed only by special permit pursuant to Section 74-901 (Long-term care facilities), such special permit may not be applied to #developments# or #enlargements# of nursing homes and nursing home portions of continuing care retirement communities located in the areas subject to the provisions of this Section.

* * *

Chapter 3**Residential Bulk Regulations in Residence Districts**

* * *

23-10**OPEN SPACE AND FLOOR AREA RATIO REGULATIONS**

* * *

23-12**Permitted Obstructions in Open Space**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following obstructions shall be permitted in any #open space# required on a #zoning lot#:

* * *

- (h) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per #dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#,

provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot#. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;

(i) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(i) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(ii) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

(iii) where any equipment is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(i) an area equivalent to 25 percent of a required #open space#;

(ii) in R1 through R5 Districts, a height of 10 feet above the adjoining grade; and

(iii) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.

(j) Ramps or lifts for people with physical disabilities;

(+)(k) Solar energy systems;

- (1) on the roof of an #accessory building#, limited to 18 inches in height as measured perpendicular to the roof surface; or
- (2) on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- ~~(+)~~(l) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#;
- ~~(k)~~(m) Terraces, unenclosed, fire escapes or planting boxes, provided that no such items project more than six feet into or over such #open space#.

* * *

23-40

YARD REGULATIONS

* * *

23-44

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:

* * *

- (14) Parking spaces, off-street, open, within a #front yard#, that are #accessory# to a #building# containing #residences#, provided that:

* * *

However, no parking spaces of any kind shall be permitted in any #front yard# in an R4B, R5B or R5D District. Furthermore, no parking spaces of any kind shall be permitted in any #front yard# on a #zoning lot# containing an #attached# or #semi-detached building# in an R1, R2, R3A, R3X, R4A or R5A District, or in any #front yard# on a #zoning lot# containing an #attached building# in an R3-1 or R4-1 District;

- (15) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:
- (i) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:
 - (a) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;
 - (b) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;
 - (c) where any equipment is located in a #front yard#, the entire width of such portion of such equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and
 - (ii) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:
 - (a) an area equivalent to 25 percent of a required #yard#, or #rear yard equivalent#, and in addition, in #front yards#, is limited to an area not exceeding 25 square feet. However, for #corner lots#, one #front yard# may be treated as a #side yard# for the purpose of applying such size restrictions;
 - (b) in R1 through R5 Districts, a height of 10 feet above the adjoining grade in #rear yards#, #rear yard equivalents# and #side yards#, or a height of five feet above the adjoining grade in #front yards#; and
 - (c) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.

~~(15)~~(16) Ramps or lifts for persons people with physical disabilities;

- (16)(17) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (17)(18) Steps, provided that such steps access only the lowest #story# or #cellar# of a #building# fronting on a #street#, which may include a #story# located directly above a #basement#;
- (18)(19) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#. #Accessory# swimming pools are not permitted obstructions in any #front yard#;
- (19)(20) Terraces or porches, open;
- (20)(21) Walls, not exceeding eight feet in height above adjoining grade and not roofed or part of a #building#, and not exceeding four feet in height in any #front yard#, except that for #corner lots#, a wall may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#;

* * *

23-60

HEIGHT AND SETBACK REGULATIONS

* * *

23-63

Height and Setback Requirements in R1 Through R5 Districts

* * *

23-631

General provisions

[Note: Existing text to be deleted and replaced by the definition of “reference plane” in Section 64-11 and Section 64-321 (Measurement of height for flood-resistant buildings)]

Height and setback regulations for R1 through R5 Districts are set forth in this Section. Such maximum heights may only be penetrated by permitted obstructions set forth in Section 23-62.

* * *

R1-2A R2A R2X R3 R4 R4-1 R4A R5A

- (b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (h) and (j) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and #abutting semi-detached buildings# may be considered to be one #building#.

The perimeter walls of a #building or other structure# are those portions of the outermost walls enclosing the #floor area# within a #building or other structure# at any level and height is measured from the #base plane#. Perimeter walls are subject to setback regulations at a maximum height above the #base plane# of:

21 feet	R2A R2X R3 R4A
25 feet	R1-2A R4-1 R4 R5A
26 feet*	R3 R4-1 R4A within #lower density growth management areas#

~~* In R3, R4-1 and R4A Districts within #lower density growth management areas#, where a #base plane# is established at a #base flood elevation# higher than grade, the maximum perimeter wall height shall be 21 feet above such #base flood elevation# or 26 feet above grade, whichever is more~~

* * *

23-80

COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

23-87

Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following obstructions shall be permitted within the minimum area and dimensions needed to satisfy the requirements for a #court#:

* * *

- (h) Open terraces, porches, steps, and ramps or lifts for ~~persons~~ people with physical disabilities;
- (i) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:
 - (1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:
 - (i) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;
 - (ii) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;
 - (iii) where any equipment at the ground floor level is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and
 - (2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:
 - (i) an area equivalent to 25 percent of any #court# containing #legally required windows#;
 - (ii) in R1 through R5 Districts, a height of 10 feet above the lowest level of such #court#; and
 - (iii) in R6 through R10 Districts, a height of 15 feet above the lowest level of such #court#.
- (+)(j) Recreational or drying yard equipment;

- ~~(k)~~ Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

* * *

Chapter 4

Bulk Regulations for Community Facilities in Residence Districts

* * *

24-30

YARD REGULATIONS

24-33

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:

* * *

- (10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

- (i) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

- (a) all generators and cogeneration equipment shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

- (b) all other types of equipment may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, the entirety of such equipment shall be screened on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

- (c) where any equipment is located in a #front yard#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and
- (ii) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:
 - (a) an area equivalent to 25 percent of a required #yard#, or #rear yard equivalent#, and in addition, in #front yards#, is limited to an area not exceeding 25 square feet. However, for #corner lots#, one #front yard# may be treated as a #side yard# for the purpose of applying such size restrictions;
 - (b) in R1 through R5 Districts, a height of 10 feet above the adjoining grade in #rear yards#, #rear yard equivalents# and #side yards#, or a height of five feet above the adjoining grade in #front yards#; and
 - (c) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.
- ~~(10)~~(11) Solar energy systems, on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- ~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;
- ~~(12)~~(13) Terraces or porches, open;
- ~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

24-60

COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES

24-68

Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall not be considered obstructions when located within a #court#:

* * *

- (h) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:
- (1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:
 - (i) all generators and cogeneration equipment shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;
 - (ii) all other types of equipment may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, the entirety of such equipment shall be screened on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open; and
 - (iii) where any equipment at the ground floor level is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and
 - (2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:
 - (i) an area equivalent to 25 percent of any #court# containing #legally required windows#;
 - (ii) in R1 through R5 Districts, a height of 10 feet above the lowest level of such #court#; and
 - (iii) in R6 through R10 Districts, a height of 15 feet above the lowest level of such #court#; and
- (h)(i) Recreational or yard drying equipment;
- (j) Steps, and ramps or lifts for people with physical disabilities;

~~(k)~~(k) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(l)~~(l) Terraces, open, porches or steps.

* * *

ARTICLE III COMMERCIAL DISTRICT REGULATIONS

* * *

Chapter 3 Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

* * *

33-20 YARD REGULATIONS

* * *

33-23 Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Commercial Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

- (9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;
- (10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that all equipment shall not exceed a height of 23 feet above #curb level#.
- ~~(10)~~(11) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

- ~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;
- ~~(12)~~(13) Terraces or porches, open;
- ~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

Chapter 7

Special Urban Design Regulations

* * *

37-30

SPECIAL GROUND FLOOR LEVEL STREETScape PROVISIONS FOR CERTAIN AREAS

37-31

Applicability

Section 37-30, inclusive, specifies #ground floor level# requirements that establish consistent standards for a minimum depth for certain #uses#, a maximum width for certain #uses#, minimum transparency requirements, and parking wrap and screening requirements, and minimum requirements for blank walls that apply in conjunction with requirements set forth for certain #Commercial Districts# in the supplemental #use# provisions of Section 32-40, inclusive, for #Quality Housing buildings# in certain #Commercial Districts# subject to supplemental provisions for #qualifying ground floors#; for certain #Manufacturing Districts# in Section 42-485 (Streetscape provisions); for #zoning lots# subject to the off-street parking regulations in the #Manhattan Core# in Article I, Chapter 3; for #zoning lots# subject to the special provisions for waterfront areas and, FRESH food stores, and #flood zones# in Article VI, Chapters 2 and, 3, and 4 respectively; and for #zoning lots# subject to the provisions of certain Special Purpose Districts.

* * *

37-36

Special Requirements for Blank Walls

[Note: Consolidated and Modified Text from
Sections 87-415, 127-412, 135-12, 138-32, and 142-141]

Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# in accordance with other streetscape provisions in this Resolution, such blank wall shall be covered by one or more of the following mitigation elements set forth in this Section.

37-361

Blank wall thresholds

The height and width of blank walls and the applicable percent coverage of mitigation elements are set forth in this Section. Blank wall surfaces shall be calculated on the #ground floor level street wall# except in the #flood zone#, blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation# as defined in Section 64-11(Definitions).

The different types of blank walls are established below and the type of blank wall that applies is determined by the provisions of each applicable Section.

(a) Type 1

Where Type 1 blank wall provisions apply, a “blank wall” shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 50 feet.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362 (Mitigation elements).

The maximum width of a portion of such blank wall without visual mitigation elements shall not exceed 10 feet. In addition, where such blank wall exceeds a #street wall# width of 50 feet, such rules shall be applied separately for each 50-foot interval.

(b) Type 2

Where Type 2 blank wall provisions apply, a “blank wall” shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 25 feet.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362. In addition, where such blank wall exceeds a #street wall# width of 50 feet, such rules shall be applied separately for each 50-foot interval.

(c) Type 3 or Type 4

Where Type 3 or Type 4 blank wall provisions apply, a "blank wall" shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 15 feet for Type 3 or for a continuous width of at least five feet for Type 4.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362. In addition, where such blank wall exceeds a #street wall# width of 25 feet, such rules shall be applied separately for each 25-foot interval.

37-362**Mitigation elements**

The following mitigation elements shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations.

(a) Surface treatment

Where utilized as a visual mitigation element the following shall apply:

(1) Wall treatment

Wall treatment, in the form of permitted #signs#, graphic or sculptural art, decorative screening or latticework, or living plant material shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of the mitigation requirement.

(2) Surface texture

Surface texture that recesses or projects a minimum of one inch from the remaining surface of the #street wall# shall be provided. The height or width of any individual area that recesses or projects shall not be greater than 18 inches. Each linear foot of wall treatment shall constitute one linear foot of the mitigation requirement.

(b) Linear treatment

Where utilized as a visual mitigation element the following shall apply:

(1) Planting

Planting, in the form of any combination of perennials, annual flowers, decorative grasses or shrubs, shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of the mitigation requirement. Such planting bed, or planter boxes shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area, including planters spaced not more than one foot apart, shall have a width of at least five feet.

(2) Benches

Fixed benches, with or without backs, shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of the mitigation requirement. Any individual bench shall have a width of at least five feet and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.

(3) Bicycle racks

Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall# as follows. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.

(i) Where bicycle racks are oriented so that the bicycles are placed parallel to the #street wall#, each bicycle rack so provided shall satisfy five linear feet of the mitigation requirement.

(ii) Where bicycle racks are oriented so that bicycles are placed perpendicular or diagonal to the #street wall#, each bicycle rack so provided shall satisfy the width of such rack, as measured parallel to the #street wall#, of the mitigation requirement.

(4) Tables and chairs

In #Commercial Districts# and M1 Districts, fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet and have a minimum of two chairs associated with it.

Each table and chair set so provided shall satisfy five linear feet of the mitigation requirement.

* * *

ARTICLE IV MANUFACTURING DISTRICT REGULATIONS

* * *

Chapter 3 Bulk Regulations

* * *

43-20 YARD REGULATIONS

* * *

43-23 Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Manufacturing Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

- (9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;
- (10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that all equipment shall not exceed a height of 23 feet above #curb level#;
- ~~(10)~~(11) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- ~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;

~~(12)~~(13) Terraces or porches, open;

~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

ARTICLE VI SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS

* * *

Chapter 2 Special Regulations Applying in the Waterfront Area

62-00 GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to guide development along the City's waterfront and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to maintain and reestablish physical and visual public access to and along the waterfront;
- (b) to promote a greater mix of uses in waterfront developments in order to attract the public and enliven the waterfront;
- (c) to encourage water-dependent (WD) uses along the City's waterfront;
- (d) to create a desirable relationship between waterfront development and the water's edge, public access areas and adjoining upland communities;
- (e) to preserve historic resources along the City's waterfront; ~~and~~
- (f) to protect natural resources in environmentally sensitive areas along the shore; and
- (g) to allow waterfront developments to incorporate resiliency measures that help address challenges posed by coastal flooding and sea level rise.

62-10**GENERAL PROVISIONS****62-11****Definitions**

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS) and Section 64-11 (Definitions).

Development

For the purposes of this Chapter, a "development" shall also include:

- (a) an #enlargement#;
- (b) any alteration that increases the height or coverage of an existing #building or other structure#;
- (c) an #extension#; or
- (d) a change of #use# from one Use Group to another, or from one #use# to another in the same Use Group, or from one #use# listed in Section 62-21 (Classification of Uses in the Waterfront Area) to another such #use#.

However, a #development# shall not include incidental modifications to a #zoning lot#, including but not limited to, the addition of deployable flood control measures and any associated permanent fixtures, the addition of temporary structures such as trash receptacles, food carts or kiosks, and the incorporation of minor permanent structures such as light stanchions, bollards, fences, or structural landscaped berms and any associated flood gates. All such modifications shall remain subject to any associated permitted obstruction allowances, as applicable.

Tidal Wetland Area

A "tidal wetland area" is an area planted with species tolerant of saline water inundation that is located between the mean low water line and the landward edge of the stabilized natural shore or bulkhead. Such area may be used to satisfy requirements for #waterfront yards#, #shore public walkways# and planting in this Chapter.

* * *

62-30

SPECIAL BULK REGULATIONS

* * *

62-33

Special Yard Regulations on Waterfront Blocks

* * *

62-332

Rear yards and waterfront yards**[Note: Text restructured for clarity]**

~~#Rear yard# regulations shall be inapplicable on #waterfront zoning lots#. In lieu thereof, a #waterfront yard# shall be provided along the entire length of the #shoreline#, bulkhead or stabilized natural shore, whichever is furthest landward, with a depth as set forth in the following table. The minimum depth shall be measured from the landward edge of the bulkhead, landward edge of stabilized natural shore or, in the case of natural #shorelines#, the mean high water line.~~

~~Where a #platform# projects from the #shoreline#, stabilized natural shore, or bulkhead, such #waterfront yard# shall, in lieu of following the shore at that portion, continue along the water edge of such #platform# until it again intersects the #shoreline#, stabilized natural shore, or bulkhead, at which point it shall resume following the #shoreline#, stabilized natural shore, or bulkhead.~~

~~The level of a #waterfront yard# shall not be higher than the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, except that natural grade level need not be disturbed in order to comply with this requirement. The level of the portion of a #waterfront yard# on a #platform# shall not be higher than the abutting level of the non-platformed portion of the #waterfront yard#, of which it is the continuation, except that the level of a #platform# existing on October 25, 1993 need not be altered in order to comply with this requirement.~~

~~No #building or other structure# shall be erected above the lowest level of a #waterfront yard#. Permitted obstructions in #waterfront yards# in all districts shall include permitted obstructions as listed in Sections 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 62-611, except that enclosed #accessory# off-street parking spaces and walls exceeding four feet in height shall not be permitted.~~

In addition, the following ~~#rear yard#~~ obstructions shall not be permitted except when ~~#accessory#~~ to ~~#single#~~ or ~~#two family residences#~~ in ~~#detached#~~, ~~#semi-detached#~~ or ~~#zero lot line buildings#~~:

Balconies, unenclosed;

Greenhouses, non-commercial, ~~#accessory#~~;

Parking spaces, off street, open or enclosed, ~~#accessory#~~;

Swimming pools, ~~#accessory#~~;

Terraces or porches, open.

WATERFRONT YARD DEPTH FOR ALL DISTRICTS

Column A	Column B
Districts with 30 Foot Requirement	Districts with 40 Foot Requirement
R1 R2 R3 R4 R5	R6 R7 R8 R9 R10
C1 C2 mapped in R1 R2 R3 R4 R5	C1 C2 mapped in R6 R7 R8 R9 R10
C3	C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4 C5 C6 C7 C8 M1 M2 M3

The minimum depth set forth in the preceding table may be reduced at the following locations provided no ~~#waterfront yard#~~ is reduced to less than 10 feet:

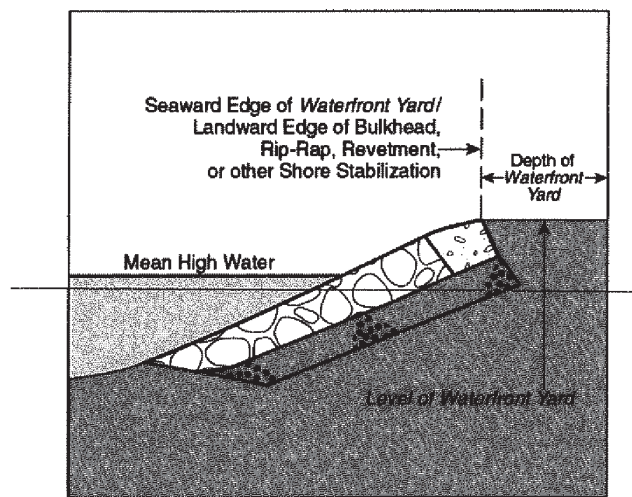
- (a) ~~Along those portions of the landward edge of stabilized shore, bulkhead, natural #shoreline# or along those portions of the water edge of a #platform#, having a lot dimension, measured perpendicular and landward from such edge, that is less than 70 feet in the case of districts in Column A or 80 feet in the case of districts in Column B.~~

For such shallow portions of lots, the minimum depth may be reduced by one foot for each foot that the lot dimension measured from such edge is less than 70 or 80 feet, as applicable.

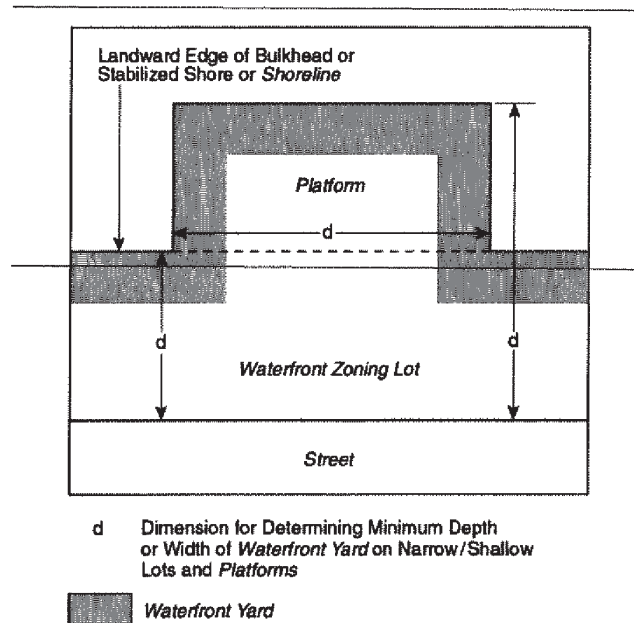
- (b) ~~Along those portions of the water edge of a #platform# having a dimension, measured~~

perpendicular from such water edge to an opposite water edge that is less than 100 feet in the case of districts in Column A or 120 feet in the case of districts in Column B.

For such narrow portions of #platforms#, the minimum depth along each opposite edge may be reduced by one half foot for each foot that the #platform# dimension is less than 100 or 120 feet, as applicable. WATERFRONT YARD AT STABILIZED SHORELINE (62-332b.1) WATERFRONT YARD (62-332b.2)



WATERFRONT YARD AT STABILIZED SHORELINE
(62-332b.1)



WATERFRONT YARD
(62-332b.2)

#Rear yard# regulations shall be inapplicable on #waterfront zoning lots#. In lieu thereof, a #waterfront yard# shall be provided along the entire length of the #shoreline#, bulkhead or stabilized natural shore, whichever is furthest landward. In addition, the following rules shall apply to the #waterfront yard#:

(a) Depth of the #waterfront yard#

[Note: Modified 62-332 text]

The required minimum depth of a #waterfront yard# is set forth in the following table. Column A sets forth districts where the minimum depth is 30 feet, and Column B sets forth districts where the minimum depth is 40 feet. Such minimum depths shall be measured from the landward edge of the bulkhead, landward edge of stabilized natural shore, or, in the case of natural #shorelines#, the mean high water line.

Where a #platform# projects from the #shoreline#, stabilized natural shore, or bulkhead (see illustration below of Waterfront Yard), such #waterfront yard# shall, in lieu of following the shore at that portion, continue along the water edge of such #platform# until

it again intersects the #shoreline#, stabilized natural shore, or bulkhead, at which point it shall resume following the #shoreline#, stabilized natural shore, or bulkhead.

WATERFRONT YARD DEPTH FOR ALL DISTRICTS

<u>Column A</u>	<u>Column B</u>
<u>Districts with 30 Foot Requirement</u>	<u>Districts with 40 Foot Requirement</u>
<u>R1 R2 R3 R4 R5</u>	<u>R6 R7 R8 R9 R10</u>
<u>C1 C2 mapped in</u> <u>R1 R2 R3 R4 R5</u>	<u>C1 C2 mapped in</u> <u>R6 R7 R8 R9 R10</u>
<u>C3</u>	<u>C1-6 C1-7 C1-8 C1-9</u> <u>C2-6 C2-7 C2-8</u> <u>C4 C5 C6 C7 C8</u> <u>M1 M2 M3</u>

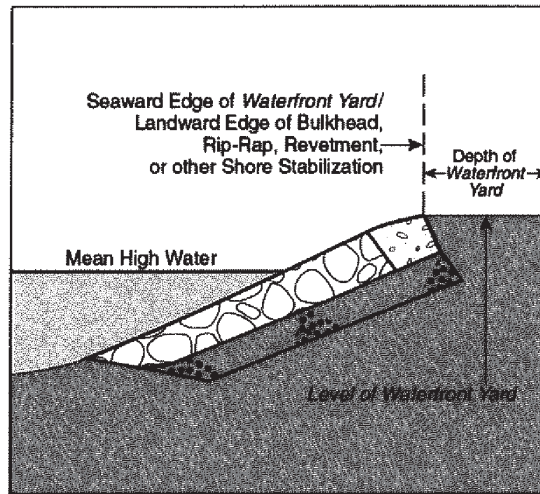
The minimum depth set forth in the preceding table may be reduced at the following locations provided no #waterfront yard# is reduced to less than 10 feet:

- (1) Along those portions of the landward edge of stabilized shore, bulkhead, natural #shoreline# or along those portions of the water edge of a #platform#, having a lot dimension, measured perpendicular to and landward from such edge, that is less than 70 feet in the case of districts in Column A or 80 feet in the case of districts in Column B. For such shallow portions of lots, the minimum depth may be reduced by one foot for each foot that the lot dimension measured from such edge is less than 70 or 80 feet, as applicable.
- (2) Along those portions of the water edge of a #platform# having a dimension, measured perpendicular from such water edge to an opposite water edge that is less than 100 feet in the case of districts in Column A or 120 feet in the case of districts in Column B. For such narrow portions of #platforms#, the minimum depth along each opposite edge may be reduced by one-half foot for each foot that the #platform# dimension is less than 100 or 120 feet, as applicable.

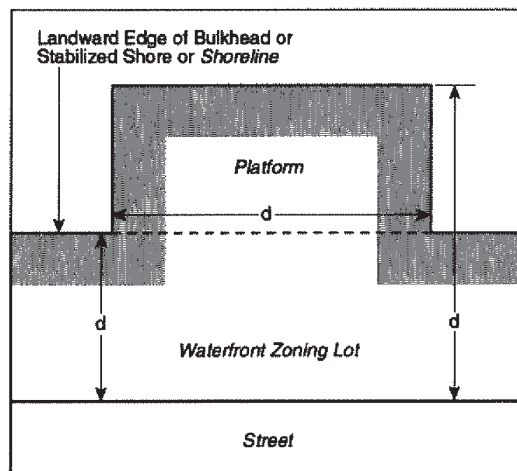
[Note: New text]

- (3) Where a #tidal wetland area# is provided, the depth of the #waterfront yard# may be reduced by a foot for every foot of stabilized natural shore or intertidal planting area beyond the landward edge of the bulkhead, stabilized natural shore or

#shoreline# up to seven feet. Such reduction in depth shall not extend along more than 30 percent of the #shoreline# of the #waterfront zoning lot#.



WATERFRONT YARD AT STABILIZED SHORELINE
(62-332a.1)



d Dimension for Determining Minimum Depth or Width of Waterfront Yard on Narrow/Shallow Lots and Platforms

Waterfront Yard

WATERFRONT YARD
(62-332a.2)

(b) The level of the #waterfront yard#

The level of required #waterfront yards# shall not be higher than the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, except that natural grade level need not be disturbed in order to comply with this requirement.

The level of the portion of a #waterfront yard# on a #platform# shall not be more than three feet higher than the abutting level of the non-platformed portion of the #waterfront yard#, of which it is the continuation, except that the level of a #platform# existing on October 25, 1993 need not be altered in order to comply with this requirement.

[Note: Text moved from Section 64-82(a) and modified]

However, the level of the #waterfront yard# may be modified as follows:

- (1) For #zoning lots# not required to provide #waterfront public access areas# pursuant to Section 62-52 (Applicability of Waterfront Public Access Area Requirements), the level of #waterfront yards# may be raised either to:
 - (i) the #flood-resistant construction elevation# or six feet above #shoreline#, whichever is higher; or
 - (ii) a higher elevation, provided that the #waterfront yard# complies with the applicable provisions of paragraph (b)(2) of this Section, depending on the condition of the shared #lot line#.
- (2) For #zoning lots# with required #waterfront public access areas# pursuant to Section 62-52, the level of #waterfront yards# may be raised to a higher elevation, provided that such elevated #waterfront yard# complies with the following provisions, depending on the condition of the adjacent #zoning lot# :
 - (i) where a #waterfront yard# adjoins a #street#, #public park#, or #waterfront public access area# on an adjacent #zoning lot#, the level of the #waterfront yard# within 15 feet of the shared #lot line# shall not exceed three feet above the level of the adjoining #street#, #public park# or #waterfront public access area#, and the width of the circulation path at the #lot line# is greater than that required by paragraph (a) of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas). However, the elevation of the required circulation path shall be no higher than the grade of the adjacent #street#, #public park#, or #zoning lot# at the #lot line#.
 - (ii) where a #waterfront yard# does not adjoin a #street#, #public park#, or #waterfront public access area# on an adjacent #zoning lot#, the level of the

#waterfront yard# at the shared #lot line#, may exceed the level of the adjacent #zoning lot#:

- (a) up to a maximum of six feet above the #shoreline#; or
- (b) to a level higher than six feet above the #shoreline#, where the Chairperson of the City Planning Commission certifies, pursuant to Section 62-811 (Waterfront public access and visual corridors) that:
 - (1) the applicant has submitted a plan indicating the proposed level of the #waterfront yard# at the #lot line# of adjacent #zoning lots# and the level of such adjacent #zoning lots# adjacent to the #waterfront yard#; and
 - (2) submitted proof of a legal commitment, executed by the fee owner of any #zoning lot# that is adjacent to the subject #waterfront yard# that the owner will develop a #waterfront public access area# with a grade that meets that of the adjacent #zoning lots# based on the proposed level of the subject #waterfront yard# as reflected in the submitted plan. Such legal commitment shall be recorded against all affected parcels of land.

(c) Permitted obstructions

[Note: Modified text]

No #building or other structure# shall be erected above the lowest level of a #waterfront yard#. Permitted obstructions in #waterfront yards# in all districts shall include permitted obstructions as listed in Sections 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 62-611, except that enclosed #accessory# off-street parking spaces and walls exceeding four feet in height shall not be permitted. Where any power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, are located in a #front yard#, the entire width of the portion of such equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation.

In addition, the following #rear yard# obstructions shall not be permitted except when #accessory# to #single-# or #two-family residences# in #detached#, #semi-detached# or #zero lot line buildings#:

Balconies, unenclosed;

Greenhouses, non-commercial, #accessory#;

Parking spaces, off-street, open or enclosed, #accessory#;

Swimming pools, #accessory#;

Terraces or porches, open.

* * *

62-50

GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS

* * *

62-51

Applicability of Visual Corridor Requirements

* * *

62-512

Dimensions of visual corridors

The width of a #visual corridor# shall be determined by the width of the #street# of which it is the prolongation but in no event shall be less than 50 feet. #Visual corridors# that are not the prolongations of #streets# shall be at least 50 feet wide. For the purposes of establishing the width, vehicular turnarounds at the terminations of such #streets#, including curved or flanged treatments at intersections, shall be omitted.

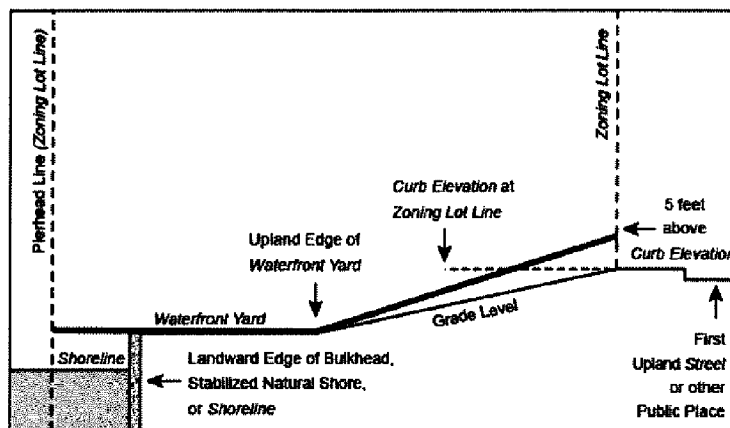
~~The lowest level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at curb elevation with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead or the #base plane# of a #pier# or #platform#, whichever intersection occurs first. Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting the curb elevation at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.~~

[Note: Text moved from Section 64-82(b) and modified]

The level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at an elevation five feet above curb elevation with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead, or upland edge of a #waterfront yard#, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first. Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting an elevation five feet above curb elevation at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard#, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.

[Note: Text below is a continuation of Section 62-512]

No obstructions are permitted within a #visual corridor#, except as set forth in Sections 62-513 and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, when a #visual corridor# coincides with an #upland connection#.



LEVEL OF VISUAL CORRIDOR
(62—512)

* * *

62-53**Requirements for Shore Public Walkways**

- (a) All #waterfront zoning lots# meeting the criteria set forth in Section 62-52 (Applicability of Waterfront Public Access Area Requirements), or #floating structures#, shall provide a #shore public walkway#, which shall comply with the following requirements:
- (1) Such #shore public walkway# shall have a seaward edge contiguous with the seaward edge of the #waterfront yard# as established in Section 62-332 (Rear yards and waterfront yards) with a minimum width measured from such edge as set forth in paragraph (a)(2) of this Section, or for #floating structures#, as set forth in Section 62- 55, unless relocation or modification of width is permitted pursuant to this Section;
 - (2) Such #shore public walkway# shall have a minimum width of 30 feet for #zoning lots developed# with #predominantly community facility# or #commercial uses# in R3, R4, R5 and C3 Districts, and such #uses# in C1 and C2 Districts mapped within R1 through R5 Districts. The minimum width for a #shore public walkway# provided for a #zoning lot developed# with any #use# in all other districts, other than R1 and R2 Districts, shall be 40 feet.
 - (3) The minimum width of the #shore public walkway# set forth in paragraph (a)(2) of this Section may be reduced at the following locations provided no #shore public walkway# is reduced to less than 10 feet:
 - (i) on shallow portions of #zoning lots# that are less than 150 feet in depth, the minimum width of a #shore public walkway# may be reduced by one foot for every two feet that the lot dimension, measured from such edge, is less than 150 feet;
 - (ii) on narrow portions of #platforms# that are less than 150 feet in depth between the water edges located perpendicular to the landward edge of such #platform#, the minimum width of such #shore public walkway# along each opposite edge may be reduced by one foot for every two feet that the #platform# dimension is less than 150 feet;
 - (iii) on #zoning lots# where a #tidal wetland area# is provided, the width of the #shore public walkway# may be reduced by a foot for every foot of #tidal wetland area# along the seaward edge of the #waterfront yard# up to seven feet. Such reduction in depth shall not extend along more than 30 percent of the #shoreline# of the #waterfront zoning lot#.

* * *

62-60**DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS**

#Waterfront public access areas# required pursuant to Section 62-52 (Applicability of Waterfront Public Access Area Requirements) shall comply with the provisions of this Section, inclusive.

62-61**General Provisions Applying to Waterfront Public Access Areas**

- (a) All #waterfront public access areas# shall be unobstructed from their lowest level to the sky, except as set forth in Section 62- 611 (Permitted obstructions). The lowest level of any portion of a #waterfront public access area# shall be determined by the elevation of the adjoining portion on the same or an adjoining #zoning lot# or the public sidewalk to which it connects. Reference elevations shall be established from the public sidewalks, #waterfront yard# levels and the elevations previously established by adjoining #zoning lots# at #lot line# intersections of a waterfront public access network, as applicable.
- (b) The minimum required circulation path shall be connected and continuous through all #waterfront public access areas# on adjacent #zoning lots#.
- (c) #Waterfront public access areas# shall be accessible to persons with physical disabilities in accordance with the Americans with Disabilities Act and the American National Standards Institute (ANSI) design guidelines.
- (d) All #waterfront public access areas# improved for public access shall meet the following regulations for site grading:
 - (1) In required circulation paths:
 - (i) for cross-sectional grading regulations (perpendicular to the general direction of pedestrian movement), the minimum slope of a required circulation path shall be one and one-half percent to allow for positive drainage and the maximum slope shall be three percent. Steps and stairways accommodating a cross-sectional grade change are only permitted outside of the required circulation path(s).
 - (ii) for longitudinal grading controls (parallel to the general direction of pedestrian movement), grade changes shall be permitted along the length of a required circulation path by means of steps or ramps in compliance with the requirements for handicapped accessibility.
 - (2) In required planting areas, including screening buffers:

Within ~~five~~ three feet of the edge of any planting area, the grade level of such planting area shall be no more than ~~18 inches~~ three feet higher or lower than the adjoining level of the pedestrian circulation path.

* * *

62-611

Permitted obstructions

#Waterfront public access areas# shall be unobstructed from their lowest level to the sky except that the obstructions listed in this Section shall be permitted, as applicable. However, no obstructions of any kind shall be permitted within a required circulation path, except as specifically set forth herein.

(a) In all areas

* * *

(7) Structural landscaped berms and associated flood gates, including emergency egress systems that are assembled prior to a storm and removed thereafter, provided the height of such berm does not exceed the #flood-resistant construction elevation# required on the #zoning lot# or five feet above the lowest adjoining grade of the #waterfront yard# established pursuant to Section 62-332 (Rear yards and waterfront yards), whichever is higher;

(8) Temporary flood control devices and associated permanent fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter. Permanent fixtures for self-standing flood control devices shall be flush-to-grade, and shall be permitted obstructions within a required circulation path.

* * *

62-62

Design Requirements for Shore Public Walkways and Supplemental Public Access Areas

The design requirements of this Section shall apply to #shore public walkways# and #supplemental public access areas#, except as modified by Section 62-57 (Requirements for Supplemental Public Access Areas).

* * *

(c) Planting

(1) Planting areas

An area equal to at least ~~50-35~~ percent of the area of the #shore public walkway# and #supplemental public access area# shall be planted, ~~except that in R3, R4, R5, C1, C2 and C3 Districts, and in C1 or C2 Districts mapped within R1 through R5 Districts, for #zoning lots# occupied by #predominantly commercial# or #community facility uses#, such area shall be equal to at least 40 percent.~~

In addition, the following conditions shall apply:

- (i) Where a #supplemental public access area# is greater than 1,875 square feet, at least ~~25-15~~ percent of the required planting area of the #shore public walkway# and #supplemental public access area#, combined, shall be provided as lawn;
- (ii) Up to ~~45~~ 30 percent of the required planting area may be ~~located seaward of a #shore public walkway#~~ provided as #tidal wetland area# and shall be measured in plan view and not along the planted slope; or
- (iii) When a dedicated bicycle path is provided within a #supplemental public access area#, a planting area with a width of at least five feet shall be provided between the bicycle path and any paved area for pedestrian use. For the purpose of calculating planting requirements, the area of the bicycle path may be deducted from the combined area of the #shore public walkway# or #supplemental public access area#.

Such planting areas in this paragraph, (c), may be located anywhere within the #shore public walkway# or #supplemental public access area# and shall comply with the standards of Section 62-655.

(2) Screening buffer

- (i) A screening buffer shall be provided within the #shore public walkway# or the #supplemental public access area#, running along the entire upland boundary of such area where it abuts non-publicly accessible areas of the #zoning lot#, except as waived pursuant to paragraph (c)(2)(iii) of this Section. Any screening buffer provided pursuant to this Section may be used to meet the planting requirements of paragraph (c)(1) of this Section.
- (ii) The minimum width of the screening buffer shall be ~~40~~ six feet. On shallow lots where the width of the #shore public walkway# may be reduced pursuant to Section 62-53, the width of the screening buffer may be reduced proportionally but shall not be less than four feet.

- (iii) No screening buffer shall be required:
 - (a) adjacent to a private drive, a #street# or at the entrances to #buildings#; or
 - (b) for a #commercial# or #community facility use# within a distance of 15 feet from the sidewalk or #waterfront public access area#, that is glazed with windows, transoms or glazed portions of doors in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

* * *

62-65

Public Access Design Reference Standards

* * *

62-655

Planting and trees

Within #waterfront public access areas# and parking areas where planting or screening is required, the design standards of this Section shall apply.

A detailed landscape plan prepared by a registered landscape architect shall be submitted to the Department of Parks and Recreation prior to seeking certification by the Chairperson of the City Planning Commission, pursuant to the requirements of Section 62-80. Such plans shall include plants suited for waterfront conditions and include a diversity of species with emphasis on native plants, salt-tolerance species that are tolerant of salt, sediment, high seasonal water flow, and high winds, as applicable to the location and the facilitation of sustainable wildlife habitats, where appropriate. No species listed on quarantine or as a host species for any disease listed by the Department of Parks and Recreation at the time of application shall be included.

All landscaped areas shall contain a built-in irrigation system or contain hose bibs within 100 feet of all planting areas.

(a) Planting areas

Wherever a minimum percentage of planting area is specified for a #waterfront public access area#, such requirements shall be met only through the provisions of the types of planting areas listed in paragraphs (a)(1) through (a)(7)(8) of this Section. A curb with a maximum height of six inches is permitted along the perimeter of any planting area. Any edging higher than six inches above adjacent grade shall be considered a retaining wall. Retaining walls

shall not exceed ~~60 percent of the perimeter of a planting area~~ or a maximum height of ~~18 inches~~ three feet, as measured from the level of the adjoining ~~adjacent~~ grade or planted area below such wall so that no more than three feet of such retaining wall is visible from the ~~#waterfront public access areas#~~. ~~At least one continuous length, equal to 40 percent of the planting area's perimeter, shall have a grade level within six inches of the adjacent grade level.~~ Where not specifically indicated, the minimum planting standard for required planting areas shall be turf grass, other natural grasses or groundcover. All planting areas shall be located on undisturbed subsoil or clean fill.

* * *

(3) Planting beds

Planting beds for turf grass or groundcovers shall have minimum dimensions of two feet in any direction and a minimum depth of two feet. Planting beds for shrubs shall have minimum dimensions of three feet by three feet for each shrub and a minimum depth of 2 feet, 6 inches. Planting beds containing trees shall have a minimum dimension of five feet and a minimum area of 30 square feet for each tree, with a minimum depth of 3 feet, 6 inches. Trees, shrubs or groundcovers may be combined in a single planting bed only if such bed meets the minimum depth required for the largest plant.

Retaining walls are permitted along the perimeter of a planting bed in accordance with the regulations for planting areas in paragraph (a) of this Section.

(4) ~~Raised planting beds~~ Terraced planting area

~~A "raised planting bed" is a planting area with retaining walls along more than 60 percent of its perimeter or a height along any portion greater than 18 inches. A raised planting bed shall comply with the dimensional standards for a planting bed except that the height from the adjacent grade to the top of the retaining wall of a raised planting bed shall be a maximum of 36 inches.~~

A "terraced planting area" is a planting area with two or more planting beds incorporating retaining walls on a slope with a grade change greater than or equal to three feet. A terraced planting area shall comply with the dimensional standards for a planting bed except that the average depth of the individual planting beds between the two retaining walls shall not be less than three feet, as measured perpendicular to the edge of the retaining wall. In addition, for retaining walls between two or more planting beds, their height may exceed three feet, provided that the front of such retaining walls is screened by plant material.

(5) Berms

A “berm” is a planting area with sloped grade stabilized primarily by plant materials rather than retaining walls or other similar built structures. A berm shall comply with the dimensional standards for a planting bed except that the height ~~from the adjacent grade to the top~~ of the berm shall not exceed ~~60 inches~~ the #flood-resistant construction elevation# on the #zoning lot#, or five feet above the lowest adjoining grade of the #waterfront yard# established pursuant to Section 62-332 (Rear yards and waterfront yards), whichever is higher.

* * *

(8) Tidal wetland area

A #tidal wetland area# may satisfy up to 30 percent of the required planting area for #waterfront public access areas#.

* * *

62-80

SPECIAL REVIEW PROVISIONS

* * *

62-81

Certifications by the Chairperson of the City Planning Commission

* * *

62-811

Waterfront public access and visual corridors

No excavation or building permit shall be issued for any #development# on a #waterfront block#, or any other #block# included within a Waterfront Access Plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

- (a) there is no #waterfront public access area# or #visual corridor# requirement for the #zoning lot# containing such #development# due to the following:
 - (1) the #development# is exempt pursuant to Sections 62-52 (Applicability of Waterfront Public Access Area Requirements) or 62-51 (Applicability of Visual Corridor Requirements); or

- (2) the #waterfront public access area# or #visual corridor# requirement has been waived pursuant to Section 62-90 (WATERFRONT ACCESS PLANS);
- (b) a site plan and all other applicable documents ~~has~~ have been submitted showing compliance with the provisions of Sections 62-332 (Rear yards and waterfront yards), 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS);

* * *

Chapter 4

Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones

64-00

GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to encourage flood-resilient building practices for new and existing buildings and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to facilitate the development and alteration of buildings in flood zones consistent with the ~~latest~~ flood-resistant construction standards of ~~the Federal government and the~~ Appendix G of the New York City Building Code;
- (b) to enable buildings to be constructed or retrofitted pursuant to flood-resistant construction standards with a comparable amount of usable interior space to what is generally permitted within the applicable zoning district;
- (c) to allow sea level rise to be incorporated into the design of buildings in flood zones in order to provide longer-term and greater protection from flood risk than what is currently required by Appendix G of the New York City Building Code;
- ~~(e)(d)~~ to mitigate the effects of elevated and flood-proofed buildings on the streetscape and pedestrian activity; and
- ~~(d)~~ to expedite the recovery of neighborhoods that experienced a high concentration of damage to single and two family residences from Hurricane Sandy within the Neighborhood Recovery Areas specified in Appendix A of this Chapter; and

- (e) to promote the most desirable use of land in accordance with a well-considered plan and thus conserve ~~and enhance~~ the value of land and buildings, and thereby protect the City's tax revenues.

64-10

GENERAL PROVISIONS

[Note: Existing text to be deleted]

~~The provisions of this Chapter shall be in effect until one year after the adoption by the City of New York of new final Flood Insurance Rate Maps superseding the Flood Insurance Rate Maps in effect on October 28, 2012.~~

64-11

Definitions

Definitions specifically applicable to this Chapter are set forth in this Section and may modify definitions set forth in Section 12-10 (DEFINITIONS). Where matter in italics is defined both in Section 12-10 and in this Chapter, the definitions in this Chapter shall govern.

Basement

[Note: Existing text to be deleted]

~~For #buildings#, or portions thereof, that comply with #flood-resistant construction standards#, a "basement" is a #story# (or portion of a #story#) partly below #flood-resistant construction elevation#, with at least one-half of its height (measured from floor to ceiling) above #flood-resistant construction elevation#.~~

Cellar

[Note: Existing text to be deleted]

~~For #buildings#, or portions thereof, that comply with #flood-resistant construction standards#, a #cellar# is a space wholly or partly below the #flood-resistant construction elevation#, with more than one-half its height (measured from floor to ceiling) below the #flood-resistant construction elevation#.~~

Cottage envelope building

A “cottage envelope building” is a #single-# or #two-family detached residence#, #developed#, #enlarged#, or altered, pursuant to any of the optional provisions of Section 64-33 (Special Regulations for Cottage Envelope Buildings), provided that:

- (a) such #single-# or #two-family detached residence# complies with Section 64-333 (Height and setback regulations for cottage envelope buildings); and
- (b) is located within a #zoning lot# that has a #lot area# that is less than that required by the applicable district; and
 - (1) has a #lot width# that is either:
 - (i) less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences) in R1, R2, R3-1, R3-2, R3X, R4, R4A, R5, and R5A Districts; or
 - (ii) equal to or less than 30 feet in R3A, R4-1, R4B, R5B, and R5D Districts; or
 - (2) has a depth of less than 95 feet at any point.

All #cottage envelope buildings# shall also be #flood-resistant buildings#.

First story above the flood elevation

[Note: Text substituted “Lowest occupiable floor”]

The “first story above the flood elevation” shall be the finished floor level of the first #story# located at or above the level to which a #building# complies with #flood-resistant construction standards# and, for #buildings# utilizing the #reference plane#, shall be no lower than the particular level established as the #reference plane#.

Flood map

[Note: Text moved from Section 12-10 and modified]

“Flood map” shall be the most recent map or map data used as the basis for #flood-resistant construction standards#.

Flood-resistant building

A "flood-resistant building" is a #building or other structure#, which complies with all applicable #flood-resistant construction standards#.

Flood-resistant construction elevation

The "flood-resistant construction elevation" is the greater of:

- (a) ~~the "design flood elevation" determined pursuant to Appendix G of the New York City Building Code for a building's structural occupancy category; or~~
- (b) ~~the base flood elevation indicated on the #flood maps#, plus the additional elevation required above base flood elevation for the applicable occupancy category when determining the Design Flood Elevation pursuant to Appendix G of the Building Code.~~

The "flood-resistant construction elevation" shall be the level of flood elevation required by Appendix G of the New York City Building Code for the "Flood design classification" of a #building or other structure# as set forth therein, or a height of two feet above the lowest grade adjacent to the #building or other structure#, whichever is higher.

Flood-resistant construction standards

~~"Flood-resistant construction standards" shall:~~

- (a) ~~comply with the standards of Appendix G of the Building Code for "Post-FIRM Construction," whether construction voluntarily complies with standards for "Post-FIRM Construction" or is required to comply; and~~
- (b) ~~utilize the higher base flood elevation and the more stringent flood hazard area designation, as applicable, of the #flood maps# or the Flood Insurance Rate Maps in effect on October 28, 2012.~~

"Flood-resistant construction standards" are the construction standards set forth in Appendix G of the New York City Building Code for "Post-FIRM Construction" that aid in protecting #buildings or other structures# in #flood zones# from flood damage, and governs both #building or other structures# that are required to comply with such standards and those that voluntarily comply. For #buildings or other structures# utilizing the provisions of this Chapter, #flood-resistant construction standards# shall be applied up to the #flood-resistant construction elevation# or higher.

High-risk flood zone

The “high-risk flood zone” is the area, as indicated on the #flood maps#, that has a one percent chance of flooding in a given year.

Hurricane Sandy

~~“Hurricane Sandy” a severe storm that occurred on October 28, 2012, causing heavy flooding, power outages, property damage, and disruption of public transportation and other vital services.~~

Lowest occupiable floor

[Note: Existing text is deleted and substituted by “First story above the flood elevation”]

~~The “lowest occupiable floor” shall be the finished floor level of the lowest floor that is not used solely for parking, storage, building access or crawl space, where any space below such #lowest occupiable floor# is wet flood-proofed in accordance with #flood-resistant construction standards# and used only for parking, storage or building access, or otherwise is not occupiable space.~~

Lowest usable floor

The “lowest usable floor” of a #building# is the lowest floor of such #building# that contains #floor area#, and may include #basements# and #cellars#, as defined in Section 12-10 (DEFINITIONS).

Moderate-risk flood zone

The “moderate-risk flood zone” is the area, as indicated on the #flood maps#, and not within of the #high-risk flood zone#, that has a 0.2 percent chance of flooding in a given year.

Predominant or predominantly

[Note: Existing text to be deleted]

~~“Predominant” or “predominantly” shall mean that a #use# or a group of #uses# comprises at least 75 percent of the total #floor area# of the #building# or of the area of the #zoning lot#, as applicable.~~

Primary street frontage

For the purposes of applying the provisions of Section 64-322(c), a “primary street frontage” shall include:

- (a) in #Commercial Districts#, frontages that meet the criteria for a “primary street frontage” as defined in Section 37-311;
- (b) in M1 Districts paired with #Residence Districts#, frontages along:
 - (1) #wide streets#;
 - (2) #narrow streets# within 50 feet of a #wide street#; and
 - (3) #narrow streets# where an M1 District paired with a #Residence District# is mapped along an entire #block# frontage; and
- (c) frontages where non-#residential uses# are required at the #ground-floor level# pursuant to a Special Purpose District or #waterfront public access area#.

Reference plane

The “reference plane” is a horizontal plane from which the height and setback regulations governing a #building or other structure# may be measured, in accordance with certain provisions of this Chapter. The #reference plane# shall be located at or below the #first story above flood elevation#, as applicable.

For #zoning lots# located wholly or partially within the #high-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of 10 feet above the #base plane# or #curb level#, as applicable. However, where the #flood-resistant construction elevation# exceeds a height of 10 feet above the #base plane# or #curb level#, as applicable, the #reference plane# may be established at the #flood-resistant construction elevation#.

For #zoning lots# located wholly or partially within the #moderate-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of five feet above the #base plane# or #curb level#, as applicable.

64-12

Applicability

The optional provisions of this Chapter shall apply only to #zoning lots# located wholly or partially within the #flood zones#, as follows:

[Note: Existing text in this Section is re-written below]

- (a) ~~Except where otherwise stated, all #buildings#, or portions thereof, shall comply with #flood-resistant construction standards# as a condition of construction pursuant to the following optional provisions, as applicable, inclusive:~~

~~Section 64-10 GENERAL PROVISIONS~~

~~Section 64-20 SPECIAL USE REGULATIONS~~

~~Section 64-30 SPECIAL BULK REGULATIONS~~

~~Section 64-40 SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012~~

~~Section 64-50 SPECIAL PARKING REGULATIONS~~

~~Section 64-70 SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS~~

~~Section 64-80 MODIFICATION OF SPECIAL REGULATIONS APPLYING IN WATERFRONT AREAS~~

~~Section 64-90 SPECIAL APPROVALS~~

- (b) ~~The provisions of Section 64-60 (DESIGN REQUIREMENTS) shall apply to all #developments#, all horizontal #enlargements# with new #street walls#, or alterations that increase the height of #street walls#, except that Section 64-65 (Screening Requirements for Parking Within or Below Buildings) shall apply to all #buildings# as provided therein.~~
- (c) ~~Where a #zoning lot# is located partially within a #flood zone#, the regulations of this Chapter shall apply where any portion of a #building# on such #zoning lot# is within such #flood zone#.~~
- (d) ~~In Neighborhood Recovery Areas, shown on maps in Section 64-A80 (NEIGHBORHOOD RECOVERY AREA MAPS) of this Chapter, optional provisions to expedite the vertical elevation or reconstruction of #single # or #two family residences# shall apply. These provisions are set forth in Appendix A and shall supplement, supersede or modify the provisions of this Chapter. The maps are hereby incorporated and made part of this Resolution, for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter may apply.~~
- (a) For all #zoning lots# in the #flood zone#

The provisions of Sections 64-21 (Special Use Regulations for All Buildings), 64-31 (Special Bulk Regulations for All Buildings) and 64-41 (Special Parking Regulations for All Buildings), inclusive, may be applied to all #zoning lots#, regardless of whether

#buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

(b) For #zoning lots# containing #flood-resistant buildings#

The provisions of Sections 64-22 (Special Use Regulations for Flood-resistant Buildings), 64-32 (Special Bulk Regulations for Flood-resistant Buildings), 64-42 (Special Parking Regulations for Flood-resistant Buildings), and 64-60 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), inclusive, may be applied only to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#, as applicable, and Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings) may additionally be applied exclusively to #zoning lots# containing #cottage envelope buildings#. Where such provisions are utilized, the provisions of Section 64-50 (STREETSCAPE REGULATIONS), inclusive, shall apply.

(c) For portions of #buildings#

The following provisions may be applied to portions of #buildings# as follows:

- (1) the provisions of Section 64-311 (Special floor area modifications for all buildings) and 64-313 (Special height and setback regulations for all buildings) may be applied to portions of #buildings#, regardless of whether such portions comply with #flood-resistant construction standards#;
- (2) the provisions of Section 64-32 (Special Bulk Regulations for Flood-resistant Buildings), inclusive, may be applied to portions of #buildings#, provided that such portions comply with #flood-resistant construction standards# for the entirety of its vertically contiguous segments. Where such provisions are utilized within portions of #buildings#, the provisions of Section 64-50 (STREETSCAPE REGULATIONS), inclusive, shall apply.

64-13

Applicability of District Regulations

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

64-131**Measurement of height**

[Note: Existing text to be deleted and replaced by Sections 64-221 and 64-321]

All measurements of height above ~~#curb level#, #base plane#, #base flood elevation#, grade, or other similar ground related datum, shall be from the #flood-resistant construction elevation#. This provision shall not apply to #buildings# that are #accessory# to #single # or #two family residences#, or to fences, #signs# not affixed to #buildings#, or other structures that are not #buildings#.~~

In R3, R4A and R4-1 Districts within ~~#lower density growth management areas#, the maximum perimeter wall height shall be 21 feet above the #flood-resistant construction elevation# or 26 feet above grade, whichever is greater.~~

Where different ~~#flood-resistant construction elevations#~~ apply to different portions of a ~~#building#, the highest of such #flood-resistant construction elevations# may apply to the entire #building#.~~

For ~~#buildings#~~ located partially within and partially outside of the ~~#flood zone#, all measurements of height shall be in accordance with only one of the following provisions:~~

- (a) ~~the #flood-resistant construction elevation# shall apply to the entire #building#;~~
- (b) ~~the height of the portion of the #building# within the #flood zone# shall be measured from the #flood-resistant construction elevation#, and the height of the portion of the #building# outside of the #flood zone# shall be measured from an elevation determined in accordance with the underlying applicable regulations; or~~
- (c) ~~the elevation of each such portion of the #building# from where height is measured shall be multiplied by the percentage of the total #lot coverage# of the #building# to which such elevation applies. The sum of the products thus obtained shall be the elevation from which the height of the entire #building is measured.~~

64-20**SPECIAL USE REGULATIONS**

The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section 64-21 (Special Use Regulations for All Buildings), inclusive, may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section 64-22 (Special Use Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

64-21

Ground Floor Use

Special Use Regulations for All Buildings

[Note: Existing text moved to Section 64-222 and modified]

- (a) ~~In all districts, where compliance with the elevation and wet flood-proofing requirements of Appendix G of the New York City Building Code would result in a #lowest-occupiable floor# that is above a level required by the Zoning Resolution without the relief provided by this Section, such requirements shall be modified so that the level of such ground floor shall be the lowest level permitted for #uses# other than parking, storage and building access as if it were "Post FIRM Construction," as defined by Appendix G of the Building Code, using elevation and wet flood-proofing techniques.~~
- (b) ~~In C1, C2 and C4 Districts in the Borough of Staten Island, where #flood-resistant construction elevation# is more than 10 feet above #curb level#, the provisions of Section 32-433 (Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island) shall be modified to allow enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, on the ground floor within 30 feet of the #street wall# of the #building#, provided that the standards of Section 64-641 (Transparency requirements) are met.~~

The provisions of this Section, inclusive, are optional and may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#. For such #zoning lots#, the underlying #use# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-211

Limitation on floors occupied by commercial uses

C1 C2

In the districts indicated, the provisions of Section 32-421 (Limitation on floors occupied by commercial uses) may be modified to allow #commercial uses# listed in Use Group 6, 7, 8, 9 or 14 to occupy the lowest two #stories# of a #mixed building#, provided that such #mixed building# contains no #basement# or #cellar#. In addition, such #uses# listed in Use Group 6, 7, 8, 9 or 14 may occupy the same #story# occupied in whole or in part by #dwelling units#, provided that the

#uses# are located in a portion of the #mixed building# that has a separate access to the street with no direct access to the #residential# portion of the #building# at any #story#.

64-22

Transparency Requirements

Special Use Regulations for Flood-resistant Buildings

[Note: Existing text to be deleted]

In all districts, as an alternative to #street wall# transparency regulations, the following optional provisions may apply, except where #buildings# are governed by the provisions of Section 64-64 (Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts):

#Street walls# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent glazing materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between the level of the first finished floor above #curb level# and a height 12 feet above such level.

The provisions of this Section, inclusive, are optional and may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning lots#, the underlying #use# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-221

Measurement of height

In all districts, as an alternative to measuring heights from #base plane#, #curb level#, or other applicable datum, all height measurements in #flood zones#, including the number of #stories# permitted, as applicable, may be measured from the #reference plane#. However, this provision shall not apply to #signs# not affixed to #buildings or other structures#.

64-222

Ground floor use

[Note: Text moved from Section 64-21 and modified]

In all districts, any applicable ground floor level requirements of this Resolution including, but not limited to, the location of such ground floor in relation to the adjoining sidewalk level, the height of a #qualifying ground floor#, restrictions of types of #use#, the minimum depth for certain

#uses#, maximum width for certain #uses#, minimum transparency requirement, and parking wrap and screening requirements, may be modified as follows:

- (a) In locations of the #flood zone# where #flood-resistant construction standards# prohibit dry-flood-proofing, thereby limiting #uses# other than parking, storage and building access from being located below the #flood-resistant construction elevation#, such ground floor level requirements need not apply.
- (b) In all other locations of the #flood zone#, all regulations of this Resolution restricting the location of a ground floor in relation to the adjoining sidewalk level need not apply, provided that all other ground floor level regulations are applied to the lowest #story# above grade that is not solely used for parking, storage or building access, and further provided that the finished floor level of such #story# is located either at or below the level of the #flood-resistant construction elevation# or five feet above #curb level#, whichever is higher. All associated transparency requirements may be measured from such level of the finished floor instead of the level of the adjoining sidewalk.

64-30

SPECIAL BULK REGULATIONS

The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section 64-31 (Special Bulk Regulations for All Buildings), inclusive, may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section 64-32 (Special Bulk Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

The provisions of Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings), inclusive, may be applied to #zoning lots# with #cottage envelope buildings#.

64-31

Special Floor Area Regulations

Special Bulk Regulations for All Buildings

The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-311

Entryways in single- and two-family residences**Special floor area modifications for all buildings**

[Note: Existing text is deleted and substituted by Section 64-322 (c)]

~~For #single# and #two-family residences# with enclosed entryways below #flood-resistant construction elevation#, up to 10 square feet of such entryway may be excluded from the definition of #floor area# for each foot of difference between the #lowest occupiable floor# and #curb level#. This area may be excluded from the definition of #floor area# provided it is not greater than the total area of ramps, stairs, lifts and elevators between grade and the first finished floor, plus an initial entry area of no more than 12 square feet.~~

For all #buildings#, the definition of #floor area# in Section 12-10 (DEFINITIONS) shall be modified in accordance with the provisions of this Section.

(a) Mechanical equipment

[Note: Existing text moved from Section 64-313]

In R1-2A, R2A, R2X, R3, R4 or R5 Districts, the limitations on exempting #floor area# for mechanical equipment set forth in paragraphs (m) and (8) in the definition of #floor area# in Section 12-10 (DEFINITIONS), shall not apply, provided that all mechanical equipment is located at or above the #flood-resistant construction elevation#.

(b) Flood control devices

In all districts, for every linear foot of protection by temporary flood control devices and associated fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter, up to 15 square feet of floor space used for the storage of such devices may be excluded from the definition of #floor area#, provided that in no event shall such exempted floor space exceed 1,000 square feet.

(c) Buildings containing non-#residential uses#

In #Commercial# and #Manufacturing Districts#, where the permitted #commercial# or #manufacturing floor area ratio# is 1.0 or less, up to 500 square feet of floor space may be excluded from the definition of #floor area#, provided that:

- (1) the #building# is used exclusively for #non-residential uses#; and
- (2) such floor space is located at or above the #flood-resistant construction elevation#.

64-312**Entryways in all other buildings****Permitted obstructions in required yards, courts, and open spaces for all zoning lots**

[Note: Existing text moved to Section 64-322(a) and modified]

~~For all #buildings# other than #single # and #two-family residences#, with enclosed publicly accessible entryways below #flood-resistant construction elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #lowest occupiable floor# and #curb level#. This area may be excluded from the definition of #floor area# provided it is not greater than the total area at each publicly accessible entryway of ramps, stairs, lifts and elevators plus an initial entry area of no more than 100 square feet for each entryway.~~

The regulations for permitted obstructions in #yards#, #courts# and #open space# shall be modified in accordance with the provisions of this Section.

(a) Mechanical equipment

[Note: Text moved from Section 64-421 and modified]

In all districts, the underlying allowances for power systems as permitted obstructions in any #open space#, #yard#, #rear yard equivalent#, or #court#, may be expanded to include all #accessory# mechanical equipment, provided that:

- (1) all equipment shall be subject to the following enclosure and screening requirements, as applicable:
 - (i) all power system equipment shall be enclosed within a #building or other structure#, or screened, as applicable, pursuant to the requirements set forth in the applicable underlying district allowances;
 - (ii) all other types of equipment, including all mechanical, electrical and plumbing equipment, shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation; and
- (2) the size and location of all #accessory# mechanical equipment, including all screening and enclosures containing such equipment, shall not exceed the size limitations specified in the underlying allowances, except that, where such equipment is elevated above the #flood-resistant construction elevation#, the permitted size and location of such #accessory# mechanical equipment may be modified as follows:

- (i) where any equipment is required to be located at least five feet from any #lot line#, such distance may be reduced to three feet for #zoning lots# that have less than the prescribed minimum #lot area# or #lot width# required by the applicable district regulations;
- (ii) the maximum height of such permitted obstructions for the applicable district:
 - (a) may be measured from the #reference plane# instead of the level of the adjoining grade or #curb level#, as applicable; or
 - (b) for #zoning lots# containing #residences# and a #lot area# greater than or equal to one and one-half acres, may exceed the applicable height limitations, provided that:
 - (1) such equipment is contained within a #building or other structure# that is located at least 30 feet from any #legally required window#;
 - (2) any stack associated with heating, ventilation, and air conditioning (HVAC) systems exhausts at a height at least as tall as the tallest #building# containing #residences# on the #zoning lot#; and
 - (3) such #building or other structure# complies with one point of the streetscape mitigations set forth in Section 64-52 (Ground floor level mitigation options); and
- (iii) the maximum area that such equipment may occupy within a required #side yard#, #rear yard# or #rear yard equivalent#, or any #court# containing #legally required windows# need not apply where the height of such obstructions do not exceed the applicable underlying height allowances, as modified by the provisions of paragraph (a)(2)(ii)(a) of this Section.

(b) Berns

In all districts, structural landscaped berms and associated flood gates, including emergency egress systems that are assembled prior to a storm and removed thereafter, shall be permitted obstructions in any required #open space#, #yard# or #rear yard equivalent# on the #zoning lot#, provided that the height of such berm does not exceed the highest #flood-resistant construction elevation# required on the #zoning lot#, or five feet above the lowest adjoining grade, whichever is higher.

(c) Flood control devices

[Note: Text moved from Section 64-323 and modified]

In all districts, temporary flood control devices and associated permanent fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter shall be permitted obstructions in #yards# and #rear yard equivalents#, #courts#, #open space#, #public plazas#, #arcades#, pedestrian circulation spaces and all other publicly accessible open spaces. However, permanent fixtures for self-standing flood control devices installed in #publicly accessible open areas#, #arcades#, and pedestrian circulation spaces shall be flush-to-grade.

(d) Steps

In all #Residence Districts#, the provisions of paragraph (a)(17) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be modified to allow steps within a required #yard# or #rear yard equivalent#, provided that such steps access any #story# located at or below the #first story above the flood elevation#.

64-313**Mechanical systems in low density districts****Special height and setback regulations for all buildings****[Note: Existing text to be deleted and substituted by Section 64-311(a)]**

Floor space used for #accessory# mechanical equipment in R1-2A, R2A, R2X, R3, R4 or R5 Districts may be excluded from the definition of #floor area# without the limitations provided in the definition of #floor area#, paragraphs (m) and (8) in Section 12-10 (DEFINITIONS).

[Note: Text moved from Section 64-331 and modified]

The regulations for permitted obstructions to applicable height and setback regulations shall be modified in accordance with the provisions of this Section.

(a) Bulkheads and mechanical equipment in low-density #Residence Districts#

In R3-2, R4, and R5 Districts, except R4-1, R4A, R4B and R5A Districts, for #buildings# other than #single-# and #two-family residences#, the underlying permitted obstructions regulations governing elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks, and #accessory# mechanical equipment, other than solar or wind energy systems, may be modified as follows:

- (1) In R3-2 and R4 Districts, for #buildings#, or portions thereof, subject to the provisions of Article II, Chapter 3, the provisions of Section 23-621 (Permitted obstructions in certain districts) shall be modified to permit such obstructions, provided that:
 - (i) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#;
 - (ii) all mechanical equipment shall be screened on all sides;
 - (iii) the #lot coverage# of all such obstructions and such screening shall not exceed 250 square feet or 10 percent of the #lot coverage# of the #building#, whichever is greater; and
 - (iv) such obstructions are limited to a height of 15 feet above the maximum height of perimeter walls;
- (2) In R3-2 and R4 Districts, for #buildings#, or portions thereof, subject to the provisions of Article II, Chapter 4, the provisions of paragraph (f) of Section 24-51 (Permitted Obstructions) shall apply, except that the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet;
- (3) In R5 Districts, the provisions of paragraph (g) of Section 23-62 (Permitted Obstructions), and paragraph (f) of Section 24-51 shall apply, as applicable, except that the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet.
- (b) Bulkheads and mechanical equipment in medium- and high-density #Residence Districts#, and #Commercial# and #Manufacturing Districts#

[Note: Text moved from Section 64-332 and modified]

In R6 through R10 Districts, and in all #Commercial# and #Manufacturing Districts#, the underlying permitted obstructions regulations of paragraph (g) of Section 23-62, paragraph (f) of Section 24-51, paragraph (f) of Section 33-42, or paragraph (e) of Section 43-42, as applicable, governing elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks, and #accessory# mechanical equipment, other than solar or wind energy systems, may be modified as follows:

- (1) where the maximum permitted height of a #building#, or portion thereof is less than 120 feet:

- (i) the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet; or
- (ii) the maximum permitted height of such volume may be increased from 25 feet to 33 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#;
- (2) where the maximum permitted height of a #building#, or portion thereof is 120 feet or greater:
 - (i) the maximum #lot coverage# may be increased from 20 percent to a maximum #lot coverage# of 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 40 feet; or
 - (ii) the maximum permitted height of such volume may be increased from 40 feet to 55 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#.

(c) Dormers

For #Quality Housing buildings#, or portions thereof, as an alternative to the provisions of paragraph (c) of Section 23-621, dormers may be a permitted obstruction within a required front setback distance above a maximum base height, provided that the aggregate width of all dormers at the maximum base height does not exceed 40 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. Such dormers need not decrease in width as the height above the maximum base height increases.

64-32

Special Yard Regulations

Special Bulk Regulations for Flood-resistant Buildings

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

The provisions of this Section, inclusive, are optional, and may apply to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-321**Level of required yards****Measurement of height for flood-resistant buildings**

[Note: Existing text moved to Section 64-323(a) and modified]

~~Underlying #yard# regulations shall be modified to allow #yards# to be higher than #curb level# but in no event higher than #flood-resistant construction elevation#. In addition, the following regulations shall apply:~~

- ~~(a) — in #Residence Districts# and C1 through C6 Districts, #yards# higher than #curb level# shall comply with the following standards:~~
 - ~~(1) — final grade shall not penetrate a plane that begins 30 inches above #curb level# at each #lot line# and has a slope extending perpendicular to #lot lines# of one foot vertical for each 2.5 feet horizontal;~~
 - ~~(2) — retaining walls shall be permitted above #curb level# in #yards# provided the maximum height of each wall above adjacent grade does not exceed 30 inches; and~~
 - ~~(3) — in #front yards# in Residence Districts, portions of fences greater than four feet above #curb level# shall be required to be no more than 50 percent opaque; and~~
- ~~(b) — in C7 and C8 Districts and in #Manufacturing Districts#, #yards# shall be permitted to a maximum grade equal to #flood-resistant construction elevation#. However, for portions of #zoning lots# where Sections 33-29 and 43-30 (SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) apply, #yards# are permitted above #curb level# only pursuant to paragraph (a) of this Section.~~

~~Nothing in this Section shall be construed so as to permit the creation of spaces sub-grade on all sides in a manner inconsistent with Appendix G of the Building Code.~~

[Note: Text to replace Sections 64-131, 64-334, 64-335 and 64-336]

In all districts, as an alternative to measuring heights from #base plane#, #curb level#, or other applicable datum, all height measurements in #flood zones#, including the number of #stories# permitted, as applicable, may be measured from the #reference plane#, except as follows:

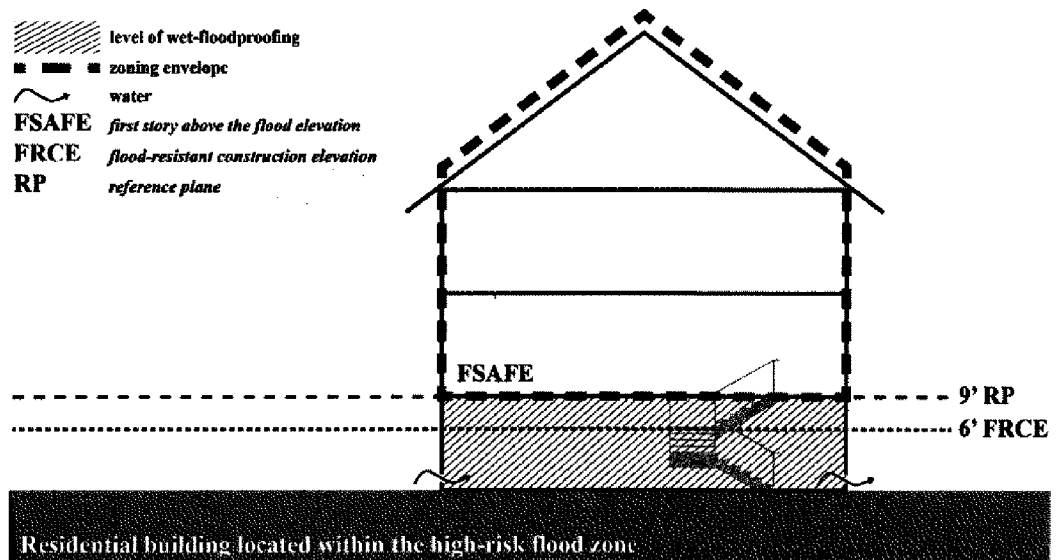
- (a) for #Quality Housing Buildings#, any minimum base height requirements shall continue to be measured from the #base plane#; and
- (b) the provisions of this Section shall not apply:

- (1) to fences or other structures that are not #buildings#; and
- (2) to #buildings# that are #accessory# to #single-# or #two-family residences#, except when mechanical equipment is located within such #building#.

Illustrative Examples

The following examples, although not part of the Zoning Resolution, are included to demonstrate the application of the optional height regulations available to #zoning lots# in #flood zones#. Specially, the examples illustrate how the defined terms #reference plane#, from which height is measured, relates to the #flood-resistant construction elevation# and the #first story above the flood elevation#. All terms are defined in Section 64-11 (Definitions).

EXAMPLE 1



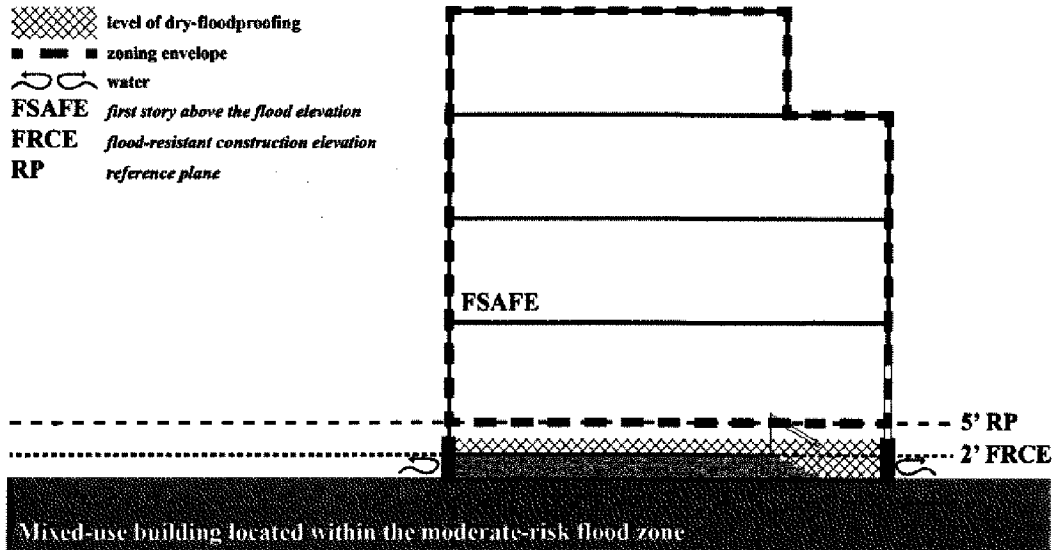
A #zoning lot# located within the #high-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) that equates to being located six feet above grade (for illustrative purposes). The owner of a #single-family detached residence# would like to elevate the first habitable floor three feet above the #flood-resistant construction elevation# and wet-floodproof the ground floor up to that same level (nine feet above grade) to account for sea level rise projections.

Pursuant to Section 64-321, height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #high-risk flood zone#, the #reference plane#, may be

established at any level between the #flood-resistant construction elevation# and a height of 10 feet above the #base plane# or #curb level#, as applicable. (Where the #flood-resistant construction elevation# exceeds 10 feet, the #reference plane# may still be established at the #flood-resistant construction elevation#, but that is not the case here.) While there is a level of flexibility built into the #reference plane# definition, the #reference plane# itself must also be located at or below the #first story above flood elevation#.

Considering the owner of such #single-family detached residence# is proposing to wet-floodproof the ground floor up to nine feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above nine feet, which is, in this case, the second #story#. Therefore, the #reference plane# was able to be situated at that same level (nine feet above grade), but not higher.

EXAMPLE 2



A #zoning lot# located within the #moderate-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) of two feet above the lowest grade adjacent to the #building or other structure#. The owner of a #mixed building# that was flooded during Hurricane Sandy, would like to proactively comply with #flood-resistant construction standards# to be better prepared in the event of a future storm. To realize that, the owner decided to elevate the ground

floor with a #commercial use# to the #flood-resistant construction elevation#, and dry-floodproof one foot above that for extra safety.

Pursuant to Section 64-321, height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #moderate-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of five feet above the #base plane# or #curb level#, as applicable. While there is a level of flexibility built within the #reference plane# definition, the #reference plane# must also be located at or below the #first story above flood elevation#.

Considering that the owner of such #mixed building# is proposing to elevate and dry-floodproof the ground floor up to three feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above three feet, which is, in this case, the second #story#. Therefore, the #reference plane# was able to be situated at five feet above the #base plane# or #curb level#, as applicable.

64-322

Permitted obstructions in required yards, courts and open spaces

Special floor area modifications for flood-resistant buildings

[Note: Existing paragraph (a) is modified in paragraph (b) of Section 64-323]

[Note: Existing paragraph (b) is substituted by Sections 23-12(j), and 23-44(a)(16)]

[Note: Existing paragraph (c) moved to Section 64-312(a) and modified]

- (a) ~~For #single # and #two-family residences#, where #flood-resistant construction elevation# is five feet or more above #curb level#, roofed porches shall be permitted obstructions in any #open space# required on the #zoning lot# and in #yards#. Balconies for such #residences# may exceed the width and depth standards of Section 23-13 where such balconies are located directly above a porch.~~
- (b) ~~For #single # and #two-family residences#, lifts for persons with disabilities shall be permitted obstructions in any #open space# required on the #zoning lot# and in #courts#, #yards# and #rear yard equivalents#, provided that in #front yards#, such lifts are unenclosed.~~
- (c) ~~For all #buildings#, except #single # and #two-family residences#, #accessory# mechanical equipment shall be a permitted obstruction in #rear yards# and #rear yard equivalents#, provided that such equipment is:~~

- (1) ~~located above #flood-resistant construction elevation#;~~
- (2) ~~enclosed within a #building#, or portion thereof, or within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;~~
- (3) ~~in R3, R4 or R5 Districts, limited to a height of 10 feet above #flood-resistant construction elevation#, including the apex of a pitched roof;~~
- (4) ~~in R6, R7, R8, R9 or R10 Districts, limited to a height of 14 feet above #flood-resistant construction elevation#; or~~
- (5) ~~in #Commercial# or #Manufacturing Districts#, limited to a height of 23 feet above #flood-resistant construction elevation#.~~

~~#Accessory# mechanical equipment located in #rear yards# or #rear yard equivalents# and meeting the standards of this Section shall be a permitted obstruction in any #open space# required on the #zoning lot#, provided that the total area occupied by a #building# used for both enclosed parking and such mechanical equipment does not exceed 20 percent of the total required #open space# on the #zoning lot#.~~

~~Decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard# or #rear yard equivalent#.~~

For all #flood-resistant buildings#, the definition of #floor area# may be modified in accordance with the provisions of this Section.

(a) Entryways

[Note: Text moved from Section 64-312 and modified]

In all districts, for #buildings# other than #residential buildings# with enclosed entryways below the #first story above the flood elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #first story above the flood elevation# and the level of the adjoining sidewalk, provided such floor space complies with the #flood-resistant construction standards# for dry-flood-proofing up to the #flood-resistant construction elevation# or higher. However, no more than a maximum of 500 square feet may be excluded from the definition of #floor area# for each entryway.

Such exempted floor space shall be considered #floor area# for the purposes of satisfying other ground floor #use# regulations of this Resolution, including, but not limited to,

limitations on #floor area# for certain #uses#, parking wrap and screening requirements, and requirements for #floor area# at the ground floor.

(b) Modifications to attic allowances for #residential buildings#

In R2X, R3, R4, R4A, and R4-1 Districts outside of #lower density growth management areas#, the provisions of paragraph (a) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be modified to allow the #floor area ratio# set forth in the table of such Section to be exceeded by 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

(c) Flood-proofed ground floors

[Note: Text moved from Section 64-411 and modified]

(1) For #buildings# along #primary street frontages#, or portions thereof, as defined in Section 64-11, floor space located below the #first story above the flood elevation# and within 30 feet of the #street wall# along such “primary street frontage” may be excluded from the calculation of #floor area#, provided that:

- (i) such floor space complies with the #flood-resistant construction standards# for dry-flood-proofing up to the #flood-resistant construction elevation# or higher;
- (ii) the level of the finished floor of such floor space is located no more than two feet above nor two feet below #curb level#;
- (iii) such floor space shall be limited to #non-residential uses# other than #accessory# parking or #public parking garages# and subject to the minimum depth requirements set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses);
- (iv) #ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements); and
- (v) for #developments#, the level of the #first story above the flood elevation# is 13 feet or more above the level of the adjoining sidewalk.

However, such floor space shall be considered #floor area# for the purposes of satisfying other ground floor #use# regulations of this Resolution, including, but not limited to, limitations on #floor area# for certain #uses#, parking wrap and

screening requirements, and requirements for non-residential floor area# at the ground floor.

- (2) In all districts, floor space located below the first story above the flood elevation# may be excluded from the calculation of floor area# provided such floor space complies with the flood-resistant construction standards# for wet-flood-proofing up to the flood-resistant construction elevation# or higher.

- (d) Floor area# for existing buildings#

For zoning lots# containing buildings# existing prior to [date of adoption], as an alternative to the floor area# regulations of this Chapter, the amount of floor area# allocated to a basement# or cellar# in such existing building# may be determined in accordance with how those terms were defined prior to [date of adoption].

64-323

Flood panels in required yards and open space

Special regulations for required yards and open spaces for zoning lots with flood-resistant buildings

[Note: Existing text moved to Section 64-312(c) and modified]

~~Temporary flood control devices and associated emergency egress systems that are assembled prior to a storm and removed thereafter shall be permitted obstructions in yards# and rear yard equivalents#, courts#, open space#, waterfront yards# as defined in Article VI, Chapter 2, public plazas# and all other publicly accessible open areas during such storm event and for a reasonable period prior to and after such storm event, as determined by the Department of Buildings.~~

For all zoning lots# with flood-resistant buildings#, the regulations for yards# and open space# shall be modified in accordance with the provisions of this Section.

- (a) Level of required yards

[Note: Text moved from Section 64-321 and modified]

In all districts, the underlying yard# regulations shall be modified to allow the level of a yard# or a rear yard equivalent# to be located higher than curb level#, provided that it does not exceed the flood-resistant construction elevation#, and the level set forth by the following regulations:

- (1) in Residence Districts#, the final grade of front yards# and side yards# shall not penetrate a plane that begins three feet above curb level# at each lot line# and

has a slope extending perpendicular to #lot lines# of one foot vertical for each 2 feet 6 inches of horizontal distance;

- (2) in #Commercial# and in #Manufacturing Districts#, for portions of #zoning lots# where Sections 33-29 and 43-30 (SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) apply, the level of #front yards# and #side yards# may be permitted to exceed #curb level# only pursuant to paragraph (a)(1) of this Section.

Nothing in this Section shall be construed so as to permit the creation of spaces below grade on all sides in a manner inconsistent with #flood-resistant construction standards#.

(b) Permitted obstructions

[Note: Text moved from Section 64-322 (a) and modified]

- (1) Covered porches, balconies, and covered access areas

In all districts, a porch or access area covered by a roof or other permanent structure shall be permitted obstructions in any required #open space# or #yard# on the #zoning lot#. Where permanent structures such as balconies are located directly above a porch or access area, such balconies may exceed the width and depth standards of Section 23-13 (Balconies).

- (2) Retaining walls

In #Residence Districts#, retaining walls shall be permitted in #front yards# and #side yards# provided any retaining wall parallel to, or within 15 degrees of being parallel to, the #street# shall not exceed a maximum height of three feet, as measured from the level of the adjoining grade or planted area below such wall, so that no more than three feet of such retaining wall is visible from the #street#; and

- (3) Fences

In #Residence Districts#, portions of fences located in #front yards# with height greater than four feet above #curb level# shall be required to be no more than 50 percent opaque.

(c) Front yard planting requirement

[Note: Text moved from Section 64-422 and modified]

In R1 through R5 Districts, where the distance between the #street wall# and the #street line# is 10 feet or less, or for #zoning lots# with #front yards# that are shallower than the minimum required pursuant to the applicable district regulations, stairs, ramps or lifts that

access the #first story above the flood elevation# shall be exempted from the area of a #front yard# for the purpose of calculating the planting requirements of Section 23-451 (Planting requirement).

64-324

Street wall location for flood-resistant buildings

[Note: Text to replace Section 64-333]

For all #buildings#, where the #street wall# location regulations of this Resolution require the #street wall# to be located within eight feet of the #street line#, such regulations may be modified to accommodate exterior stairs and ramps for access to the #building#, to comply with the requirements of Section 64-50 (Streetscape Regulations), or to provide temporary flood control devices and associated fixtures, as follows:

- (a) no #street wall# need be located closer to the #street line# than eight feet;
- (b) for #buildings# on #zoning lots# with a #lot width# greater than or equal to 50 feet, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court# and the height of such recess shall not be less than the height of the first #story# located completely above the level of the adjoining grade; and
- (c) for #buildings# on #zoning lots# with a #lot width# of less than 50 feet:
 - (1) for the first #story# above the #flood-resistant construction elevation#, or #reference plane#, as applicable, and any #street wall# below such first #story#, the #aggregate width of street wall# may be located anywhere; and
 - (2) for the remaining #aggregate width of street walls# above such #stories#, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#.

For all #buildings# where the aggregate width of exterior stairs, ramps, or elevated platforms in front of a #street wall# exceeds 70 percent or more along the ground floor of the #street wall#, such stairs, ramps, or elevated platforms shall be screened by living plant material or by the provisions of paragraph (b)(1) of Section 64-521 (Options available for all buildings).

64-33**Special Height and Setback Regulations****Special Bulk Regulations for Cottage Envelope Buildings**

[Note: Text moved from Section 64-A30 and modified]

The provisions of this Section, inclusive, are optional, and may be applied to #zoning lots# with #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

No #building# that utilizes the provisions of this Section shall subsequently be #enlarged# pursuant to Section 73-622 (Enlargements of single- and two-family detached and semi-detached residences).

64-331**Permitted obstructions for multi-family buildings in R3-2 and R4 Districts****Modifications to the attic allowance for cottage envelope buildings**

[Note: Existing text moved to Section 64-313(a) and modified]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R3-2 and R4 Districts, for all #buildings#, or portions thereof, subject to Section 23-60 (HEIGHT AND SETBACK REGULATIONS), except #single # and #two family residences#, elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, shall be considered permitted obstructions to height and setback regulations, provided that:~~

- ~~(a) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#;~~
- ~~(b) all mechanical equipment shall be screened on all sides;~~
- ~~(c) the #lot coverage# of all such obstructions and screening does not exceed 250 square feet or 10 percent of the #lot coverage# of the #building#, whichever is greater; and~~
- ~~(d) such obstructions are limited to a height of 15 feet above the maximum height of perimeter walls.~~

[Note: Text moved from Section 64-A312 and modified]

R3 R4A R4-1

In #lower density growth management areas# in the districts indicated, the provisions of paragraph (b) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be modified to allow the #floor area ratio# set forth in the table of such Section to be exceeded by 20 percent, provided that any such increase in #floor area# is located in any portion of a #cottage envelope building# covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

64-332**Permitted obstructions for buildings in medium and high density districts****Special regulations for required yards, courts and open spaces on zoning lots with cottage envelope buildings**

[Note: Existing text moved to Section 64-313 (b) and modified]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R5 through R10 Districts, and in all #Commercial# and #Manufacturing Districts#, for all #buildings#, the underlying regulations governing permitted obstructions to height and setback shall be modified to increase the permitted volume for elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, from a maximum #lot coverage# of 20 percent of the #lot coverage# of the #building# to a maximum #lot coverage# of 30 percent of the #lot coverage# of the #building#, provided that where the maximum permitted height of a #building# is less than 120 feet, such obstructions are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, such obstructions are limited to a maximum height of 40 feet.~~

R1 R2 R3 R4 R5

In the districts indicated, for #zoning lots# containing #cottage envelope buildings#, the following #yards#, #courts# and #open space# regulations may be modified in accordance with the provisions of this Section.

(a) Lot Coverage and Open Space

[Note: Text moved from Section 64-A311 and modified]

In R1-2A, R2A, R3-1, R3-2, R4, R4-1, and R4A Districts, the #lot coverage# and #open space# regulations need not apply. In lieu thereof, the #yard# requirements of this Section shall apply.

(b) Front Yards**[Note: Text to replace Section 64-A351]**

For #buildings# that are utilizing the provisions of this paragraph, the provisions of paragraphs (b) and (c) of Section 23-45 (Minimum Required Front Yards) need not apply.

For the purpose of this Section, the area between the #street line# and the #street wall line# of adjacent #buildings# containing #residences# on the same or adjoining #zoning lots# fronting on the same #street# shall be considered adjacent #front yards#.

Where an adjacent #front yard# is shallower than the minimum required pursuant to the applicable district regulations, then the #front yard# of the #zoning lot# containing #cottage envelope buildings# may be as shallow as the shallowest adjacent #front yard#.

(c) Side Yards**[Note: Text moved from Section 64-A352 and modified]**

The #side yard# provisions for the applicable district shall apply, except that the required total width of #side yards# for a #zoning lot# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than the minimum widths set forth in the definition of #cottage envelope building# in Section 64-11 (Definitions). However, in no event shall the required width of a #side yard# be less than three feet.

In addition, for #buildings# utilizing the provisions of this paragraph, the provisions of paragraph (c) of Section 23-461 (Side yards for single- or two-family residences) need not apply, provided such open area does not serve as access or contain #accessory# off-street parking spaces serving existing #buildings# that remain on the #zoning lot#, or an adjoining #zoning lot#.

(d) Rear Yards**[Note Text moved from Section 64-A353 and modified]**

- (1) Where an #interior lot# is less than 95 feet deep at any point, the depth of a required #rear yard#, or portion thereof, for such #interior lot#, may be reduced by six inches for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 95 feet. However, in no event shall the minimum depth of a #required rear yard#, or portion thereof, be reduced to less than 10 feet.
- (2) Where a #through lot# is less than 180 feet deep at any point, the depth of a required #rear yard equivalent#, or portion thereof, for such #through lot#, may be reduced by one foot for each foot by which the depth of a #zoning lot#, or portion thereof,

is less than 180 feet. However, in no event shall the minimum depth of a required #rear yard equivalent#, or portion thereof, be reduced to less than 20 feet.

(c) Corner Lots

[Note: Text moved from Section 64-A354 and modified]

Where a #corner lot# has a #lot area# equal to or less than 3,000 square feet, only one #front yard# need be provided, and the remaining #front lot line# may be treated as a #side lot line#.

64-333

Street wall location in certain districts

Height and setback regulations for cottage envelope buildings

[Note: Existing text to be replaced by Section 64-324]

~~The provisions of this Section shall apply without requiring a building to comply with flood-resistant construction standards as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In all districts, where underlying street wall location regulations require the ground floor of a street wall to extend along the entire street frontage of a zoning lot and be located on the street line, such regulations are modified as follows:~~

- ~~(a) — recesses, not to exceed five feet in depth from the street line, shall be permitted on the ground floor where required to provide access to the building; and~~
- ~~(b) — up to 30 percent of the aggregate width of street walls may be recessed beyond the street line, provided any such recesses deeper than 10 feet along a wide street, or 15 feet along a narrow street, are located within an outer court. However, no recesses shall be permitted within 30 feet of the intersection of two street lines.~~

[Note: Text moved from Section 64-A36 and modified]

R1 R2 R3 R4 R5

In the districts indicated, all #cottage envelope buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section 23-631 (General provisions), except that:

- (a) the maximum height of a perimeter wall of a #cottage envelope building# before setback shall be 21 feet;
- (b) the maximum height of a ridge line shall be 25 feet; and

(c) all heights may be measured from the #reference plane#.

In addition, the maximum number of #stories# in any #cottage envelope building# shall not exceed two #stories# above the #reference plane#. For the purposes of this Section, attic space providing structural headroom of less than eight feet shall not be considered a #story#.

64-334

Alternative height measurement for single and two-family residences

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

R1 R2 R3 R4 R5

~~In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for #single-# and #two-family residences# where #flood-resistant construction elevation# is between six and nine feet above #curb level#, #building# height may be measured from a reference plane nine feet above #curb level#, provided that at least two mitigating elements are provided from the list in Section 64-61 (Design Requirements for Single and Two-family Residences).~~

64-335

Alternative height measurement for other buildings in Residence Districts

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

~~In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for all #buildings# other than #single-# and #two-family residences#, where #flood-resistant construction elevation# is between five and 10 feet above #curb level#, #building# height may be measured from a reference plane 10 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-622 (Lobby or non-residential use) shall be met.~~

64-336

Alternative height measurement in Commercial and Manufacturing Districts

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

C1 C2 C3 C4 C5 C6

- (a) ~~In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for all #residential buildings# other than #single-# and #two-family residences#, where #flood-resistant construction elevation# is between five and 10 feet above #curb level#, #building# height may be measured from a reference plane 10 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-622 (Lobby or non-residential use) shall be met.~~

~~C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3~~

- (b) ~~In the districts indicated, as an alternative to Section 64-131, for all #buildings# other than #residential buildings# and #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#, where #street walls# are within 50 feet of a #street line# and #flood-resistant construction elevation# is between five and 12 feet above #curb level#, #building# height may be measured from a reference plane 12 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-642 (Transparency requirements for buildings utilizing alternative height measurement) shall be met.~~

64-40

SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012 **SPECIAL PARKING REGULATIONS**

[Note: Existing text to be deleted]

The following provisions shall apply to ~~#buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#.~~

[Note: Text moved from Section 64-50 and modified]

The underlying parking regulations of this Resolution may be modified in accordance with the provisions of this Section inclusive. The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section 64-41 (Special Parking Regulations for All Buildings), inclusive, may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section 64-42 (Special Parking Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

64-41**Special Floor Area Regulations for Buildings Existing on October 28, 2012**
Special Parking Regulations for All Buildings

The provisions of this Section are optional and may apply to all #zoning lots# regardless of whether #buildings or other structures# comply with #flood-resistant construction standards#. For such #zoning lots#, the underlying parking regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-411**Floors below the flood-resistant construction elevation**
For residential buildings with below-grade parking

[Note: Existing text moved to Section 64-321(c) and modified]

(a) — Dry flood proofing

~~In C1 and C2 Districts mapped within R1 through R6 Districts, and in C3, C4-1, C4-2 and C4-3 Districts, where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for dry flood proofing. The certificate of occupancy, if required, shall note that such floor space has been dry flood proofed and must comply with the provisions of Appendix G of the New York City Building Code, and that the number of #dwelling units# or #rooming units# shall be limited to no more than the number existing on October 28, 2012.~~

~~In addition, the following provisions shall apply:~~

- ~~(1) — such floor space exempted from the definition of #floor area# shall not exceed 10,000 square feet;~~
- ~~(2) — such floor space exempted from the definition of #floor area# shall be used for a #community facility use# or #commercial use# permitted by the underlying zoning district;~~
- ~~(3) — no floor space shall be exempted if parking spaces within such #building# are located within 30 feet of the #street wall#; and~~
- ~~(4) — the #building# shall contain no more #dwelling units# or #rooming units# than existed on October 28, 2012.~~

(b) ~~Wet flood-proofing~~

~~This paragraph shall not apply to #buildings# containing non-#residential uses# where the #flood-resistant construction elevation# is less than two feet above the level of the first finished floor above #curb level#.~~

~~Where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for wet flood proofing. The certificate of occupancy, if required, shall note that such floor space has been wet flood-proofed and must comply with the provisions of Appendix G of the Building Code.~~

~~The #floor area# which has been flood-proofed pursuant to the provisions of this Section need not be rebuilt prior to sign-off by the Department of Buildings or issuance of a certificate of occupancy for such alteration to the flood-proofed floor space in order for such #floor area# to be preserved as long as an application for construction documents for the reconstruction of such #floor area# has been approved by the Department of Buildings prior to the issuance of such sign-off or certificate of occupancy for the alteration associated with the flood proofing. Such construction documents shall acknowledge that the #non-complying floor area# is being preserved and shall depict its use within the same #building# in a manner complying with #flood-resistant construction standards#.~~

[Note: Text moved from Section 64-51 and modified]

R1 R2 R3 R4 R5

In the districts indicated, other than R4B and R5B Districts, where existing below-grade off-street parking facilities within #residential buildings# are eliminated and, in compliance with #flood-resistant construction standards#, are filled in. #accessory# off-street parking spaces may be relocated from such garages to the side or rear of such #buildings#, or to the #front yard# driveway that accessed the former garage, or to a shared driveway along a common #side lot line#, and such relocated parking spaces need not comply with the underlying parking location, curb cut spacing or permitted obstruction regulations that limit parking, provided that:

- (a) no more than two parking spaces may be located in tandem (one behind the other);
- (b) each relocated parking space shall have a dimension that conforms with the minimums set forth in Section 25-62 (Size and Location of Spaces); and
- (c) where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to comply, or increase compliance, with the provisions of Section 23-451

(Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

Notwithstanding the modifications above, no modification to the maximum number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut, shall be permitted.

In the event that there is no way to arrange relocated required parking spaces on the #zoning lot# in compliance with the provisions of this Section, given that #buildings# existing on [date of adoption] will remain, the Commissioner of Buildings may waive the requirement for such spaces.

64-412

Lowest story of a residential building

Surfacing

[Note: Existing text to be deleted]

~~In all districts, where the #floor area# of a #single# or #two-family residence# existing on October 28, 2012, did not include the lowest #story# because such #story# complied with the criteria set forth in paragraph (9) of the definition of "floor area" in Section 12-10, any space used for dwelling purposes within such #story# shall continue to be exempt from the definition of #floor area#, notwithstanding such criteria, provided such #story# is elevated or reconstructed at or above the #flood-resistant construction elevation#.~~

[Note: Text moved from Section 64-53 and modified]

R1 R2 R3 R4 R5

In the districts indicated, Section 25-65 (Surfacing) may be modified to allow dustless gravel on all open off-street parking spaces and on portions of driveways beyond the #front lot line# that access #single-# or #two-family residences# on a #zoning lot#.

64-42

Yards, Courts and Open Space for Buildings Existing on October 28, 2012

Special Parking Regulations for Flood-resistant Buildings

The provisions of this Section, inclusive, are optional, and may apply to #zoning lots# containing #flood-resistant buildings#.

64-421

Permitted obstructions

Parking modifications**[Note: Existing text moved to Section 64-312(a) and modified]**

The provisions of this Section shall apply without requiring a ~~#building#~~ to comply with ~~#flood-resistant construction standards#~~ as established in paragraph (a) of Section 64-12 (Applicability):

(a) ~~For existing #single # and #two family residences#, and for the reconstruction of such #residences#, mechanical equipment including but not limited to #accessory# heating and cooling equipment and emergency generators, shall be permitted obstructions in #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent#, and in #courts#, provided such equipment is:~~

- ~~(1) — located above #flood-resistant construction elevation#; and~~
- ~~(2) — located at least five feet from any #lot line#; and~~
- ~~(3) — screened on all sides by walls consisting of at least 50 percent opaque materials; and~~
- ~~(4) — in compliance with the standards of either paragraph (a)(5) or (a)(6) of this Section; and~~
- ~~(5) — the mechanical equipment and all structure and screening are located no more than seven feet from the wall of a #building# and limited to a height of no more than 10 feet above #flood-resistant construction elevation#; or~~
- ~~(6) — the mechanical equipment is located within a detached garage or on the roof of a detached garage, provided that:~~
 - ~~(i) — where covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance, no portion of the roof shall exceed a height of 14 feet above the adjoining grade, measured to the midpoint of a sloping roof; or~~
 - ~~(ii) — for all other conditions, no portion of the garage, screening or the mechanical equipment shall exceed a height of 12 feet above the adjoining grade.~~

(b) ~~For existing #buildings#, except #single # and #two family residences#, #accessory# mechanical equipment shall be permitted obstructions in #courts# and #open space#, provided such equipment is:~~

- ~~(1) — located above #flood-resistant construction elevation#;~~

- (2) ~~within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;~~
- (3) ~~limited to a height established in Section 64-322 (Permitted obstructions in required yards, courts and open space), paragraph (c), for mechanical equipment as permitted obstructions in a #rear yard#; and~~
- (4) ~~located at least 30 feet from any #legally required window#.~~
- (c) ~~For existing #buildings#, except #single-# and #two-family residences#, lifts for persons with disabilities, where permitted pursuant to provisions of the New York City Building Code, shall be permitted obstructions in #yards#, #courts# and #open space#.~~

[Note: Text moved from Section 64-52 and modified]

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to #zoning lots# containing #single-# or #two-family residences#. For such #zoning lots#, where off-street parking spaces are required pursuant to Section 25-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES) inclusive, the underlying parking regulations may be modified as follows:

- (a) the regulations governing parking location, curb cut location, or permitted obstruction that limit parking need not apply, provided that all parking spaces are either located beneath the #first story above the flood elevation# within #buildings# or driveways directly in front of a garage opening. Such spaces shall have a dimension that conforms with the minimums set forth in Section 25-62 (Size and Location of Spaces). However, within #lower density growth management areas# the provisions of paragraph (c) of Section 25-632 (Driveway and curb cut regulations in lower density growth management areas) shall continue to apply; and
- (b) the underlying curb cut spacing regulations for #zoning lots# existing on [date of adoption] with a frontage of less than 35 feet along a #street# need not apply, provided that at least four feet of curb space is provided between a new curb cut and an existing curb cut on the same or an adjacent #zoning lot#.

Notwithstanding the modifications above, no modification to the maximum number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut, shall be permitted.

All #zoning lots# utilizing this Section shall comply with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

64-422**Front yard planting requirement**

[Note: Existing text moved to Section 64-322(c) and modified]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, the provisions of Section 23-451 (Planting requirement) are modified for existing #buildings#, where the distance between the #street wall# and the #street line# is six feet or less, to allow stairs, ramps or lifts that access the #lowest occupiable floor# to be counted as planted area for the purposes of fulfilling the requirements of such provisions.~~

64-43**Special Height and Setback Regulations for Buildings Existing on October 28, 2012****64-431****For existing single and two-family residences**

[Note: Existing text to be deleted]

~~#Single# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest floor level containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in so doing so, may create a #non-compliance# as to height and setback to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#.~~

~~Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, #single# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in so doing so, may create a #non-compliance# as to height and setback to the extent that such lowest horizontal structural member is elevated or reconstructed to #flood-resistant construction elevation#.~~

~~This Section shall not preclude the construction of complying #enlargements# or other complying structures on the #zoning lot#.~~

~~#Buildings# that were complying on October 28, 2012, and vertically elevated or reconstructed to a higher elevation, pursuant to this Section, shall be considered legal #non-complying buildings#.~~

64-432**Permitted obstructions for certain existing buildings**

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R5 through R10 Districts, and in #Commercial# and #Manufacturing Districts#, for all existing #buildings#, the regulations for permitted obstructions to height and setback regulations shall be modified to increase the permitted volume for elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, as follows:~~

- ~~(a) where the maximum #building# height is less than 120 feet, the maximum permitted height of such volume may be increased from 25 feet to 33 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#; and~~
- ~~(b) where the maximum #building# height is 120 feet or greater, the maximum permitted height of such volume may be increased from 40 feet to 55 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#.~~

64-44**Special Minimum Distance Regulations for Buildings Existing on October 28, 2012**

[Note: Existing text to be deleted]

~~For #single # and #two family residences# existing on October 28, 2012, if such #buildings# are elevated, relocated or reconstructed pursuant to Sections 64-131 (Measurement of height), 64-722 (Single and two family residences in required front yards) and 64-431 (For existing single and two family residences), the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply.~~

64-50**SPECIAL PARKING REGULATIONS****STREETSCAPE REGULATIONS**

[Note: Existing text moved to Section 64-40 and modified]

~~Sections 64-51 (For Residential Buildings with Below-grade Parking) and 64-52 (For Elevated Buildings) shall apply to #buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#. Section 64-51 shall apply without requiring a #building# to comply with #flood-resistant construction standards# provided in paragraph (a) of Section 64-12 (Applicability).~~

~~Section 64-53 (Surfacing) shall apply to all #zoning lots# within the #flood-zone#.~~

~~The underlying parking location, curb cut spacing, permitted obstruction and surfacing regulations are modified in accordance with the provisions of this Section.~~

The provisions of this Section, inclusive, shall apply to #zoning lots# containing #flood-resistant buildings#, as set forth in paragraphs (b) and (c) of Section 64-12 (Applicability), that have a #street wall# within 50 feet of the #street line# in #Residence Districts#, #Commercial Districts# and M1 Districts#. However, the provisions shall not apply to such #buildings# containing #uses# predominantly listed in Use Group 18.

All #buildings# shall provide streetscape mitigations in the categories of access or ground floor level, in order to comply with the total points required in the following table. The total points required differs by the level of the #first story above the flood elevation#, as measured from #curb level#. The individual mitigation options are set forth in Sections 64-51 (Building Access Mitigation Options) and 64-52 (Ground Floor Level Mitigation Options). Cells marked with an "x" designate mandatory categories to fulfill at least one point out of the total points requirement.

The points awarded for compliance with each individual mitigation are set forth in parentheses after the title to each paragraph describing a mitigation.

For #corner lots#, the total points requirement set forth in this Section shall apply separately along each #street frontage# of a #corner lot#, except where the #street wall# width along one of the #street frontages# is 25 feet or less, the requirements need only apply to one frontage.

Where #zoning lots# are required to provide streetscape elements in accordance with other provisions of this Resolution, such elements may also be utilized towards meeting the requirements of this Section, provided that such elements comply with the applicable standard herein.

In addition, all #buildings# shall meet the requirements set forth in Section 64-53 (Screening Requirements for Parking Within or Below Buildings) as applicable.

<u>Level of the #first story above the flood elevation#</u>	<u>Streetscape Mitigations</u>		<u>Total Points</u>
	<u>Building Access (Section 64-51)</u>	<u>Ground Floor Level (Section 64-52)</u>	
<u>Below five feet or no #first story above the flood elevation#</u>			1

Five feet or above	x	x	3 ^{1,2}
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¹ #Single-# and #two-family residences# on a #zoning lot# less than 25 feet wide with a #first story above the flood elevation# at five feet or above need only satisfy a total of two points instead of the three points set forth in the above table.

² If the requirements of this Section apply to only a portion of the #building# with a #first story above the flood elevation# at five feet or above, and such portion of the #building# does not have a principal entrance, the total points required shall be two, and they need only be satisfied through the ground floor level category.

64-51

For Residential Buildings With Below-grade Parking

Building Access Mitigation Options

[Note: Existing text moved to Section 64-411 and modified]

R1 R2 R3 R4 R5

~~In the districts indicated, other than R4B and R5B Districts, where below-grade garages within #residential buildings# are eliminated in order to comply with Appendix G of the New York City Building Code, #accessory# off-street parking spaces may be relocated from such garages to the side or rear of such #buildings#, or to the #front yard# driveway that accessed the former garage, or to a shared driveway along a common #side lot line#. Where such parking spaces are so relocated, each such space shall have a dimension at least 18 feet long and eight feet wide, and such spaces shall be allowed without regard to underlying parking location, curb cut spacing or permitted obstruction regulations. No modifications of the number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut shall be allowed. Where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to comply, or increase compliance, with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.~~

~~In the event there is no way to arrange relocated required parking spaces on the #zoning lot# in compliance with the provisions of this Section, given that existing #buildings# will remain, the Commissioner of Buildings may waive such spaces.~~

64-511

Options available for all #buildings#

The streetscape mitigations options of this Section may be applied to all #buildings#. Where provided as a streetscape mitigation element, the following shall apply:

- (a) Entrance close to grade
(one point)

The principal entrance for the principal #use# for the #building# shall be located within two feet of the level of the adjoining sidewalk. However, for #mixed buildings# in #Commercial Districts# the #primary entrance# for the non-#residential use# on the ground floor shall be located within two feet of the level of the adjoining sidewalk, regardless of whether it is the principal #use#.

(b) Recessed access
(one point)

Recesses in the #street wall# shall accommodate the principal entrance to the #building#, including stairs or ramps to such entrance. However, recesses shall not exceed 50 percent of the #aggregate width of street wall# for the #building#.

(c) Wide stairs
(one point)

The principal entrance to a #building# along the #street wall# shall include stairs:

- (1) with a minimum width of five feet where the #aggregate width of street walls# of the #building# is less than or equal to 25 feet; and
- (2) with a minimum width of eight feet where the #aggregate width of street walls# of the #building# is greater than 25 feet.

In both cases, the run of such stairs shall be oriented perpendicular, or within 15 degrees of being perpendicular, to such principal entrance for at least 50 percent of the height of such stairs.

(d) Covered access
(one point)

The principal entrance to a #building# shall have a porch or access area covered by a roof or other permanent structure, provided that all structural elements shall have a minimum width or depth of at least three inches. Such roof or other permanent structure shall be located at a minimum height at least eight feet above the finished floor of the principal entrance. In addition, such covering shall have a depth of at least three feet measured perpendicular to the #street wall# and shall extend along at least 50 percent of the #aggregate width of the street wall#.

64-512

Additional options available for single-family, two-family, or three-family residences

The streetscape mitigations options of this Section may be applied to all #single-#, #two-#, or three-#family residences#. Where provided as a streetscape mitigation element, the following shall apply:

- (a) Porch or landing
(one point)

[Note: Text to replace Section 64-61(a)]

The principal entrance to a building shall have a porch or landing with a depth of at least three feet and a width that is at least 50 percent of the #aggregate width of the street wall#. However, such porch or landing need not exceed a width of 25 feet.

- (b) Stair turn or stair landing
(one point)

[Note: Text moved from Section 64-61(b) and modified]

The principal entrance shall be accessed by stairs or ramps that, at a point no higher or lower than two feet from the beginning and end of the stair run, respectively, either change direction in plan or incorporate at least one landing.

64-513

Additional options available for all buildings except single- , two-family, or three-family residences

The streetscape mitigations options of this Section may be applied to all #buildings# except #single-#, #two-#, or three-#family residences#. Where provided as a streetscape mitigation element, the following shall apply:

- Multiple entrances
(one point)

Multiple entrances into the #building# shall be provided, with at least one entrance per every 50 linear feet of #street frontage#. Fractions equal to or greater than one-half resulting from this calculation shall be considered one entrance.

64-52

For Elevated Buildings

Ground Floor Level Mitigation Options

[Note: Existing text moved to Section 64-421 and modified]

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to ~~#single # or #two-family residences#~~ with a ~~#flood-resistant construction elevation#~~ at least nine feet above ~~#curb level#~~, and to other ~~#single # or #two-family residences#~~ utilizing the provisions of Section 64-334 (Alternative height measurement for single and two-family residences). For such ~~#residences#~~, where at least two ~~#accessory#~~ off-street parking spaces are provided beneath the ~~#lowest occupiable floor#~~, such spaces shall be allowed without regard to the underlying parking location, curb cut spacing or permitted obstruction regulations. However, no modification of the number of curb cuts on a ~~#zoning lot#~~ or the minimum or maximum width of a curb cut shall be allowed.

For the purposes of this Section, where there is a reference to a "blank wall," the following shall apply:

- (a) For #manufacturing buildings#, the provisions of Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds) shall apply.
- (b) For #commercial buildings#, #community facility buildings# and #mixed buildings#, the provisions of Type 3 blank walls set forth in Section 37-361 shall apply.
- (c) For #residential buildings#, the provisions of Type 4 blank walls set forth in Section 37-361 shall apply.

Such blank walls shall be covered by one or more options in Section 37-362 (Mitigation elements) or by options as described in this Section, inclusive. In addition, any surface area of a wall which bounds stairs, ramps, landings, or chair lifts facing a #street# and that exceeds a height and width of four feet shall constitute a blank wall and comply with the standards of Type 3 blank wall. Such blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation#. In addition, any surface area of a wall which bounds stairs, ramps, landings, or chair lifts facing a #street# and that exceeds a height and width of four feet shall constitute a blank wall and comply with the standards of Type 3 blank wall. Such blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation#.

64-521

Options available for all #buildings#

The streetscape mitigations options of this Section may be applied to all #buildings#. Where provided as a streetscape mitigation element, the following shall apply:

(a) Surface treatment
(one point)

Surface treatment shall be provided for blank walls in the form of wall treatment, surface texture, or any combination thereof, pursuant to the provisions set forth in paragraphs (a)(1) or (a)(2) of Section 37-362 (Mitigation elements).

If the level of the #first story above flood elevation# is greater than 10 feet, surface treatment shall only be required to a height of 10 feet above the level of the adjoining sidewalk.

(b) Linear treatment
(one or, where noted, two points)

Linear treatment shall be provided for blank walls in the form of planting, pursuant to the provisions set forth in paragraph (b)(1) of Section 37-362, pursuant to one of the following options below, or any combination thereof. Where the options of this Section are utilized, the percentage requirement associated with the applicable type of blank wall set forth in Section 37-36 (Special Requirements for Blank Walls) shall not apply.

(1) Raised front #yards# and #open space#

[Note: Text moved from Section 64-61 (c) and modified]

For #residential buildings# in #Residence Districts# where the distance between the #street wall# and the #street line# is 10 feet or more, the grade between the #street line# and blank walls, and their prolongations, shall be elevated above the level of the adjoining sidewalk so that the height of such grade that is midway between the #street line# and blank walls and prolongations is at least 18 inches above #curb level# at all points, except for pedestrian ways, vehicular access and off-street parking spaces permitted pursuant to 64-40 (SPECIAL PARKING REGULATIONS). The area with final grade above the level of the adjoining sidewalk shall be greater than 30 percent of the total area between the #street line# and blank walls and their prolongations.

Raised front #yards# and #open spaces# shall be planted in accordance with applicable planting requirements in this Resolution.

This option shall satisfy two points if the area with final grade above #curb level# is greater than 50 percent of the total area between the #street line# and blank walls and their prolongations.

(2) Terraced front #yards# and #open spaces#

For #residential buildings# in #Residence Districts#, terraced planting areas shall be provided. The retaining walls of such areas shall not be less than an average height of three feet and exceed an average height of six feet, as measured from the level of the adjoining sidewalk below such wall, and the retaining wall closest to the #street line# shall not exceed a height of three feet. The area with the retaining walls shall be greater than 30 percent of the total area between the #street line# and blank walls and their prolongations. Planting shall also be provided for at least 50 percent of the linear footage above and below the retaining walls, through a combination of perennials, annual flowers, decorative grasses or shrubs.

This option shall satisfy two points if the area with the retaining walls is greater than 50 percent of the total area between the #street line# and blank walls and their prolongations.

64-522

Additional options available for single-, two-, or three-family residences #two-family#, or three-family residences

The streetscape mitigations options of this Section may be applied to all #single-#, #two-#, or three#-family residences#. Where provided as a streetscape mitigation element, the following shall apply:

- (a) Transparency
(one point)

Transparent glazing materials shall occupy at least 20 percent of the surface area of the #street wall# of the ground floor, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk.

- (b) Additional fenestration
(one point)

In addition to the principal entrance, one or more doors, including garage doors, shall be provided.

64-523

Additional options available for all buildings except single-, two-, or three-family residences

The streetscape mitigations options of this Section may be applied to all #buildings# except #single-family#, #two-family#, or three-family residences. Where provided as a streetscape mitigation element, the following shall apply:

- (a) Transparency with #use#
(one point)

One or more of the following options may apply:

- (1) Lobby
(one point)

In all districts, a lobby that complies with the standards of Type 1 lobbies set forth in Section 37-33 (Maximum Width of Certain Uses), shall be provided. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk.

- (2) #Community facilities# and #accessory residential uses#
(one point)

In all districts, for #residential buildings# with three or more #dwelling units#, at least 50 percent of the #ground floor level street wall# shall be allocated to #accessory residential uses# other than #accessory# off-street parking, or #community facilities uses#, including, but not limited to, recreation space or bicycle storage, that extends to a minimum depth of 15 feet from the #street wall#. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of such #uses#, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Where the spaces for such #uses# need not be fully enclosed, decorative screening or latticework may be substituted for transparent glazing materials.

- (3) Non-#residential uses#
(one point)

In #Commercial Districts#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 2 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with Section 37-33. Ground floor level #street walls# shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements) except that the transparent

materials may begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk.

If #group parking facilities# are provided, they shall be wrapped by floor area, in accordance with paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements).

- (b) Transparency close to grade
(one point)

In all districts, transparent materials provided to satisfy #street wall# transparency requirements shall not begin higher than 2 feet, 6 inches above the level of the adjoining sidewalk. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#.

- (c) Linear treatment
(one point)

Linear treatment shall be provided for blank walls in the form of benches, bicycle racks, tables and chairs, or any combination thereof, as set forth in paragraph (b) of Section 37-362 (Mitigation elements).

64-53

Surfacing

Screening Requirements for Parking Within or Below Buildings

[Note: Existing text moved to Section 64-412 and modified]

R1 R2 R3 R4 R5

~~In the districts indicated, Section 25-65 (Surfacing) shall be modified to allow dustless gravel driveways that access one #single-# or #two-family residence# on a #zoning lot#, provided that all portions of such driveway located between the curb and the #front lot line# shall be surfaced with asphaltic or Portland cement concrete, or other hard surfaced dustless material, at least four inches thick, and public sidewalks shall be constructed to Department of Transportation standards.~~

[Note: Text moved from Section 64-65 and modified]

The provisions of this Section shall apply to all #buildings# other than:

- (a) #single# or #two-family residences#; and
(b) #buildings# containing predominantly Use Group 18 #uses# in M1 Districts.

Where the #first story above the flood elevation# is five or more feet above #curb level# and the #street wall# of a #building# is within 50 feet of the #street line#, for any level where off-street parking is provided within or below a #building#, such parking shall be either wrapped by #floor area# or screened pursuant to the provisions of Section 37-35 (Parking Wrap and Screening Requirements).

#Buildings# in existence prior to [date of adoption] shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

64-60

DESIGN REQUIREMENTS

SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

[Note: Existing text to be deleted]

~~The following Sections shall apply to all #developments# and to all horizontal #enlargements# with new #street walls# or alterations increasing the height of #street walls#, or as otherwise referenced within this Chapter:~~

~~Section 64-61 — Design Requirements for Single and Two-family Residences~~

~~Section 64-62 — Design Requirements for Other Buildings in Residence Districts~~

~~Section 64-63 — Design Requirements for Residential Buildings in Commercial Districts~~

~~Section 64-64 — Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts~~

~~Section 64-65 — (Screening Requirements for Parking Within or Below Buildings) shall apply to any #zoning lot# occupied by a #building#, other than a #single-# or #two-family residence# constructed after October 9, 2013. Any #zoning lot# occupied by a #building# constructed prior to such date shall not be altered in any way that will either create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of Section 64-65.~~

The provisions of this Section, inclusive, are optional, and may be applied to #buildings# with #non-conforming uses#, or to #non-complying buildings or other structures#, as applicable, that are also #flood-resistant buildings#.

64-61**Design Requirements for Single and Two-family Residences****Special Provisions for Non-conforming Uses**

[Note: Existing text to be deleted and substituted by Section 64-50]

R1 R2 R3 R4 R5 R6

In R1, R2, R3, R4 and R5 Districts, for ~~single and two-family residences~~ that have a ~~street wall~~ within 50 feet of the ~~street line~~, and in R6 Districts, for ~~detached and semi-detached single and two-family residences~~ that have a ~~street wall~~ within 50 feet of the ~~street line~~, where the level of the ~~lowest occupiable floor~~ is five feet or more above ~~curb level~~, at least one of the following visual mitigation elements shall be provided. For such ~~residences~~ where the level of the ~~lowest occupiable floor~~ is nine feet or more above ~~curb level~~, at least two of the following visual mitigation elements shall be provided:

(a) — Porch

Where provided as a mitigating element, a porch shall have a finished floor at least six inches below the ~~lowest occupiable floor~~ and have a width at least 70 percent of the aggregate width of all ~~street walls~~ within 25 feet of the ~~street line~~. The depth of the porch must be at least five feet, and the porch may not be closer to the ~~street line~~ than five feet. Open porches shall count as one mitigating element and roofed porches shall count as two mitigating elements, provided that for such roofed porches, all structural elements shall have a minimum width or depth of at least three inches, and such roof shall have a depth of at least five feet measured perpendicular to the ~~street wall~~ and extend along at least 70 percent of the width of the ~~street wall~~. A balcony directly above a porch and a trellis or arbor with structural members spaced no further than 30 inches on center that cover such porch may be considered a porch roof for the purposes of this Section.

(b) — Stair direction change

Where provided as a mitigating element, stairs shall be constructed between grade and the ~~lowest occupiable floor~~ or porch, as applicable, which shall change direction at least 90 degrees in plan at a point no lower or higher than two feet from the beginning and end of the stair run.

(c) — Raised front yard

Where provided as a mitigating element, the grade between the ~~street line~~ and ~~street walls~~ within 25 feet of the ~~street line~~, and their prolongations, shall be elevated above ~~curb level~~ so that a line drawn midway between the ~~street line~~ and such ~~street walls~~ and prolongations is at least 18 inches above ~~curb level~~ at all points, except for pedestrian

~~ways, vehicular access and off-street parking spaces permitted pursuant to Section 64-50 (SPECIAL PARKING REGULATIONS). The area with final grade above #curb level# must be greater than 50 percent of the total area between the #street line# and #street walls# within 25 feet of the #street line# and their prolongations. Such raised #yards# shall be planted to comply with Section 23-451.~~

(d) — Trees or shrubs at least three feet high

~~Where provided as a mitigating element, trees or shrubs that attain a height of at least three feet shall be provided between the #street line# and #street walls# within 25 feet of the #street line# and their prolongations. Planting beds shall be at least three feet wide in plan, measured parallel and perpendicular to the #street line#. The length of each planted area shall be measured by inscribing each planted area within a rectangle and measuring the longest dimension of such rectangle. The total length of planted areas shall be greater than 60 percent of the #lot width#, and be planted to screen at least 50 percent of the length of the #street wall#.~~

~~However, no mitigation shall be required where more than 50 percent of the #street wall# of a #building# is within three feet of the #street line#.~~

[Note: Text to substitute Section 64-71]

For all #buildings# with #non-conforming uses#, the provisions of Sections 52-20 (REPAIRS OR ALTERATIONS), 52-40 (ENLARGEMENTS OR EXTENSIONS), and 52-50 (DAMAGE OR DESTRUCTION), inclusive, shall be modified to allow a #non-conforming use# to be continued, and a #building# with #non-conforming uses# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, pursuant to the provisions of this Section, inclusive.

Where a #building# with #non-conforming uses# is also #non-complying# with the applicable #bulk# regulations, #non-compliances# may be continued, increased or newly created only in accordance with the provisions of Section 64-612 (Special floor area regulations for buildings with non-conforming uses), Section 64-613 (Special height regulations for buildings with non-conforming uses), and Section 64-614 (Process for establishing non-conforming uses), except that Section 64-622 (Special open area regulations for non-complying buildings) and Section 64-624 (Process for establishing non-compliances) may also apply, if applicable.

In addition, damage and destruction provisions set forth in Section 64-611 (Special regulations for damage or destruction provisions for buildings with non-conforming uses) shall apply to such #buildings#.

64-611**Special regulations for damage or destruction provisions for buildings with non-conforming uses**

The provisions set forth in Sections 52-53 (Buildings or Other Structures in All Districts) and 52-54 (Buildings Designed for Residential Use in Residence Districts) shall be modified to allow all #buildings# containing #non-conforming uses# to be reconstructed, provided that:

- (a) for #non-conforming single-# and #two-family residences# in #Residence Districts# and #Commercial Districts#, except C8 Districts, such reconstruction may exceed 75 percent of the total #floor area# of the #building#;
- (b) for #non-conforming single-# and #two-family residences# in C8 Districts or #Manufacturing Districts#, such reconstruction may exceed 75 percent of the total #floor area# of the #building# provided that 25 percent or more of the aggregate length of the #block# frontage on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility uses#;
- (c) for all other #buildings# with #non-conforming uses#, the extent of reconstructed #floor area# does not exceed 75 percent of the total #floor area# of the #building#.

64-612**Special floor area regulations for buildings with non-conforming uses**

The maximum amount of #non-conforming floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of #non-conforming floor area# existing prior to the alteration or reconstruction work.

64-613**Special height regulations for buildings with non-conforming uses**

The maximum height of such altered, #enlarged#, relocated or reconstructed #building# with #non-conforming uses#, shall not exceed the maximum height permitted by the applicable district regulations, except that for #non-conforming residences# in C8 Districts or #Manufacturing Districts#, the maximum height of such altered, #enlarged#, relocated or reconstructed #building#, shall comply with one of the following options:

- (a) for #single# or #two-family residences#, a horizontal plane equivalent to a height of 35 feet, and for #buildings# other than #single-# or #two-family residences#, the applicable #sky exposure plane# for the district; or

- (b) for all #residences# a horizontal plane equivalent to the pre-existing height of such #building#, as measured from the top of the #lowest usable floor#, to the highest point of such pre-existing #building#, as measured from the #reference plane#.

64-614**Process for establishing non-conforming uses**

For all #buildings# with #non-conforming uses# utilizing any of the provisions of this Section, the amount of pre-existing #non-conforming floor area# and pre-existing #non-compliances#, as applicable, shall be based either on construction documents for such #building# that were previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration, as applicable, of the #building# or, where an approved set of construction documents does not exist for such #building#, an as-built drawing set completed by a professional engineer or architect. The Department of Buildings may request additional information to substantiate proof of #non-conformances# and #non-compliances#, as applicable. Verification of such pre-existing #non-conformances# and built conditions, as well as any pre-existing #non-complying# conditions, as applicable, shall be a pre-condition prior to any demolition for reconstruction work, or alteration permit issued by the Department of Buildings for a #zoning lot# altering or reconstructing #buildings# with #non-conforming uses# and #non-compliances#, as applicable, pursuant to the provisions of this Section.

64-62**Design Requirements for Other Buildings in Residence Districts****Special Provisions for Non-complying Buildings**

[Note: Existing text to be deleted and substituted by Section 64-50]

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, for all #buildings#, except #single-# and #two-family residences#, where #street-walls# are within 50 feet of the #street line#, the provisions of this Section, inclusive, shall apply:

[Note: Text to substitute Sections 64-722, 64-723, 64-724, 64-A12, 64-A22, 64-A23]

For all #non-complying buildings or other structures#, the provisions of Sections 54-20 (REPAIRS OR ALTERATIONS), 54-30 (ENLARGEMENTS OR CONVERSIONS), and 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS), inclusive, shall be modified to allow a #non-compliance# to be continued, and such #non-complying building or other structure# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, subject to the permitted thresholds of Sections 54-41 (Permitted Reconstruction) and 54-42 (Use of Alternate Formula), and the provisions of this Section.

In addition, such altered, #enlarged#, relocated or reconstructed #building or other structure# may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #bulk# regulations for the district, subject to the applicable provisions of this Section, inclusive.

64-621

Planting requirement

Special floor area regulations for non-complying buildings

[Note: Existing text to be deleted and substituted by Section 64-50]

~~Where the level of the #lowest occupiable floor# is five or more feet above #curb level#, the area between the #street line# and all #street walls# of the #building# shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground. Such planting shall consist of trees or shrubs within six feet of the #street wall# that attain a height of at least three feet. Such planting shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. Any such planted area shall have a depth of at least three feet. Where ramps or stairs are located parallel to a #street wall# and within six feet of such #street wall#, minimum planting beds shall be provided between such ramps or stairs and the #street line#.~~

~~However, where #street wall# location rules would require a #street wall# to be located such that planting beds would be less than three feet in width, the provisions of this Section shall not apply.~~

For #buildings# with #non-complying floor area#, the maximum amount of #floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of pre-existing #floor area#, nor shall it exceed the maximum #floor area# permitted by the applicable district regulations by more than 20 percent. In addition, subsequent to such alteration, #enlargement#, relocation or reconstruction, no #extension# or change of #use# may create a new #non-compliance# or increase the degree of existing #non-compliance# with #floor area#.

64-622

Lobby or non-residential use

Special open area regulations for non-complying buildings

[Note: Existing text to be deleted and substituted by Section 64-50]

~~Where the #flood-resistant construction elevation# is ten or more feet above #curb level#, a lobby with a minimum width of 20 feet shall be provided along the #street wall# at the level of the adjoining sidewalk or other publicly accessible open area, with a depth of at least 20 feet. For~~

~~#buildings# with an #aggregate width of street wall# of more than 65 feet, such lobby width shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet. For #zoning lots# with less than 25 feet of frontage along a #street#, a five-foot wide service corridor may be exempted from the requirements of this Section. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height ten feet above the level of the first finished floor above #curb level#.~~

~~Any permitted #non-residential use#, other than #accessory# off-street parking or storage, may be substituted for lobby area required pursuant to this Section, provided that the required width, depth and transparency shall apply to such #use#.~~

~~However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.~~

The following provisions may apply to #non-complying buildings or other structures#.

(a) Relocation allowances

#Non-complying buildings or other structures# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, minimum distances between two or more #buildings#, or minimum distances between #legally required windows# and walls or #lot lines#, in order to relocate or alter the footprint of the #building#, provided that:

- (1) the resulting #lot coverage# shall be less than or equal to that of the pre-existing #building or other structure# as it existed prior to the alteration, #enlargement#, relocation or reconstruction work or the amount permitted by the district, as applicable, whichever is greater, except that, where the provisions of paragraph (b) of this Section are utilized, the #first story above the flood elevation# and any #stories# below, may be exempted from such calculation;
- (2) a new or increased #non-compliance# into an open area shall not exceed a horizontal distance of five feet, as measured perpendicular to the outermost edge of the #non-complying building or other structure#, as it existed prior to the alteration, #enlargement#, relocation or reconstruction work, except that such limitation shall not apply:
 - (i) where the pre-existing #building or other structure# is located either partially or entirely seaward of the #shoreline#, and such #building or other structure# will be altered, #enlarged#, relocated or reconstructed to be repositioned landward of the #shoreline# on the same #zoning lot#; or

- (ii) where additional distance is necessary to accommodate access, including stairs, ramps or lifts in a required #yard#, provided that any additional encroachment is limited to the depth of such access;
 - (3) any new or increased #non-compliance# shall not result in an open area of:
 - (i) less than five feet between the wall of a #building or other structure# and a #rear lot line#;
 - (ii) less than three feet between the wall of a #building or other structure# and a #front lot line#, in districts with #front yard# requirements; and
 - (iii) three feet between the wall of a #building or other structure# and a #side lot line# for #detached buildings# in districts that do not allow #zero lot line buildings#; and
 - (4) the height of #buildings or other structures# within #non-complying yards# or #open space#, as measured from the #reference plane#, shall not exceed the height set forth in paragraph (a) of Section 64-623 (Special height regulations for non-complying buildings).
- (b) Allowances for horizontal expansions
- The #first story above the flood elevation# and #stories# located below such #story#, may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #rear yards#, #open space#, #open space ratio#, or #lot coverage# regulations for the district, provided that:
- (1) the increased #lot coverage# does not exceed an additional 20 percent of such #lot coverage# permitted by the underlying regulations in R1-2A, R2A, R3-1, R3-2, R4, R4B, R5, R5B, and R5D Districts;
 - (2) the increased #lot coverage# does not exceed an additional 20 percent of the maximum footprint permitted by applying the applicable district #rear, side and front yard# regulations in R2X, R3A, R3X, R4-1, R4A, and R5A Districts;
 - (3) for #single-# or #two-family residences#, the encroachment into a #rear yard# does not result in a #rear yard# with a depth of less than 20 feet; and
 - (4) in all districts, the encroachment into a required open area does not exceed a height of 15 feet, as measured from the #first story above the flood elevation#.

Nothing in this Section shall affect the permitted obstruction allowances set forth by the district regulations.

64-623**Special height regulations for non-complying buildings**

For #buildings or other structures# that are #non-complying# with the applicable district height and setback regulations, the maximum height of such altered, #enlarged#, relocated or reconstructed #building or other structure#, shall not exceed the height permitted pursuant to either paragraph (a) or (b) of this Section, as applicable. An alteration, #enlargement#, relocation or reconstruction pursuant to this Section may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with height and setback regulations, and may continue or increase a #non-compliance# with other #bulk# regulations associated with such #non-complying# height, subject to the limitations of this Section. All permitted obstruction allowances shall be measured with respect to the modified envelopes of this Section.

- (a) For pre-existing #buildings or other structures# that do not exceed the overall permitted height

Where the height of a pre-existing #building or other structure# does not exceed the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#, the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# shall not exceed:

- (1) the applicable #sky exposure plane#, for #buildings# governed by #sky exposure planes# as measured from the #reference plane#; or
- (2) a horizontal plane equivalent to the maximum #building# height permitted by the applicable district for all other #buildings# as measured from the #reference plane#.

- (b) For pre-existing #buildings or other structures# that exceed the overall permitted height

Where the height of a pre-existing #building or other structure# exceeds the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#:

- (1) the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed a horizontal plane equivalent to the pre-existing height of such #building#, as measured from the top of the #lowest usable floor#, to the highest point of such pre-existing #building#, provided also that such height shall not exceed the overall height permitted by the applicable district regulations by 10 percent, or 10 feet, whichever is less; and

- (2) for #single# or #two-family residences# in R1-2A, R2A, R2X, R3, R4, R4-1, R4A, or R5A Districts, where the degree of the alteration or reconstruction exceeds 75 percent of the #floor area#, the height of a perimeter wall of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed the higher of the maximum perimeter wall height for the district, or the pre-existing height of such perimeter wall, as measured from the top of the #lowest usable floor# to the highest point in such pre-existing #building# before setback.

However, the height allowances of this Section shall not apply to #single# or #two-family residences# that are not #non-complying# with #floor area# requirements, or where the provisions of paragraph (b) Section 64-622 (Special open area regulations for non-complying buildings) are utilized.

64-624

Process for establishing non-compliances

For all #non-complying buildings or other structures# utilizing any of the provisions of this Section, the amount of pre-existing #non-compliances# shall be based either on the construction documents of such #building or other structure# previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration of such #building or other structure#, as applicable, or, where an approved set of construction documents does not exist for such #building or other structure#, an as-built drawing set completed by a professional engineer or architect. The Department of Buildings may request additional information to substantiate proof of #non-compliances#. Verification of such pre-existing #non-complying# conditions shall be a pre-condition prior to any demolition for reconstruction work, or alteration permit issued by the Department of Buildings for a #zoning lot# altering or reconstructing #non-compliances# pursuant to the provisions of this Section.

64-63

Design Requirements for Residential Buildings in Commercial Districts

[Note: Existing text to be deleted and substituted by Section 64-50]

~~C1 C2 C3 C4 C5 C6~~

~~In the districts indicated, and in #Special Mixed-Use Districts#, for all #residential buildings#, except #single-# and #two-family residences#, where #street walls# are within 50 feet of the #street line#, and where the level of the #lowest occupiable floor# is five feet or more above #curb level#, the provisions of Section 64-62 (Design Requirements for Other Buildings in Residence Districts) shall apply.~~

64-64**~~Design Requirements for Non-Residential and Mixed Buildings in Commercial and Manufacturing Districts~~****64-641****~~Transparency requirements~~**

[Note: Existing text to be deleted and substituted by Section 64-50]

~~C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3~~

~~In the districts indicated, the provisions of this Section shall apply to all #buildings#, other than:~~

- ~~(a) — #residential buildings#; and~~
- ~~(b) — in #C8 Districts# and #Manufacturing Districts#, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.~~

~~Where #street walls# are within 50 feet of the #street line#, and where #flood-resistant construction elevation# is ten feet or more above #curb level#, a portion of the #street wall# with a minimum of 20 feet in width shall provide transparent glazing materials occupying a minimum of 50 percent of the surface area of such #street wall# portion, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. For #buildings# with an #aggregate width of street wall# of more than 65 feet, such transparent portion of the #street wall# shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet.~~

~~However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.~~

64-642**~~Transparency requirements for buildings utilizing alternative height measurement~~**

[Note: Existing text to be deleted and substituted by Section 64-50]

~~C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3~~

In the districts indicated, for all ~~#buildings#~~ utilizing the provisions of Section 64-346 (Alternative height measurement in Commercial and Manufacturing Districts), paragraph (b), ~~#street walls#~~ shall be glazed with transparent materials which may include ~~#show windows#~~, transom windows or glazed portions of doors. Furthermore, such transparent glazing materials shall occupy at least 50 percent of the surface area of such ~~#street wall#~~, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height of 12 feet above the level of the first finished floor above ~~#curb level#~~. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the ~~#street wall#~~.

64-65

Screening Requirements for Parking Within or Below Buildings

[Note: Existing text moved to Section 64-53 and modified]

The provisions of this Section shall apply to all ~~#buildings#~~, other than:

- (a) ~~— #single# or #two family residences#; and~~
- (b) ~~— in C8 Districts and #Manufacturing Districts#, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.~~

~~#Buildings# in existence prior to October 9, 2013, shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.~~

~~Where the #flood-resistant construction elevation# is five or more feet above #curb level# and the #street wall# of a #building# is within 50 feet of the #street line#, for any level where off street parking is provided within or below a #building#, such parking shall be screened from the #street line# with a #street wall# that is at least 50 percent opaque. Each one-foot square portion of such #street wall# shall comply individually with this requirement.~~

~~In case of a conflict between the provisions of this Section and the provisions of another Chapter, the more restrictive provisions shall apply.~~

64-70

SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

[Note: Section 64-70 to be deleted and substituted by Section 64-60]

64-71**Non-Conforming Uses****64-711****Reconstruction of buildings damaged more than 50 percent**

[Note: Existing text to be deleted and substituted by Section 65-21 (a)]

Section 52-53 (Buildings or Other Structures in All Districts), inclusive, shall be modified to allow the reconstruction of a ~~#non-conforming use#~~ where a ~~#building#~~ containing such ~~#use#~~ is damaged to the extent of 50 percent or more due to the effects of ~~#Hurricane Sandy#~~, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in ~~#flood map#~~ were a change in provisions of the Zoning Resolution.

However, this provision shall not apply to ~~#non-conforming residences#~~ in ~~C8 Districts~~ or ~~#Manufacturing Districts#~~, or to ~~#non-conforming manufacturing uses#~~ located in ~~#Residence Districts#~~ or ~~#Commercial Districts#~~ other than ~~C8 Districts~~.

64-712**Single and two-family buildings**

[Note: Existing text to be deleted and substituted by Section 64-61]

For ~~#non-conforming single # and #two-family residences#~~, except ~~#non-conforming residences#~~ in ~~C8 Districts~~ or ~~#Manufacturing Districts#~~, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than six years following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in ~~#flood map#~~ were a change in provisions of the Zoning Resolution.

64-72**Non-Complying Buildings****64-721****Reconstruction of buildings damaged more than 75 percent**

[Note: Existing text to be deleted and substituted by Section 65-21 (b)]

~~Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying building# where such #building# is damaged to the extent of 75 percent or more due to the effects of #Hurricane Sandy#, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new final Flood Insurance Rate Maps that superseded the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

64-722**Single and two-family residences in required front yards**

[Note: Existing text to be deleted and substituted by Section 64-62]

~~The provisions of Article V, Chapter 4, shall be modified in order to accommodate stair access in a #front yard#. #Single # and #two-family residences# with #non-complying front yards# existing on October 28, 2012, may be relocated or reconstructed in a location further from the #front lot line# on the same #zoning lot#, and thereby create or increase an encroachment in a #side yard#, #rear yard# or #rear yard equivalent#, provided that:~~

- ~~(a) — any encroachment or further encroachment into a required #side# or #rear yard# or #rear yard equivalent# at the rear of the original #building# location is limited to a depth equal to the reduction of encroachment of the #building#, excluding stairs in the #front yard#;~~
- ~~(b) — a distance of at least eight feet shall be maintained between the rear wall of the #building# and all other #residences# on the same or adjoining #zoning lots#; and~~
- ~~(c) — at least four feet of a #rear yard# shall be free of any encroachment, measured perpendicular to the #rear lot line# or, in a #rear yard equivalent#, at least eight feet shall be free of encroachment.~~

64-723

~~Non-complying single and two-family residences~~

[Note: Existing text to be deleted and substituted by Section 64-62]

- (a) ~~The provisions of Article V, Chapter 4, shall be modified to permit #single# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation in order to raise the lowest floor level containing habitable space that was located at or above the adjoining grade as of October 28, 2012 to #flood-resistant construction elevation#.~~

~~Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, the provisions of Article V, Chapter 4, shall be modified to permit #single# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space that was located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#.~~

~~Such vertical elevation or reconstruction may create a new #non-compliance# as to height and setback, or increase any existing #non-compliances# as to height and setback, required #open space# and #yard# regulations to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#. However, all other provisions of Article V, Chapter 4, shall apply without modification.~~

~~This Section shall not preclude the construction of complying #enlargements# or other complying #buildings or other structures# on the #zoning lot#.~~

~~Furthermore, the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply to such elevated, relocated or reconstructed #buildings#.~~

- ~~(b) For #non-complying single# and #two-family residences#, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than six years following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

64-724**Special provisions for other buildings within flood zones**

[Note: Existing text to be deleted and substituted by Section 64-62]

~~#Non-complying buildings# may be elevated or reconstructed to an increased height, which at all points does not exceed the difference between #flood-resistant construction elevation# and the applicable datum from which height is measured pursuant to the underlying regulations. Such elevation or reconstruction may create a new #non-compliance# or increase the degree of an existing #non-compliance#.~~

64-80**MODIFICATION OF SPECIAL REGULATIONS APPLYING IN WATERFRONT AREAS**

[Note: Existing text to be deleted]

~~The following regulations shall apply in #flood zones# and shall modify regulations set forth in Article VI, Chapter 2 (Special Regulations Applying in Waterfront Areas).~~

64-81**Modification of Waterfront Public Access and Visual Corridor Regulations for Substantially Damaged Buildings**

[Note: Existing text to be deleted and substituted by Section 65-21]

~~Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-811 shall not apply to the reconstruction of #buildings# that sustained substantial damage, as defined in Appendix G of the New York City Building Code, due to the effects of #Hurricane Sandy#, provided that:~~

- ~~(a) such #buildings# had no more than 20,000 square feet of #floor area# prior to October 28, 2012;~~
- ~~(b) the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012;~~
- ~~(c) if such #building# is repositioned on the #zoning lot#, such repositioning does not newly encroach, or further encroach into a required #yard#, #rear yard equivalent#, #visual corridor# or existing #public access area#, as defined in Article VI, Chapter 2; and~~

- (d) — the reconstruction does not result in a change of #use# from that existing on October 28, 2012.

The provisions of this Section shall apply to #buildings# that are the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year after the adoption of new final Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-82

Modification of Waterfront Regulations Relating to Level of Yards, Visual Corridors and the Ground Floor

[Note: Existing text to be deleted]

The provisions of paragraphs (a) and (b) of this Section shall apply to all #zoning lots#, without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability):

Within the area that has a one percent chance of flooding in a given year, as determined by the Federal Emergency Management Agency (FEMA) in #flood maps# or by earlier adopted Flood Insurance Rate Maps, certain provisions regarding #waterfront yards# and #visual corridors#, as defined in Section 62-11, and ground floor #uses#, are modified as follows:

- (a) — #Waterfront yards#

[Note: Existing text moved to Section 62-332 and modified]

Section 62-332 (Rear yards and waterfront yards) shall be modified to allow the level of a #waterfront yard# to be raised above the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, provided that:

- (1) — where a #waterfront yard# terminates at a #lot line#, the grade of the #waterfront yard# shall be no higher than the grade of the adjacent #street# or #zoning lot#, except that natural grade need not be disturbed to comply with this requirement;
- (2) — for #zoning lots# without a #shore public walkway#, as defined in Section 62-11, the maximum grade of the #waterfront yard#, measured parallel to the #shoreline#, shall not exceed three percent; and

- (3) ~~for #zoning lots# with a #shore public walkway#, as defined in Section 62-11, the maximum grade shall be determined by the maximum permitted grade of the circulation path and the provisions of Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS).~~

(a) ~~#Visual corridors#~~

[Note: Existing text moved to Section 62-512 and modified]

~~Section 62-512 (Dimensions of visual corridors) shall be modified so that the lowest level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at an elevation three feet above #curb level# with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard# raised pursuant to the provisions of paragraph (a) of this Section, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first. Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting an elevation three feet above #curb level# at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard# raised pursuant to the provisions of paragraph (a) of this Section, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.~~

(e) ~~Ground floor #uses#~~

[Note: Existing text to be deleted]

~~Section 62-341 (Developments on land and platforms), paragraph (e)(6), shall be modified so that "ground floor level" shall mean the lowest level permitted for habitable use as if it were "Post-FIRM Construction" as defined by Appendix G of the New York City Building Code, using elevation and wet flood-proofing techniques; provided that where such lowest permitted level would be less than five feet above the finished level of the adjacent sidewalk, such level need not be lower than five feet above the finished level of the adjacent sidewalk.~~

64-90 SPECIAL APPROVALS

64-91**Modification of Certain Certification Requirements in the Special South Richmond Development District**

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In the #Special South Richmond Development District#, Sections 107-22 (Designated Open Space), inclusive, and 107-23 (Waterfront Esplanade) shall not apply to the reconstruction or repair of #buildings# that were damaged due to the effects of #Hurricane Sandy#, provided that:~~

~~(a) — the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012; and~~

~~(b) — there is no increase in impervious surfaces on the #zoning lot#.~~

~~In addition, the provisions of Section 107-22, inclusive, shall not apply to a #site alteration# that is not a #development# or #enlargement# where the Commissioner of Buildings determines it is the minimum necessary to enable the reconstruction of a #building#.~~

~~These provisions shall not affect the terms of a certification previously made by the City Planning Commission. The provisions of this Section shall apply to #buildings# that are the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year after the adoption of new final Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

64-92**Special Permit for Modification of Certain Zoning Regulations**

[Note: Existing text moved to Section 73-71 and modified]

~~In order to allow for the alteration of existing #buildings# in compliance with #flood-resistant construction standards# and for #developments# and #enlargements# in compliance with #flood-resistant construction standards#, the Community Board of Standards and Appeals may permit modification of Section 64-60 (DESIGN REQUIREMENTS), the #bulk# regulations of Sections 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-~~

~~COMPLYING BUILDINGS), as well as all other applicable #bulk# regulations of the Zoning Resolution, except #floor area ratio# regulations, provided the following findings are made:~~

- ~~(a) that there would be a practical difficulty in complying with #flood-resistant construction standards# without such modifications, and that such modifications are the minimum necessary to allow for an appropriate #building# in compliance with #flood-resistant construction standards#;~~
- ~~(b) that any modification of #bulk# regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from #flood-resistant construction elevation#, whichever is less; and~~
- ~~(c) the proposed modifications will not alter the essential character of the neighborhood in which the #building# is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with #flood-resistant construction standards#.~~

~~The Community Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

Appendix A

Special Regulations for Neighborhood Recovery

[Note: Appendix A to be deleted, unless otherwise noted]

64-A00

GENERAL PROVISIONS

~~The provisions of this Resolution shall apply as modified by this Chapter and by the special regulations set forth in this Appendix. The provisions of this Appendix are optional, but when utilized, shall be applied in their entirety. This Appendix shall be in effect until July 23, 2020, at which time it shall automatically expire.~~

64-A01

Applicability of Special Regulations for Neighborhood Recovery

~~The provisions of this Appendix shall only be applicable to #buildings# containing #residential use# whose vertical elevation or reconstruction will result in a #single # or #two-family residence# that complies with #flood-resistant construction standards#, where such #building# is located in a Neighborhood Recovery Area (Section 64-A80), inclusive.~~

64-A02**Special Requirements for Application**

Prior to the approval of any application to the Department of Buildings pursuant to this Appendix, an applicant shall submit the following documents in order to establish that there was a #building# on the subject lot that contained a #residential use# on October 28, 2012:

- (a) — an aerial photograph taken up to one year prior to October 28, 2012, establishing that a #building# existed on the subject lot on October 28, 2012; and
- (b) — a 2012 tax bill or assessment roll for the subject lot stating that such #building# contained a #residential use#.

Where the documents specified in this Section are unavailable or inconclusive, the Department of Buildings may accept alternative documentation to satisfy the requirements of paragraphs (a) or (b).

64-A03**Zoning Lots in Neighborhood Recovery Areas**

The definition of #zoning lot# set forth in Section 12-10 (DEFINITIONS) shall apply in this Appendix. However, as an option, where a tax lot contained one or more #buildings# on October 28, 2012, or where a #building# or #buildings# occupied more than one tax lot on October 28, 2012, such tax lot may be provisionally considered a #zoning lot# for the sole purpose of demonstrating compliance with the #bulk# requirements of this Resolution, and shall be referred to as a #zoning lot# in this Appendix, provided that the proposed application will not affect compliance with any applicable provisions of the New York City Building Code or Fire Code with respect to access to the same or other #zoning lots# on the same #block#, unless a waiver or modification is obtained from the Department of Buildings or the Fire Department, respectively.

64-A10**SPECIAL REGULATIONS FOR ESTABLISHING NON-CONFORMANCE AND NON-COMPLIANCE****64-A11****Special Regulations for Establishing Non-conformance of Residences**

In all #districts#, for a #zoning lot# that contained two or more #dwelling units# on October 28, 2012, and does not have lawful documentation indicating that more than one #dwelling unit# existed on the #zoning lot# on such date, the Community Board of Standards and Appeals may

~~permit the vertical elevation or reconstruction of #buildings# containing such #dwelling units# and may establish #non-conformance# of such #buildings#, pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).~~

64-A12

Special Regulations for Establishing Non-compliance of Existing Buildings

~~In all districts, a #building# containing #residences#, and any other structure that is attached to such #building#, including porches, stairs, terraces or balconies, that existed both on October 28, 2012, and on the date of application for a building permit, may be considered #non-complying# for the purpose of utilizing the applicable provisions of Article V, Chapter 4 and Article VI, Chapter 4 of this Resolution relating to #non-complying buildings or other structures# provided that:~~

- ~~(a) — a survey, prepared by a licensed land surveyor, specifying the location and height of such #building# and any other structures that are attached to such #building#, is submitted as documentation of such #non-compliance#; and~~
- ~~(b) — such #building# shall either be vertically elevated in compliance with the #bulk# provisions of Section 64-A20 (SPECIAL BULK REGULATIONS FOR THE VERTICAL ELEVATION OF EXISTING BUILDINGS), or be reconstructed in compliance with the #bulk# provisions of Section 64-A30 (SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012).~~

~~Upon completion and sign-off of work completed pursuant to the provisions of this Appendix, the #building# shall be considered #non-complying#.~~

64-A20

SPECIAL BULK REGULATIONS FOR THE VERTICAL ELEVATION OF EXISTING BUILDINGS

~~The provisions of this Section shall apply to the vertical elevation of #buildings# containing #residences# that existed on October 28, 2012. Except as specifically modified by the provisions of this Section, inclusive, the applicable #bulk# regulations of this Chapter, the regulations of Article V of this Resolution and the applicable zoning district shall remain in effect.~~

~~No #building# that is vertically elevated pursuant to this Section shall subsequently be #enlarged# pursuant to paragraph (b) of Section 54-313 (Single or two-family residences with non-complying front yards or side yards) or Section 73-622 (Enlargements of single and two-family detached and semi-detached residences).~~

64-A21**Special Regulations for Rebuilt Portions of Vertically Elevated Buildings**

A portion of a ~~#building#~~ that is being vertically elevated pursuant to this Appendix may be rebuilt, provided that:

- (a) ~~the rebuilt portion does not exceed 75 percent of the existing #floor area# of such #building#; and~~
- (b) ~~except as specifically allowed by this Chapter, no new #non-compliance# shall be created, nor shall the degree of any existing #non-compliance# be increased beyond that established pursuant to Section 64-A10 (SPECIAL REGULATIONS FOR ESTABLISHING NON-CONFORMANCE AND NON-COMPLIANCE).~~

~~If the rebuilt portion of a #building# exceeds 75 percent of the existing #floor area# of the #building#, such #building# shall be subject to the regulations of 64-A30 (SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012).~~

64-A22**Special Regulations for Space Partially Below Grade**

~~For a #building# where the lowest floor containing habitable space is partially below adjoining grade, and at least one-half of the floor-to-ceiling height of such floor is above adjoining grade, such #building# may be vertically elevated in order to raise the lowest floor containing habitable space to the #flood-resistant construction elevation#, provided that:~~

- (a) ~~the elevated #building# does not exceed two #stories#, except that attic space providing structural headroom of less than eight feet shall not be considered a #story# for the purposes of this Section; and~~
- (b) ~~the height of such elevated #building#, including the apex of a pitched roof, does not exceed 25 feet, as measured from the #flood-resistant construction elevation#.~~

~~Any floor space that becomes #floor area# in excess of the maximum permitted #floor area ratio# for such #zoning lot#, as a result of the vertical elevation, shall be considered #non-complying floor area#. Such vertical elevation may increase any existing #non-compliances# with respect to required #open space# and #yard# regulations to the extent that such #non-compliance# results from the elevation of the lowest floor to the #flood-resistant construction elevation#. All other provisions of Article V, Chapter 4 (Non-complying Buildings), shall apply without modification.~~

The level of the adjoining grade shall be the average elevation of the grade adjoining the building, before it is elevated, determined in the manner prescribed by the Building Code of the City of New York for adjoining grade elevation.

64-A23

Special Regulations for Existing Buildings Located Over Water

For a ~~#building#~~ that will be vertically elevated and is located either partially or entirely seaward of the ~~#shoreline#~~, such ~~#building#~~ may be relocated landward of the ~~#shoreline#~~ on the same ~~#zoning lot#~~. Such relocation may create a new ~~#non-compliance#~~ or increase the degree of any existing ~~#non-compliance#~~ as to ~~#side yards#~~, waterfront yards, ~~#rear yards#~~ or ~~#rear yard equivalents#~~, provided that:

- (a) ~~an open area of at least three feet shall be maintained between the exterior wall of the #building# and any #lot line#; and~~
- (b) ~~except as specifically allowed by this Chapter, no new #non-compliance# shall be created, nor shall the degree of any existing #non-compliance# be increased, beyond that established pursuant to Section 64-A12 (Special Regulations for Establishing Non-compliance of Existing Buildings).~~

64-A24

Permitted Obstructions in Required Open Space, Yards and Courts

The provisions of Sections 23-12 (Permitted Obstructions in Open Space), 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 64-421 (Permitted obstructions) shall be modified such that:

- (a) ~~mechanical equipment including, but not limited to, #accessory# heating and cooling equipment, fuel oil tanks and emergency generators shall be permitted obstructions in #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent# and in #courts#, provided such equipment is:~~
 - (1) ~~located at least three feet from any #lot line#;~~
 - (2) ~~screened on all sides by walls consisting of at least 50 percent opaque materials; and~~
 - (3) ~~in compliance with the standards of either of the following provisions:~~

- (i) ~~all structures and screening are located no more than 10 feet from the wall of a #building# and limited to a height of no more than 12 feet above #flood-resistant construction elevation#; or~~
 - (ii) ~~is located on the roof of a #building or other structure#, provided that the height of such equipment and screening does not exceed six feet, as measured from the finished level of a flat roof or, for a sloping roof, as measured from the midpoint of such roof. Such equipment shall be located not less than 15 feet from any #street wall# of a #building or other structure#.~~
- (b) ~~visual mitigation elements, provided pursuant to Section 64-A50 (SPECIAL DESIGN REQUIREMENTS) shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#.~~

64-A30**~~SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012~~**

[Note: Existing text moved to Section 64-33 and modified]

~~The #bulk# regulations of this Section shall apply only to the permitted reconstruction of a #building# that existed on October 28, 2012, and results in a #single# or #two-family detached residence#. Except as specifically modified by the provisions of this Section, inclusive, the #bulk# regulations of this Chapter and the applicable zoning district shall remain in effect. #Buildings# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.~~

~~No #building# that is reconstructed pursuant to this Section shall subsequently be #enlarged# pursuant to paragraph (b) of Section 54-313 (Single or two-family residences with non-complying front yards or side yards) or Section 73-622 (Enlargements of single and two-family detached and semi-detached residences).~~

64-A31**~~Special Regulations for Minimum Required Open Space, Maximum Lot Coverage and Maximum Floor Area~~****64-A311****~~Lot coverage and open space~~**

[Note: Existing text moved to Section 64-332 (a) and modified]

~~R1-2A R2A R3-1 R3-2 R4 R4-1 R4A~~

In the districts indicated, for ~~#zoning lots#~~ that do not meet the required minimum ~~#lot area#~~ or ~~#lot width#~~ of the applicable district, ~~#lot coverage#~~ and ~~#open space#~~ shall be governed by the ~~#yard#~~ requirements set forth in Section 64-A35 (Special Yard Regulations).

~~64-A312~~

~~Floor area~~

~~R2X R3 R4 R4-1 R4A~~

In the districts indicated, the ~~#floor area ratio#~~ set forth in Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) may be increased by 20 percent provided that any such increase in ~~#floor area#~~ is located in any portion of a ~~#building#~~ covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.

~~64-A313~~

~~Special open space, lot coverage and floor area regulations for small lots~~

~~R1 R2 R3 R4 R5 R6~~

In the districts indicated, for ~~#zoning lots#~~ with a ~~#lot area#~~ of less than 1,800 square feet, ~~#open space#~~, ~~#lot coverage#~~ and ~~#floor area ratio#~~ regulations shall not apply. In lieu thereof, the ~~#yard#~~ requirements set forth in Section 64-A35 (Special Yard Regulations) and the height and setback requirements of Section 64-A36 (Special Height and Setback Regulations) shall govern.

~~64-A32~~

~~Special Regulations for Maximum Number of Dwelling Units and Minimum Size of Dwelling Units~~

~~64-A321~~

~~Maximum number of dwelling units~~

~~R1 R2 R3 R4 R5 R6~~

In the districts indicated, the provisions of Section 23-22 (Maximum Number of Dwelling Units) shall not apply. In lieu thereof, not more than one ~~#single family detached residence#~~ or, where permitted in the applicable zoning district pursuant to Section 22-12 (Use Group 2), one ~~#two-family detached residence#~~, may be reconstructed. However, any ~~#two-family detached residence#~~

~~may only be reconstructed if such #zoning lot# contained two or more #dwelling units# on October 28, 2012, as indicated on the certificate of occupancy or upon approval by the Community Board of Standards and Appeals pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).~~

64-A322

Minimum size of dwelling units

~~R3 R4-1 R4A~~

~~In the districts indicated, the minimum size of a #dwelling unit# as set forth in paragraph (b) of Section 23-23 shall not apply to the permitted reconstruction of a #two-family detached residence#.~~

64-A33

Special Regulations for Minimum Lot Area or Lot Width for Residences

~~In all districts, including #lower density growth management areas#, either one #single-family detached residence# or, where permitted in the applicable zoning district pursuant to Section 22-12 (Use Group 2) one #two-family detached residence#, may be reconstructed upon a #zoning lot# that:~~

- ~~(a) has less than the prescribed minimum #lot area# or #lot width# as required by the applicable district regulations; and~~
- ~~(b) if reconstructed as a #two-family detached residence#, either:~~
 - ~~(1) complies with the maximum number of #dwelling units# requirement of the applicable zoning district; or~~
 - ~~(2) such #zoning lot# contained two or more #dwelling units# on October 28, 2012, as indicated on the certificate of occupancy or upon approval by the Community Board of Standards and Appeals pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).~~

64-A34

Permitted Obstructions in Required Open Space, Yards and Courts

~~The provisions of Sections 23-12 (Permitted Obstructions in Open Space), 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 64-421 (Permitted obstructions) shall be modified as follows:~~

- (a) — ~~mechanical equipment, including, but not limited to, #accessory# heating and cooling equipment, fuel oil tanks and emergency generators, shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent# and in #courts#; provided that such equipment is:~~
- (1) — ~~located at least three feet from any #lot line#;~~
 - (2) — ~~screened on all sides by walls consisting of at least 50 percent opaque materials; and~~
 - (3) — ~~in compliance with the standards of either of the following provisions:~~
 - (i) — ~~all structures and screening are located no more than 10 feet from the wall of a #building# and limited to a height of no more than 12 feet above #flood-resistant construction elevation#; or~~
 - (ii) — ~~is located on the roof of a #building# or other structure, provided that the height of such equipment and screening does not exceed six feet, as measured from the finished level of a flat roof or, for a sloping roof, as measured from the midpoint of such roof. Such equipment shall be located not less than 15 feet from any #street wall# of a #building or other structure#.~~
- (b) — ~~eaves, gutters or downspouts shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#, provided that such eave, gutter or downspout does not project further than 16 inches into such required #open space#, #yard# or #court#.~~
- (c) — ~~visual mitigation elements, provided pursuant to Section 64-A50 (SPECIAL DESIGN REQUIREMENTS) shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#.~~

64-A35**Special Yard Regulations****64-A351****Special provisions for front yards**

[Note: Existing text to be deleted and substituted by Section 64-332(b)]

R1 R2 R3 R4 R5

- (a) ~~In the districts indicated, the #front yard# provisions of the applicable district shall apply, except that in R4 and R5 Districts, a #front yard# may have a depth of any dimension equal to or exceeding 10 feet.~~
- (b) ~~In the districts indicated, where an enclosed garage fronts upon a #street#, there shall be an unobstructed area at ground level, between the garage door and the #street line#, which is at least eight and one half feet in width by 18 feet in depth, except no such space shall be required in R5D Districts. Where an unenclosed #accessory# off-street parking space is provided in an open area on a #zoning lot#, or provided beneath an elevated #building#, an unobstructed area at ground level which is at least eight and one half feet in width by 18 feet in depth shall be provided between the #street line# and such space.~~
- (c) ~~For #buildings# that are reconstructed pursuant to this Section 64-A30, inclusive, the provisions regulating the depth of #front yards# in relation to adjacent #buildings#, set forth in paragraphs (b) and (c) of Section 23-45, shall not apply.~~

64-A352**Special provisions for narrow lots**

[Note: Existing text moved to Section 64-332(c) and modified]

R1 R2 R3 R4 R5 R6

- (a) ~~In the districts indicated, the #side yard# provisions of the applicable district shall apply, except that the required total width of #side yards# for a #single # or #two-family detached residence# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences). In no event shall the required width of a #side yard# be less than three feet. For #zoning lots# with less than 21 feet in #lot width#, the required total width of #side yards# shall be six feet.~~
- (b) ~~In the #Special South Richmond Development District#, the provisions of Sections 107-42 (Minimum Lot Area and Lot Width for Residences) and 107-462 (Side yards) shall not apply. In lieu thereof, the regulations of the applicable underlying #Residence District# shall apply pursuant to Section 23-32 (Minimum Lot Area or Lot Width for Residences) and Section 23-46 (Minimum Required Side Yards) and may be modified, as applicable, by the regulations of this Appendix.~~
- (c) ~~For the permitted reconstruction of #detached buildings# the provisions of paragraph (c) of Section 23-461 (Side yards for single- or two-family residences) shall not apply, provided such open area does not serve as access to required #accessory# off-street parking.~~

64-A353**Special provisions for shallow lots**

[Note: Existing text moved to Section 64-332(d) and modified]

R1 R2 R3 R4 R5 R6

In the districts indicated, if at any point the depth of a #zoning lot# is less than 95 feet, the depth of a required #rear yard# or waterfront yard may be reduced by six inches for each foot by which the mean lot depth is less than 95 feet. In no event shall the required depth of a rear yard be less than 10 feet.

64-A354**Special provisions for corner lots**

[Note: Existing text moved to Section 64-332(e) and modified]

For #corner lots# in R1-2 Districts, if one #front yard# has a depth of 20 feet, then the other #front yard# may have a depth of 15 feet. For #corner lots# in R3 Districts, if one #front yard# has a depth of 15 feet, then the other #front yard# may have a depth of 10 feet.

In all districts, for #corner lots# with less than the minimum #lot area# required pursuant to the applicable district regulations, the following provisions shall apply:

- (a) — one #front yard# shall be provided along the full length of either #front lot line#;
- (b) — the remaining #front lot line# shall be treated as a #side lot line#; and
- (c) — any #side lot line# that is parallel to, or within 45 degrees of being parallel to the #front lot line# selected pursuant to paragraph (a) of this Section, shall be treated as a #rear lot line# and a #rear yard# shall be provided along the full length of such #lot line#.

The #rear# and #side yards# provided pursuant to this Section may be reduced pursuant to Sections 64-A352 (Special provisions for narrow lots) and 64-A353 (Special provisions for shallow lots).

64-A36**Special Height and Setback Regulations**

[Note: Existing text moved to Section 64-333 and modified]

R1 R2 R3 R4 R5 R6

~~In the districts indicated, the height and setback regulations of the applicable district shall not apply. In lieu thereof, all #buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section 23-631 (General provisions), except that the maximum height of a perimeter wall before setback shall be 19 feet, the maximum height of a ridge line shall be 25 feet and all heights shall be measured from the #flood-resistant construction elevation#. In no event shall any #building# exceed two #stories#, except that attic space providing structural headroom of less than eight feet shall not be considered a #story# for the purposes of this Section.~~

64-A40

SPECIAL PARKING PROVISIONS

64-A41

Waiver of Requirements for Certain Zoning Lots

~~R1 R2 R3 R4 R5 R6~~

~~In the districts indicated, the requirements set forth in Section 25-22 (Requirements Where Individual Parking Facilities Are Provided) shall be waived for a #single # or #two-family residence# on an #interior zoning lot# that has a #lot width# along a #street# of less than 25 feet, and where the #flood-resistant construction elevation# is less than six feet above #curb level#.~~

64-A42

For Elevated Buildings

~~The provisions of Section 64-52 (For Elevated Buildings) shall be modified to allow the #accessory# off-street parking spaces, required pursuant to that section, to be located anywhere on the #zoning lot#.~~

64-A50

SPECIAL DESIGN REQUIREMENTS

~~R1 R2 R3 R4 R5 R6~~

~~In the districts indicated, the provisions of Section 64-61 (Design Requirements for Single and Two-family Residences) shall apply, except as expressly modified by this Section. Visual mitigation elements shall be required unless more than 50 percent of the #street wall# is within 18 inches of the #street line#.~~

64-A51**Special Regulations for Corner Lots**

The design requirements set forth in Section 64-61 shall apply separately along each #street frontage# of a #corner lot#, except as modified below:

- (a) ~~For #corner lots#, where the level of the #lowest occupiable floor# is nine feet or more above #curb level#, and more than 50 percent of the #street wall# of a #building# is within six feet of a #street line#, only one visual mitigation element shall be required along such #street# frontage.~~
- (b) ~~For #corner lots#, where trees or shrubs are provided as visual mitigation elements along both #street frontages# pursuant to paragraph (d) of Section 64-61, the required total length of planted areas shall be reduced to a minimum of 45 percent of the aggregate length of #street walls#, provided that the planting bed is continuous for the minimum required length, measured along such #street walls#, and at least six feet of planting bed is provided facing each #street#.~~

64-A52**Special Regulations for Narrow Lots**

For #interior zoning lots# that have a #lot width# less than 25 feet, the design requirements of paragraph (d) of Section 64-61 shall be modified to require the total length of planted areas to be greater than 40 percent of the #lot width# and to be planted to screen at least 40 percent of the length of the #street wall#.

64-A53**Special Regulations for Zoning Lots With Shallow Yards**

For #zoning lots# where more than 50 percent of the #street wall# of a #building# is located within six feet of a #street line#, one or more of the following visual mitigation elements may be provided in lieu of paragraph (d) of Section 64-61:

- (a) Climbing vines

~~Where provided as a visual mitigation element, climbing vines shall be planted along 40 percent of the aggregate width of #street walls# in a planting bed that is at least 18 inches in width, measured perpendicular to the #street wall# and allows a soil depth of at least two feet. A framework for the climbing vines shall be provided for the full length of the planting bed to a height of at least four feet. Such framework may be freestanding or attached to the #building#.~~

(b) ~~Green wall~~

~~Where provided as a visual mitigation element, a green wall or landscaped fence shall extend along 40 percent of the aggregate width of #street walls# to a height of at least four feet. Hanging plants, potted plants or plant material shall be distributed along the entire length of such green wall or landscaped fence. The supporting structure may be freestanding or attached to the #building# and shall be considered a permitted obstruction in any required #yard#, #court# or #open space#.~~

(c) ~~Planter box or raised planting bed~~

~~Where provided as a visual mitigation element, planter boxes or raised planting beds may be used in place of planting beds at grade. The top of such planter boxes shall be located between 18 and 36 inches above adjacent grade. Raised planting beds shall be at least 18 inches in height and shall not exceed 36 inches above adjacent grade. For planter boxes and raised planting beds, the minimum soil width shall be at least one foot, measured perpendicular to the street line, and the minimum soil depth shall be 18 inches. The planted area may be comprised of any combination of groundcover, perennials, annuals, shrubs, trees or other living plant material, and must attain a height of at least six inches. Planter boxes may be freestanding or attached to the #building#.~~

64-A60**NON-CONFORMING AND NON-COMPLYING BUILDINGS****64-A61****Special Regulations for Non-conforming Single or Two-family Residences in Manufacturing Districts**

[Note: Existing text to be deleted and substituted by Section 64-61]

~~The provisions of Section 64-712 (Single and two-family buildings), shall be modified to allow the vertical elevation or reconstruction of a #non-conforming single# or #two-family residence# in a #Manufacturing District#. Reconstructions of such #residences# shall utilize the applicable #bulk# regulations of an R4-1 District, as modified by Section 64-A30 of this Appendix.~~

64-A70**SPECIAL APPROVALS**

~~The special permit and variance provisions of this Resolution shall apply to properties in the Neighborhood Recovery Areas.~~

64-A71**Special Permit for Establishing Non-conformance**

In all districts, for a #zoning lot# that contained two or more #dwelling units# on October 28, 2012, and does not have a certificate of occupancy, or other lawful documentation, indicating that more than one #dwelling unit# existed on the #zoning lot# on such date, the Community Board of Standards and Appeals may permit the vertical elevation or reconstruction of up to two #dwelling units# on such #zoning lot# in accordance with this Appendix, and all applicable requirements of the New York City Construction Codes, provided that the Community Board of Standards and Appeals determines that more than one #dwelling unit# existed on the site on October 28, 2012, based on evidence submitted to the Community Board of Standards and Appeals, which may include, but shall not be limited to, Department of Finance tax records, utility bills or an affidavit from a licensed architect or engineer that documents an on-site inspection of the #zoning lot# performed under the auspices of a governmental agency.

Such #buildings# which are vertically elevated shall comply with the #bulk# provisions of Section 64-A20, and such #buildings# that are reconstructed shall comply with the #bulk# provisions of Section 64-A30.

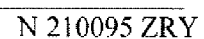
Upon completion and sign-off of work completed under the provisions of this Appendix, such #building# shall be considered #non-conforming#.

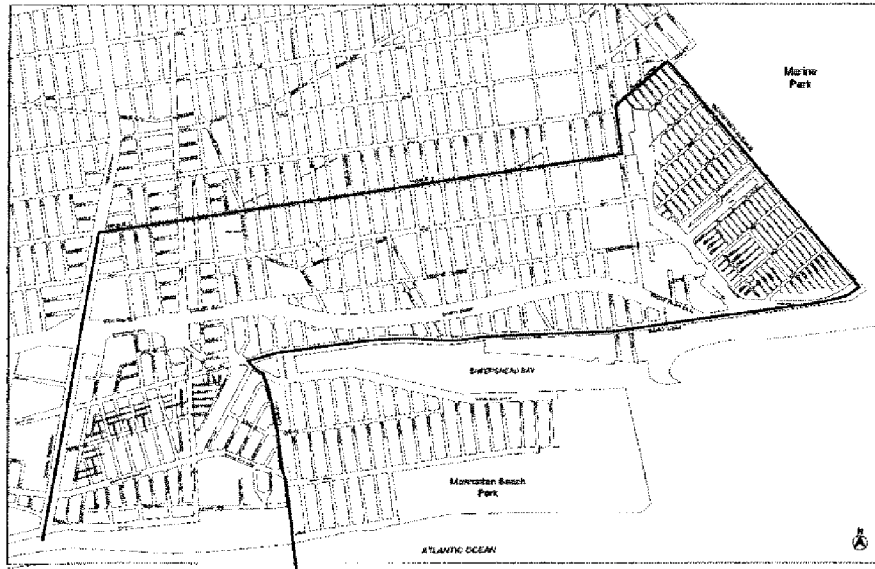
64-A80**NEIGHBORHOOD RECOVERY AREA MAPS**

Neighborhoods that experienced a high concentration of damage to #single# and #two-family residences# from #Hurricane Sandy# are defined as Neighborhood Recovery Areas.

64-A81**Neighborhood Recovery Areas in Brooklyn**

(a) — within Community District 13





Neighborhood Recovery Area Blocks within Community Districts 13 and 15:

~~7220, 7222, 7223, 7224, 7239, 7242, 7243, 7244, 7245, 7260, 7261, 7262, 7263, 7264,~~

~~7430, 7431, 7433, 7434, 7435, 7436, 7437, 7438, 7439, 7440, 7441, 7442, 7443, 7444, 7445, 7446,
7447, 7449, 7452, 7454, 7455, 7456, 7457, 7458, 7459, 7460, 7462, 7463, 7464, 7465, 7466, 7467,
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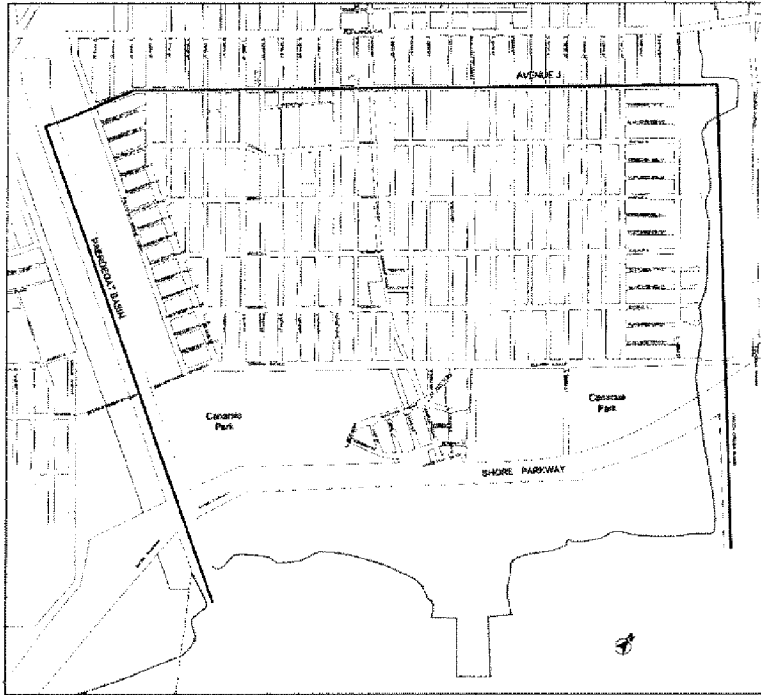
~~8590, 8661, 8662, 8663, 8664, 8665, 8666, 8667, 8668, 8669, 8670, 8671, 8672, 8673, 8674, 8675,
8676, 8677, 8678, 8679, 8680, 8682, 8683, 8684, 8685, 8686, 8687, 8688, 8689, 8690, 8691, 8692,
8693,~~

~~8700, 8701, 8702, 8703, 8704, 8705, 8706, 8707, 8709, 8711, 8712, 8714, 8715, 8716, 8717, 8718,
8720, 8721, 8722, 8723, 8725, 8761, 8762, 8763, 8764, 8765, 8766, 8767, 8768, 8769, 8770, 8771,
8772, 8773, 8774, 8775, 8776, 8777, 8778, 8779, 8780, 8781, 8782, 8783, 8784, 8785, 8786, 8787,
8788, 8789, 8790, 8791, 8792, 8793, 8794, 8795, 8796, 8797, 8798, 8799,~~

~~8800, 8801, 8802, 8803, 8804, 8805, 8806, 8807, 8808, 8809, 8810, 8811, 8812, 8813, 8815, 8830,
8833, 8834, 8835, 8837, 8839, 8840, 8841, 8842, 8843, 8844, 8845, 8856, 8866, 8876, 8883, 8885,
8891, 8896,~~

~~8900, 8907, 8914, 8923, 8925, 8932, 8939, 8946, 8955.~~

(c) — within Community District 18



Neighborhood Recovery Area Blocks within Community District 18:

~~8012, 8029, 8030, 8031, 8032, 8033, 8034, 8035, 8036, 8037, 8038, 8039, 8040, 8041, 8043, 8044, 8046, 8047, 8048, 8049, 8050, 8051, 8052, 8053, 8054, 8055, 8056, 8057, 8058, 8059, 8060, 8061, 8062, 8063, 8064, 8065, 8066, 8067, 8068, 8069, 8070, 8071, 8072, 8073, 8074, 8075, 8076, 8077, 8078, 8079, 8080, 8081, 8082, 8083, 8084, 8085, 8086, 8088, 8089, 8090,~~

~~8217, 8218, 8219, 8220, 8221, 8222, 8224, 8225, 8226, 8227, 8228, 8229, 8230, 8231, 8232, 8233, 8234, 8235, 8236, 8237, 8238, 8239, 8240, 8241, 8242, 8243, 8244, 8245, 8246, 8247, 8248, 8249, 8250, 8251, 8252, 8253, 8255, 8256, 8257, 8258, 8259, 8260, 8261, 8262, 8263, 8264, 8265, 8266, 8267, 8268, 8269, 8270, 8271, 8272, 8273, 8274, 8275, 8277, 8278, 8279, 8280, 8281, 8282, 8283, 8284, 8285, 8286, 8287, 8288, 8289, 8290, 8291, 8293, 8294, 8295, 8296, 8297, 8298, 8299,~~

~~8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8309, 8310, 8312, 8316, 8317, 8318, 8321, 8322, 8323, 8324, 8326, 8327, 8328, 8329, 8330, 8331, 8334.~~

64-A82

Neighborhood Recovery Areas in Queens

(a) — within Community District 10

N 210095 ZRY

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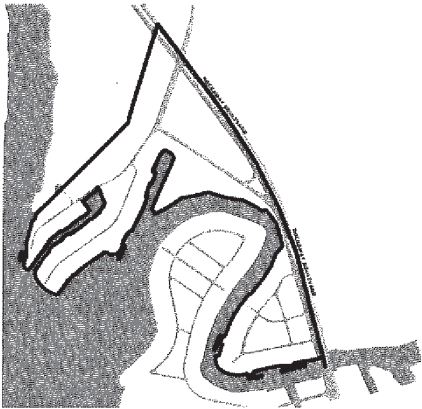
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 11469, 11472,

Neighborhood Recovery Area Blocks within Community District 10:



14200, 14201, 14203, 14204, 14205, 14206, 14207, 14209, 14210, 14211, 14212, 14225, 14228, 14231, 14234, 14238, 14239, 14240, 14241, 14242, 14243, 14244, 14245, 14246, 14247, 14248, 14249, 14250, 14251, 14252, 14253, 14254, 14255, 14260.

(b) — within Community District 13



Neighborhood Recovery Area Blocks within Community District 13:

13895, 13910, 13911, 13912, 13913, 13914, 13921, 14260.

(c) — within Community District 14



Neighborhood Recovery Area Blocks within Community District 14:

15100,

~~15300, 15301, 15302, 15303, 15304, 15305, 15306, 15308, 15311, 15312, 15313, 15314, 15315, 15316, 15317, 15318, 15319, 15320, 15321, 15322, 15323, 15324, 15325, 15326, 15327, 15350, 15375, 15376,~~

~~15400, 15450, 15451, 15452, 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15464, 15465, 15466, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15482, 15483, 15484, 15485, 15486,~~

~~15500, 15501, 15502, 15503, 15504, 15505, 15506, 15507, 15508, 15509, 15510, 15511, 15512, 15513, 15514, 15515, 15516, 15525, 15526, 15527, 15528, 15529, 15530, 15531, 15532, 15533, 15534, 15535, 15536, 15537, 15541, 15542, 15543, 15544, 15545, 15546, 15547, 15549, 15551, 15552, 15553, 15554, 15555, 15556, 15557, 15559, 15560, 15561, 15562, 15563, 15564, 15566, 15567, 15568, 15569, 15570, 15571, 15572, 15573, 15574, 15575, 15576, 15577, 15578, 15579, 15580, 15581, 15582, 15583, 15584, 15585, 15586, 15587, 15588, 15589, 15590, 15591, 15592, 15593, 15594, 15595, 15596, 15597, 15598, 15599,~~

~~15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15608, 15609, 15610, 15612, 15613, 15614, 15615, 15616, 15617, 15618, 15619, 15620, 15621, 15622, 15624, 15625, 15626, 15627, 15628, 15629, 15631, 15632, 15633, 15634, 15636, 15637, 15638, 15649, 15650, 15651, 15652, 15653, 15654, 15655, 15656, 15657, 15658, 15659, 15660, 15661, 15662, 15663, 15664, 15665, 15669, 15670, 15675, 15680, 15681, 15682, 15683, 15684, 15685, 15686, 15687, 15688, 15689, 15690, 15691, 15693, 15694, 15695, 15696, 15697, 15698, 15699,~~

~~15700, 15701, 15702, 15703, 15704, 15705, 15706, 15707, 15709, 15710, 15711, 15712, 15713, 15714, 15716, 15717, 15718, 15719, 15720, 15721, 15722, 15723, 15724, 15725, 15726, 15728, 15731, 15732, 15733, 15734, 15735, 15736, 15737, 15738, 15739, 15740, 15741, 15742, 15744, 15745, 15747, 15749, 15750, 15751, 15752, 15753, 15754, 15756, 15758, 15759, 15760, 15761, 15762, 15763, 15764, 15765, 15766, 15767, 15768, 15769, 15770, 15771, 15772, 15773, 15774, 15775, 15776, 15780, 15781, 15782, 15783, 15784, 15785, 15786, 15787, 15788, 15789, 15790, 15791, 15793, 15794, 15795, 15796, 15797, 15798, 15799,~~

~~15800, 15801, 15802, 15803, 15804, 15805, 15806, 15807, 15808, 15810, 15815, 15817, 15818, 15819, 15820, 15821, 15822, 15823, 15824, 15825, 15826, 15827, 15828, 15829, 15830, 15831, 15833, 15834, 15835, 15836, 15837, 15838, 15839, 15840, 15841, 15842, 15843, 15845, 15847, 15848, 15849, 15850, 15851, 15852, 15853, 15855, 15857, 15859, 15860, 15861, 15862, 15863, 15864, 15865, 15866, 15867, 15868, 15869, 15870, 15871, 15873, 15874, 15875, 15876, 15877, 15878, 15879, 15880, 15881, 15882, 15883, 15884, 15885, 15886, 15887, 15888, 15889, 15890, 15891, 15892, 15894, 15895, 15897, 15898,~~

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16100, 16103, 16104, 16105, 16106, 16109, 16110, 16111, 16112, 16113, 16114, 16115, 16116, 16117, 16118, 16119, 16120, 16121, 16122, 16123, 16124, 16125, 16126, 16127, 16128, 16129, 16130, 16131, 16133, 16134, 16135, 16136, 16137, 16138, 16139, 16150, 16151, 16152, 16153, 16154, 16155, 16156, 16157, 16158, 16159, 16160, 16161, 16162, 16164, 16166, 16167, 16168, 16169, 16170, 16171, 16172, 16173, 16174, 16175, 16176, 16177, 16178, 16179, 16180, 16181, 16183, 16184, 16185, 16186, 16187, 16188, 16189, 16190, 16191, 16192, 16193, 16194, 16195, 16196, 16197, 16198, 16199,

16200, 16201, 16202, 16203, 16204, 16205, 16206, 16207, 16208, 16209, 16210, 16211, 16212, 16213, 16214, 16215, 16216, 16217, 16218, 16219, 16220, 16221, 16222, 16223, 16224, 16225, 16226, 16227, 16228, 16229, 16230, 16231, 16232, 16233, 16234, 16235, 16236, 16237, 16238, 16239, 16240, 16241, 16242, 16243, 16244, 16245, 16246, 16247, 16248, 16249, 16250, 16251, 16252, 16253, 16254, 16255, 16256, 16257, 16258, 16259, 16260, 16261, 16262, 16263, 16264, 16265, 16266, 16267, 16268, 16269, 16270, 16271, 16272, 16273, 16274, 16275, 16276, 16277, 16278, 16279, 16280, 16281, 16282, 16283, 16284, 16285, 16286, 16287, 16288, 16290, 16292, 16293, 16294, 16295, 16296, 16297, 16298, 16299,

16300, 16301, 16302, 16303, 16304, 16305, 16306, 16307, 16308, 16309, 16310, 16311, 16312, 16313, 16314, 16315, 16316, 16317, 16318, 16319, 16320, 16321, 16322, 16323, 16324, 16325, 16340.

64-A83

Neighborhood Recovery Areas in Staten Island

In Staten Island, any areas designated by New York State as part of the NYS Enhanced Buyout Area Program located within #Special Coastal Risk District# 3, as established in the Appendix to Article XIII, Chapter 7, are excluded from a Neighborhood Recovery Area.

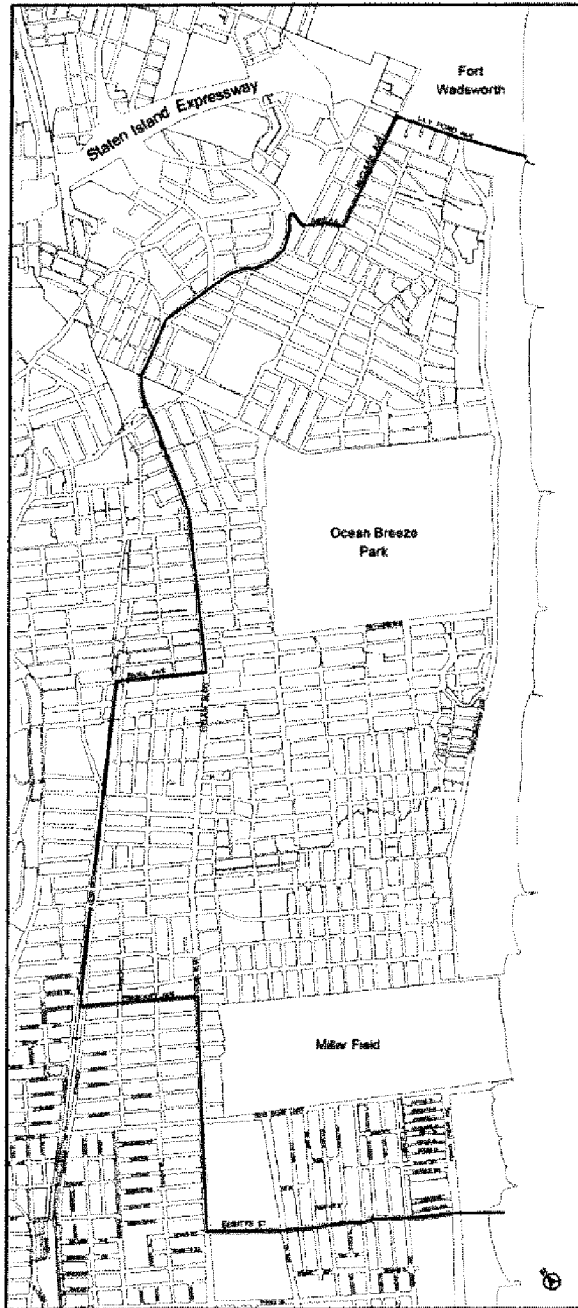
(a) — within Community District 2

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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INDEX NO. 160565/2020

RECEIVED NYSCEF: 08/19/2021



Neighborhood Recovery Area Blocks within Community District 2:

3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123,
3124, 3125, 3128,

~~3220, 3221, 3222, 3223, 3224, 3235, 3236, 3237, 3238, 3239, 3243, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3263, 3264, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3281, 3282, 3284,~~

~~3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3358, 3359, 3360, 3361, 3362, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3398,~~

~~3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3420, 3422, 3423, 3427, 3472, 3475, 3478, 3481, 3491,~~

~~3500, 3525, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591,~~

~~3603, 3604, 3605, 3608, 3609, 3610, 3613, 3614, 3615, 3650, 3651, 3652, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, 3672, 3673, 3674, 3679, 3680, 3681, 3682, 3683, 3684, 3685, 3686, 3687, 3688, 3689, 3690, 3691, 3692, 3696, 3697, 3698, 3699,~~

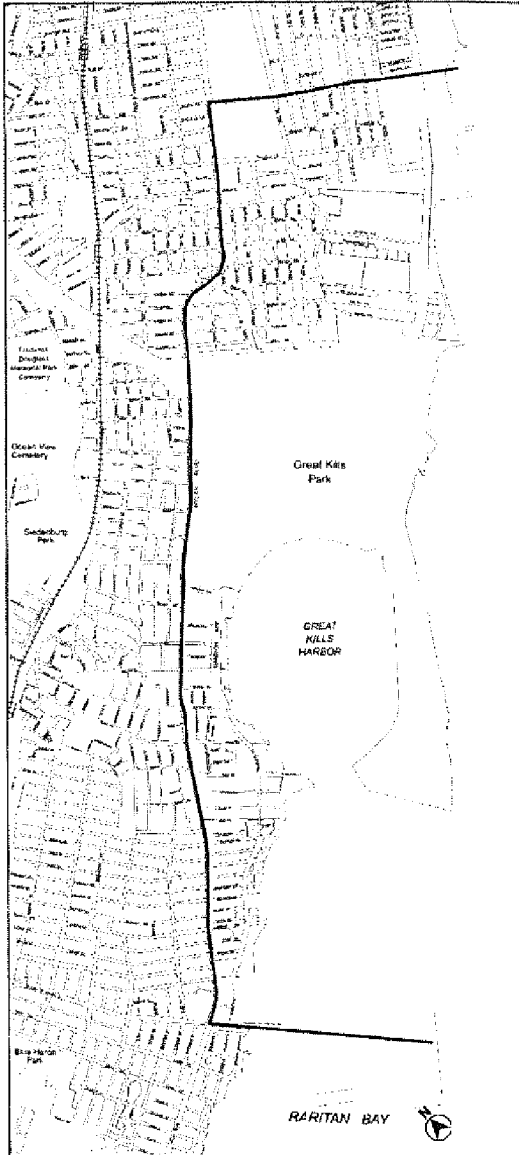
~~3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3721, 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748, 3750, 3751, 3752, 3753, 3754, 3755, 3756, 3757, 3758, 3759, 3760, 3761, 3762, 3763, 3764, 3765, 3766, 3767, 3768, 3769, 3790, 3791, 3792, 3793, 3794, 3795, 3796, 3797, 3798, 3799,~~

~~3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 3836, 3837, 3838, 3839, 3840, 3842, 3843, 3844, 3845, 3846, 3847, 3848, 3849, 3850, 3851, 3856, 3859, 3860, 3861, 3864, 3868, 3871, 3873, 3875, 3879, 3881, 3882, 3883, 3884, 3885, 3886, 3887, 3888, 3889, 3891, 3893,~~

~~3930,~~

~~4031, 4033, 4035, 4037, 4038, 4039, 4040, 4041, 4043, 4045, 4046, 4047, 4048, 4049, 4050, 4064, 4065, 4066, 4067, 4068, 4069, 4076, 4077, 4078, 4079, 4080, 4081, 4082, 4083, 4084, 4085, 4086, 4087, 4088, 4089, 4091, 4092, 4093, 4105.~~

(b) — within Community District 3



~~Neighborhood Recovery Area Blocks within Community District 3:~~

~~3983,~~

~~4000, 4001, 4002, 4007, 4015, 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026,
4027, 4028, 4029, 4030, 4049, 4051, 4052, 4053, 4054, 4055, 4056, 4057, 4058, 4063, 4070, 4071,
4073, 4074,~~

~~4105, 4108, 4130, 4131, 4160,~~

~~4668, 4669, 4672, 4673, 4674, 4675, 4676, 4678, 4679, 4680, 4681, 4682, 4683, 4684, 4685, 4686, 4687, 4688, 4689, 4690, 4691, 4692, 4693, 4694, 4695,~~

~~4717, 4718, 4719, 4720, 4721, 4722, 4723, 4724, 4725, 4726, 4728, 4736, 4737, 4738, 4739, 4740, 4746, 4754, 4758, 4759, 4760, 4761, 4762, 4767, 4768, 4772, 4773, 4774, 4775, 4776, 4781, 4782, 4785, 4787, 4788, 4791, 4792, 4793,~~

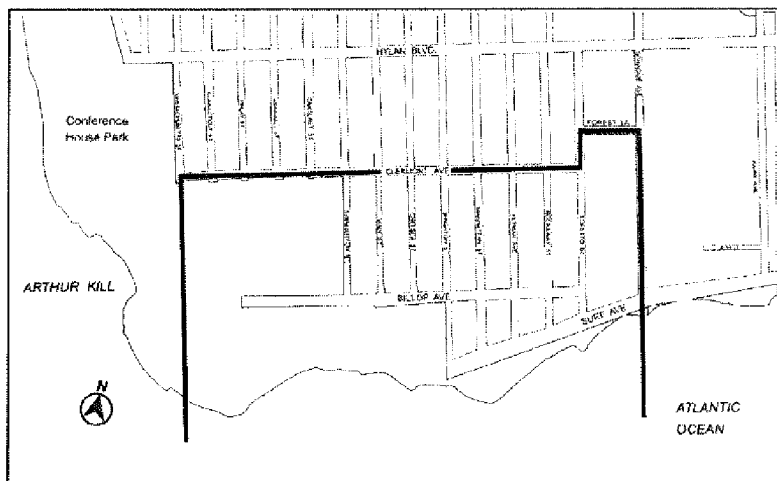
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~~5067, 5190, 5195, 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5212, 5298, 5299,~~

~~5302, 5303, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5316, 5317, 5318, 5319, 5320, 5321, 5322,~~

~~5409, 5410, 5411, 5412, 5415, 5418.~~

(e) — within Community District 3



~~Neighborhood Recovery Area Blocks within Community District 3:~~

~~7722,~~

~~7857, 7858, 7859, 7860, 7861, 7862, 7863, 7880, 7881, 7883, 7884, 7885,~~

~~7905, 7906.~~

* * *

Chapter 5**Special Regulations Applying in Designated Recovery Areas****65-00****GENERAL PROVISIONS**

The provisions of this Resolution shall apply as modified by this Chapter and by the special regulations set forth herein. The provisions of this Chapter establish optional special regulations which are designed to facilitate, on a temporary basis, the recovery of areas impacted by a severe disaster and in so doing promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to expedite the recovery of neighborhoods that have experienced physical or non-physical impacts from a severe disaster;
- (b) to enable the reconstruction and alteration of buildings damaged by a severe disaster, by removing disincentives; and
- (c) to promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings, and thereby protect the City's tax revenues.

65-01**Applicability of Article VI, Chapter 5**

The provisions of this Chapter shall apply based on the type of impacts caused by each #severe disaster#, and such applicability shall be determined at the time such provisions are added to the Chapter's applicability. #Designated recovery areas# shall be determined based on the extent of the impacts caused by the #severe disaster# and recovery plans, as applicable. For each of the #designated recovery areas#, applicable recovery provisions will be set forth in this Chapter based on the type of impacts caused by the #severe disaster#. The #designated recovery areas# shall be listed in Appendix A of this Chapter, and the applicable time duration shall be set forth in the following table.

<u>#Designated Recovery Area# Number and #severe disaster#</u>	<u>Effective Date</u>	<u>Applicable Sections</u>								<u>Time Duration (after effective date)*</u>
		<u>65-11</u>	<u>65-12</u>	<u>65-13</u>	<u>65-21</u>	<u>65-31</u>	<u>65-41</u>	<u>65-42</u>	<u>64-51</u>	
<u>1: COVID-19</u>	<u>[date of</u>		<u>x</u>	<u>x</u>						<u>2 years</u>

	adoption]									
--	-----------	--	--	--	--	--	--	--	--	--

* Such time duration limitation may be modified by the specific provision located in this Chapter

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

65-10

SPECIAL TIME-BASED PROVISIONS

The modifications to time limits associated with this Resolution and set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-11

Vesting Provisions

In all districts, the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT), inclusive, and any other provision that requires a building permit to be submitted, or a particular amount of construction to be completed within a certain timeframe, shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the time period established by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with submitting a building permit, or completing a particular amount of construction shall be the amount existing prior to the #severe disaster#.

65-12

Authorizations or Special Permits Granted by the City Planning Commission

In all districts, for special permits or authorizations granted by the City Planning Commission where substantial construction has not taken place and such approval would lapse after a total of 10 years within the applicable time duration set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit) shall be modified to allow the renewal of such authorization or special permit without public hearing, for one additional three-year term, provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. An application for a renewal of authorization or special permit shall be filed with the Commission before it lapses.

65-13**Discontinuance Provisions**

In all districts, where a #non-conforming use# has been discontinued, the time limits associated with restoring active operations of such #use# to retain its #non-conforming# status shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the time period established by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with restoring active operations shall be the amount existing prior to the #severe disaster#.

65-20**SPECIAL DAMAGE AND DESTRUCTION PROVISIONS**

The following modifications to damage and destruction provisions associated with this Resolution may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-21**Reconstruction Provisions**

In all districts, where the provisions of this Section are utilized, the provisions of Article V, Chapters 2 (Non-Conforming Uses) and 4 (Non-Complying Buildings) shall be modified to allow the reconstruction of #buildings or other structures# containing #non-conforming uses# and #non-complying buildings or other structures#, that were damaged due to the effects of the #severe disaster#, as follows:

[Note: Text moved from Sections 64-711 and 64-721 and modified]

- (a) Section 52-53 (Buildings or Other Structures in All Districts), inclusive, shall be modified to allow the reconstruction of a #non-conforming use# where a #building or other structure# containing such #use# is damaged to the extent of 50 percent or more due to the effects of a #severe disaster#. In addition, for the purpose of this paragraph, the provisions of Section 52-60 (DISCONTINUANCE) shall not apply to such damaged #building or other structure# with #non-conforming uses#; and
- (b) Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying building or other structure# where such #building or other structure# is damaged to the extent of 75 percent or more due to the effects of a #severe disaster#.

For the purpose of applying waterfront and parking regulations, #buildings# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

65-30

SPECIAL USE REGULATIONS

The following modifications to #use# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-31

Temporary Uses

In all districts, where the provisions of this Section are utilized, the #use# provisions of this Resolution, including any supplemental use regulations and provisions regulating size limitations, change of #non-conforming uses#, #enlargement# or #extension# of #non-conforming uses#, shall be modified to allow a temporary #non-conforming use# to be created, and a #non-conforming use# to be #enlarged# or #extended#, on a temporary basis, to aid in the immediate restoration and recovery of an area adversely impacted by a #severe disaster#.

The creation of a new #non-conforming use# shall be subject to the following limitations:

<u>#Severe Disaster#</u>	<u>District</u>	<u>Use Group of permitted new #non-conformance#</u>	<u>Time Duration (if different from Section 65-01)</u>

Subsequent to the expiration of the applicable time duration as set forth in this Section, any #non-conforming use# that was created, or any portion of a #non-conforming use# that was #enlarged# or #extended# on a #zoning lot#, shall be terminated and, thereafter, such #zoning lot# shall be reinstituted to its pre-existing degree of #non-conformity#, or used only for a conforming #use#.

65-40

SPECIAL BULK REGULATIONS

The following modifications to #bulk# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-41

Reconstruction and Alteration of Disaster-Damaged Buildings

In all districts, where the provisions of this Section are utilized, the #bulk# provisions of this Resolution, and the provisions regulating the reconstruction, #enlargement# and alteration of #buildings# with #non-conforming uses# and #non-complying buildings or other structures# shall be modified to allow the reconstruction, #enlargement#, relocation and alteration of #buildings or other structures# that were damaged due to the effects of the #severe disaster#, including #non-conformances# to be continued, and #non-compliances# to be created, continued, or increased, provided the #building or other structure# is subject to the following provisions, as applicable:

(a) Floor area

The maximum amount of #floor area# shall not exceed the amount of pre-existing #floor area# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, whichever is greater. Furthermore, no #extension# or change of #use# may create a new #non-conformance# or a new #non-compliance#, or increase the degree of existing #non-conformance# or #non-compliance# with #floor area#.

(b) Building footprint

The resulting #lot coverage# shall be less than or equal to that of the pre-existing #building or other structure# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, as applicable, whichever is greater. Furthermore, a #building or other structure# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with respect to open areas required through regulations for #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, and minimum distance between #buildings#, in order to relocate or alter the footprint of the #building or other structure#, provided that:

- (1) a new or increased #non-compliance# into an open area shall not exceed a horizontal distance of five feet, as measured perpendicular to the outermost edge of the #non-complying building or other structure#, as it existed prior to the reconstruction, #enlargement#, relocation or alteration work; and
- (2) any new or increased #non-compliance# shall not result in an open area of:
 - (i) less than five feet between the wall of a #building or other structure# and a #rear lot line#:

- (ii) less than three feet between the wall of a #building or other structure# and a #front lot line#, in districts with #front yard# requirements; and
- (iii) less than three feet between the wall of a #building or other structure# and a #side lot line# for #detached buildings# in districts that do not allow #zero lot line buildings#.

Nothing in this Section shall affect the permitted obstruction allowances set forth by the district regulations.

(c) Building height

The resulting height and setback may continue an existing #non-compliance#, provided that the height of such reconstructed, #enlarged#, relocated or altered #building or other structure# as measured from #curb level#, #base plane# or other applicable underlying datum, does not exceed the pre-existing height of such #building#, as measured from the top of the lowest floor that contains #floor area#, to the highest point of such pre-existing #building#. All permitted obstruction allowances shall be measured with respect to the modified height and setback regulations set forth in this Section.

For the purpose of applying waterfront and parking regulations, #buildings or other structures# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

65-42

Properties with Disaster-Damaged Buildings

[Note: Text moved from Section 64-A03 and modified]

In all districts, the definition of #zoning lot# set forth in Section 12-10 (DEFINITIONS) may be modified to allow a tax lot containing one or more #buildings# that were damaged by the #severe disaster#, or where a #building# or #buildings# that were damaged by the #severe disaster# occupied more than one tax lot on the date of the #severe disaster#, to be provisionally considered a #zoning lot# for the sole purpose of demonstrating compliance with the #bulk# requirements of this Resolution, including the provisions of Section 65-31 (Reconstruction and Alteration of Disaster-Damaged Buildings), as applicable.

65-50

SPECIAL DOCUMENTATION PROVISIONS

The following modifications to documentation procedures may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-51**Documentation Provisions**

For #buildings or other structures# that were damaged due to the effects of the #severe disaster# and do not have a certificate of occupancy, construction documents, or other lawful documentation filed with the Department of Buildings indicating the existence of such #building or other structure# prior to the #severe disaster# and the presence and extent of #non-conforming uses# or #non-compliances# as to #bulk#, as applicable, in order to receive a building permit to reconstruct, #enlarge#, relocate or alter #buildings or other structures# pursuant to the provisions of this Resolution, inclusive of this Chapter, the Commissioner of Buildings may determine alternate and appropriate documentation necessary to substantiate proof of such #non-conformances# or #non-compliances#, as applicable.

Appendix A**Designated Recovery Areas**

The boundaries of each #designated recovery area# are described in this Appendix, and are subject to the temporary provisions of this Chapter, as specified in Section 65-01 (Applicability of Article VI, Chapter 5).

Designated Recovery Area 1: COVID-19 [date of adoption]

The #designated recovery area 1# shall include all #zoning lots# located within the City of New York.

* * *

**ARTICLE VII
ADMINISTRATION**

* * *

**Chapter 3
Special Permits by the Community Board of Standards and Appeals**

* * *

73-00**SPECIAL PERMIT USES AND MODIFICATIONS**

* * *

73-20**THEATERS-ADDITIONAL SPECIAL PERMIT USES**

* * *

73-201**In-Theaters in C1 Districts****73-202****In-Theaters in M1-5A or M1-5B Districts**

* * *

73-24**Eating or Drinking Places**

* * *

73-242**In C3 Districts**

In C3 Districts, the Community Board of Standards and Appeals may permit eating or drinking establishments (including those which provide outdoor table service or musical entertainment but not dancing, with a capacity of 200 persons or less, and including those which provide music for which there is no cover charge and no specified showtime) for a term not to exceed ~~five~~ 10 years, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the nearby residential neighborhood; and
- (b) that such #use# will generate a minimum of vehicular traffic to and through local #streets# in residential areas.

The Community Board may modify the regulations relating to #signs# in C3 Districts to permit a maximum total #surface area# of 50 square feet of non-#illuminated# or #illuminated# non-

#flashing signs#, provided that any #illuminated sign# shall not be less than 150 feet from the boundary of any #Residence District#.

For eating and drinking establishments for which special permits have previously been granted, the term may exceed 10 years at the discretion of the Community Board.

The Community Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights or adequate screening.

* * *

73-60

MODIFICATIONS OF BULK REGULATIONS

* * *

73-62

Modification of Bulk Regulations for Buildings Containing Residences

* * *

73-622

Enlargements of single- and two-family detached and semi-detached residences

The Community Board of Standards and Appeals may permit an #enlargement# of an existing #single-# or #two-family detached# or #semi-detached residence#, except #cottage envelope buildings# as such term is defined in Section 64-11 (Definitions), utilizing the provisions of Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings), within the following areas:

* * *

73-70

LAPSE OF PERMIT

SPECIAL PERMITS IN THE FLOOD ZONE

[Note: Existing text moved to 73-80]

~~A special permit for a specified #use# or for a modification of the #use# or #bulk# regulations granted under the provisions of this Resolution shall automatically lapse if substantial construction,~~

~~in accordance with the plans for which such permit was granted, has not been completed within four years from the date of granting such permit by the Community Board of Standards and Appeals or, if judicial proceedings have been instituted to review the Community Board's decision, the four-year lapse period shall commence upon the date of entry of the final order in such proceedings, including appeals.~~

The following Sections shall apply to #zoning lots# located wholly or partially within the #flood zone#.

73-71

Special Permit for Modification of Certain Zoning Regulations

[Note: Text moved from Section 64-92 and modified]

In #flood zones#, for all districts, the Community Board of Standards and Appeals may permit modification of the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), and any other applicable ground floor #use#, supplementary #use#, #bulk#, and parking regulations of the Zoning Resolution, provided that the conditions of paragraph (a) of this Section, and the findings of paragraph (b) are met.

For the purposes of this Section, defined terms include those in Section 12-10 and those in Section 64-11.

(a) Conditions

All applications shall be subject to the following conditions:

- (1) the #building# complies with #flood-resistant construction standards#;
- (2) any modification of height and setback regulations related to increasing the permitted overall height shall not exceed the maximum height permitted by the applicable underlying district regulations by 10 percent, or 10 feet, whichever is greater, as measured from the #reference plane#; and
- (3) any increase in the amount of permitted #floor area# shall be limited to no more than 20 percent of the #floor area# permitted on the #zoning lot#, and in no event more than 10,000 square feet of #floor area#. However, such restriction shall not apply to #non-complying buildings# with #non-complying floor area#, provided that the total #floor area# of the altered, #enlarged#, relocated, or reconstructed #building#, does not exceed the amount of existing #floor area# of such pre-existing #building#.

(b) Findings

In order to grant the special permit, the Community Board shall find that:

- (1) there would be a practical difficulty in complying with #flood-resistant construction standards# without such modifications, and that such modifications are the minimum necessary to allow for an appropriate #building# in compliance with #flood-resistant construction standards#;
- (2) any modification related to an increase in the amount of permitted #floor area# is the minimum necessary to address practical difficulties in retaining pre-existing habitable space;
- (3) any modification related to parking regulations to permit a reduction in the number of #accessory# off-street parking spaces and the change in location of #accessory# off-street parking spaces, will:
 - (i) facilitate an improved site plan;
 - (ii) not cause traffic congestion; and
 - (iii) not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#; and
- (4) the proposed modifications will not alter the essential character of the neighborhood in which the #building# is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with #flood-resistant construction standards#.

The Community Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

73-72

Special Permit for Ground Floor Uses in Residence Districts

In all #Residence Districts#, for #buildings# containing #residential uses#, the Community Board of Standards and Appeals may permit offices, as listed in Use Group 6B, provided that the conditions of paragraph (a) of this Section, and the findings of paragraph (b) of this Section are met:

- (a) Conditions

All applications shall be subject to the following conditions:

- (1) the #building# complies with #flood-resistant construction standards#;
- (2) the office #use# is located on the lowest #story# above grade within the #building#;
- (3) access to such office #use# is from a separate entrance than that serving the #residential# portion of the #building#;
- (4) the #floor area# associated with such office #use# shall be considered as #community facility use# for the purposes of determining compliance with the applicable district #floor area ratio# regulations, and amount of #floor area# attributed to such office #use# shall not exceed 10,000 square feet;
- (5) the office #use# complies with the #accessory# off-street parking regulations for ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), in accordance with Article II, Chapter 5 (Accessory Off-Street Parking and Loading Regulations); and
- (6) such office #use# complies with #accessory signs# regulations for #buildings# containing #residences#, as set forth in Section 22-32 (Permitted Non-Illuminated Accessory Signs).

(b) Findings

In order to grant the special permit, the Community Board shall find that:

- (a) such office #use# will generate a minimum of vehicular traffic to and through local #streets# and will not create traffic congestion;
- (b) such office #use# will not produce objectionable effects; and
- (c) such office #use# will not alter the essential character of the neighborhood in which the #building# is located.

The Community Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

73-80

LAPSE OF PERMIT

[Note: Text moved from Section 73-70 and not edited]

A special permit for a specified #use# or for a modification of the #use# or #bulk# regulations granted under the provisions of this Resolution shall automatically lapse if substantial construction, in accordance with the plans for which such permit was granted, has not been completed within four years from the date of granting such permit by the Community Board of Standards and Appeals or, if judicial proceedings have been instituted to review the Community Board's decision, the four-year lapse period shall commence upon the date of entry of the final order in such proceedings, including appeals.

* * *

Chapter 4

Special Permits by the City Planning Commission

74-00

POWERS OF THE CITY PLANNING COMMISSION

* * *

74-90

USE AND BULK MODIFICATIONS FOR CERTAIN COMMUNITY FACILITY USES

* * *

74-901

Long-term care facilities

The City Planning Commission may permit #long-term care facilities# in locations where they are not permitted as-of-right, in accordance with paragraph (a) or (b) of this Section.

* * *

(b) In certain Community Districts

The Commission may permit the #development# of nursing homes, as defined in the New York State Public Health Law, or #enlargements# of existing nursing homes that increase the existing #floor area# by 15,000 square feet or more, in Community District 11 in the Borough of the Bronx, Community District 8 in the Borough of Manhattan, ~~Community District 14 in the Borough of Queens~~, and Community District 1 in the Borough of Staten Island, provided that the Commission finds that the #development# of additional nursing home beds will not unduly burden such community district. However, such special permit

shall not apply to #developments# or #enlargements# that are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes).

Where such #use# is permitted by the Commission, it may be eligible for #bulk# modification, pursuant to the provisions of Section 74-902 (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts), or Section 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts), as applicable.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

74-96

Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas

* * *

74-962

Floor area increase and public plaza modifications in Industrial Business Incentive Areas

In Industrial Business Incentive Areas, the City Planning Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.

* * *

(a) Application requirements

All applications for a special permit pursuant to this Section shall include the following:

- (1) site plans and elevations which shall establish distribution of #floor area#, height and #setback#, sidewalk widths, primary business entrances, including parking and loading, #yards# and #public plazas#, signage and lighting;
- (2) floor plans of all floors which shall establish the location, access plan and dimensions of freight elevators and loading areas and the location of #floor area# dedicated to #required industrial uses# and #incentive uses#;
- (3) drawings that show, within a 600 foot radius, the location and type of #uses#, the location, dimensions and elements of off-site open areas including #streets#,

waterfront and #upland# parcels, elements of a Waterfront Access Plan, as applicable, and the location of #street# trees and #street# furniture and any other urban design elements. The plans shall demonstrate that any #public plaza# provided meets the requirements of paragraph (b)(5) of this Section; and

- (4) for #zoning lots# in #flood zones#, flood protection plans, ~~which shall show #base flood elevations# and advisory #base flood elevations#, as applicable,~~ location of mechanical equipment, areas for storage of any hazardous materials and proposed structural or design elements intended to mitigate the impacts of flood and storm events.

* * *

(b) Conditions

* * *

(4) Ground floor design

- (i) ~~—The ground floor level #street walls# and ground floor level walls fronting on a #public plaza# of a #development# or horizontal #enlargement# shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements), with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or #public plaza# and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. The ground floor transparency requirements of this paragraph (b)(4)(i) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, or to #accessory# loading berths or garage entrances; or provided that any portion of the #ground floor level street wall# without transparency shall be subject to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds), and any #street wall# exceeding the particular thresholds set forth in such Section shall provide visual mitigation elements in accordance with the provisions of paragraphs (a) or (b)(1) of Section 37-362 (Mitigation elements).~~
- (ii) ~~—For #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph (b)(4)(i) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and~~

- (iii) ~~For any #street wall# greater than 40 feet in width that does not require glazing, as specified in paragraphs (b)(4)(i) or (b)(4)(ii) of this Section, as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.~~

* * *

ARTICLE VIII SPECIAL PURPOSE DISTRICTS

* * *

Chapter 4 Special Battery Park City District

84-00 GENERAL PURPOSES

* * *

84-02 General Provisions

In harmony with the general purpose and intent of this Resolution and in order to achieve the purpose of the #Special Battery Park City District#, a special set of regulations is established for the #Special Battery Park City District# controlling #use#, #bulk#, #accessory# off-street parking facilities and #accessory# off-street loading facilities. Such regulations are contained in this Chapter and in other provisions of this Resolution incorporated in this Chapter by cross-reference.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7

Special Harlem River Waterfront District

* * *

87-00

GENERAL PURPOSES

* * *

87-01

Definitions

For purposes of this Chapter, matter in *italics* is defined in Sections 12-10, 62-11 or 64-11, or within this Section.

Ground floor level

The “ground floor level” shall mean the finished floor level of the first #story# that is within five feet of an adjacent public sidewalk or any other #publicly accessible open area#, ~~or the finished floor level of the #lowest occupiable floor# pursuant to the provisions of Section 64-21 (Ground Floor Use), whichever is lower.~~

* * *

87-04

Applicability of District Regulations

* * *

87-043

Applicability of Article VI, Chapter 4

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control, ~~except as expressly modified by this Chapter.~~

* * *

87-40**SPECIAL REGULATIONS FOR GROUND FLOOR LEVEL**

* * *

87-41**Streetscape Requirements in the Core and South Subdistricts**

* * *

87-412**Transparency requirements in the Core and South Subdistricts**

In the Core and South Subdistricts, for non-#residential uses# located at the #ground floor level#, any portion of a #ground floor level street wall# that is subject to the #floor area# requirements of paragraph (b) of Section 87-411 (Ground floor uses) shall be glazed in accordance with the transparency requirements for designated retail streets set forth in Section 37-34 (Minimum Transparency Requirements), except that:

- (a) in the South Subdistrict, where the #ground floor level street wall# is occupied by #uses# in Use Groups 16, 17 or 18, up to 50 percent of the length of such #ground floor level street wall# may be exempt from such transparency requirements, provided that any #street wall# width exceeding 50 feet ~~with no transparent elements on the #ground floor level#~~ shall provide planting or screening (a) or (e) of Section 87-415 (Special streetscape provisions for certain blank walls) for at least 75 percent of such blank wall (a)(1) or (b)(1) of Section 37-362 (Mitigation elements) pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds); and
- (b) in #flood zones#, for #buildings# utilizing the provisions of paragraph (a) of Section 64-21 (Ground Floor Use), ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 25 feet~~, visual mitigation elements shall be provided in accordance with ~~paragraph (a) of Section 87-415 for such blank wall~~ the provisions for Type 2 blank walls set forth in Section 37-361, except that only paragraph (b)(1) of Section 37-362 shall apply to such blank wall.

For the purposes of applying the provisions of Section 37-34, locations subject to the provisions of paragraph (b) of Section 87-411 shall be considered designated retail streets.

* * *

87-414

~~Special provisions applicable within the flood zone~~~~Special streetscape provisions for certain blank walls~~

[Note: Existing text to be deleted]

~~In the Core and South Subdistricts, the provisions of Section 64-336 (Alternative height measurement in Commercial and Manufacturing Districts) shall be modified so that where the #flood-resistant construction elevation# is between four feet and 12 feet above #curb level#, #building# height may be measured from a reference plane 12 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. The requirements of Section 64-642 (Transparency requirements for buildings utilizing alternative height measurement) shall apply to #buildings# utilizing these alternative height measurement provisions.~~

[Note: Text moved from 87-415 and modified]

The provisions of this Section shall apply to a #ground floor level building# frontage, or any portion thereof, facing a #street#, #shore public walkway#, #upland connection#, or fire apparatus access road provided pursuant to the provisions of Section 87-61 (Special Provisions for Certain Fire Apparatus Access Roads), where visual mitigation elements shall be provided in accordance with the provisions for Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds).

87-415

~~Special streetscape provisions for certain blank walls~~~~Special open area provisions~~

[Existing text to be deleted and substituted by Section 37-36]

~~The provisions of this Section shall apply to a #ground floor level building# frontage, or any portion thereof, facing a #street#, #shore public walkway#, #upland connection#, or fire apparatus access road provided pursuant to the provisions of Section 87-61 (Special Provisions for Certain Fire Apparatus Access Roads), where no transparent materials or entrances or exits are provided on the #ground floor level# below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 25 feet. For the purpose of this Section, such a #building# wall, or portion thereof, shall be referred to as a "blank wall" and visual mitigation elements shall be provided in accordance with this Section.~~

At least 50 percent of the linear footage of any blank wall on a #ground floor level building# frontage shall be treated by one or more of the visual mitigation elements specified in this Section. Where a #building# wall fronts upon a #street#, such visual mitigation elements shall be provided on the #zoning lot#, except that the depth of an area containing such elements within the #zoning lot# need not be greater than three feet, when measured perpendicular to the #street line#. Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of paragraph (a) of this Section; and where a blank wall exceeds a height of 10 feet, as measured from the level of the adjoining grade, for a width of more than 25 feet, at least 50 percent of such #street wall# width shall provide wall treatments in accordance with the provisions of paragraph (e) of this Section. The maximum width of a portion of the #ground floor level# blank wall without visual mitigation elements shall not exceed 10 feet. However, such blank wall limitation shall not include portions of #street walls# occupied by entrances or exits to #accessory# off street parking facilities and #public parking garages#, where permitted, entryways to required loading berths, where permitted, or doors accessing emergency egress stairwells and passageways.

Visual mitigation elements:

(a) — Planting

Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.

(b) — Benches

Fixed benches with or without seatbacks shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.

(c) — Bicycle racks

Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.

(d) — Tables and chairs

~~Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

(e) — Wall treatment

~~Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

[Text moved from Section 87-416]

- (a) For Parcels 1, 2, 3 and 4, as shown on Map 1 in the Appendix to this Chapter, the open area between the #street wall# of a #building# fronting on the #Major Deegan Expressway street line# and the western edge of such Expressway, shall be subject to the provisions of Section 28-23 (Planting Areas), whether the ground floor is occupied by #residential uses# or non-#residential uses#. Such provisions shall be modified by the provisions of this Section.

(1) Primary circulation path

A circulation path, with a width of at least 13 feet or the width of such open area, whichever is less, and the western edge of such path shall be provided within five feet of a #street wall# facing the #Major Deegan Expressway street line#. Such circulation path shall extend along the entire frontage of the #zoning lot#, and shall be constructed in accordance with Department of Transportation standards for sidewalks.

(2) Planting

At least 20 percent, but not more than 50 percent of the required open area shall be planted with any combination of perennials, annuals, decorative grasses, shrubs or trees in planting beds, raised planting beds or planter boxes. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material, and any individual planted area shall have a width of at least five feet. For planting located east of the circulation path required pursuant to this paragraph (a), the maximum linear length of any individual planting bed shall not exceed 50 feet.

(3) Other amenities

The remainder of the open area may contain any combination of:

- (i) streetscape amenities including, but not limited to, benches or tables and chairs
- (ii) entertainment amenities including, but not limited to, water features, playgrounds, dog runs, game tables, courts or skateboard parks; and
- (iii) streetscape-enhancing amenities including, but not limited to, trees in tree pits, and lighting, or sculptural artwork.

All streetscape and entertainment amenities provided in accordance with paragraphs (a)(3)(i) and (a)(3)(ii) of this Section shall be connected to the primary circulation path required by paragraph (a) of this Section through secondary circulation paths, paved with permeable materials, each with a minimum width of six feet. Any planting associated with an amenity including, but not limited to, playgrounds and dog runs, as applicable, may exceed the amount set forth in paragraph (b) of this Section.

Any open area not otherwise allocated to amenities or secondary circulation paths shall also be paved with permeable materials. The minimum clear space between any planted areas required by paragraph (b) of this Section, any amenity provided under this paragraph, or any combination thereof, shall be six feet.

(4) Fencing

In no event shall chain link fencing or barbed or razor wire be permitted in any open area provided pursuant to this Section. No fences may exceed a height of four feet.

(b) In the event that Parcel 1 is #developed# with #mixed buildings#, sidewalks shall be provided on such parcel as follows:

- (1) Sidewalks with a width of at least 15 feet shall be provided along the entire Exterior Street and East 149th Street frontage of a #zoning lot#.
- (2) In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# such that the combined width of the sidewalk within the #street# and the sidewalk widening equals at least 15 feet. However, existing #buildings# remaining on the #zoning lot# need not be removed in order to comply with this requirement.

All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards and shall connect at grade to the adjoining public sidewalks.

87-416**Special open-area provisions**

[Existing text moved to Section 87-415]

(a) ~~For Parcels 1, 2, 3 and 4, as shown on Map 1 in the Appendix to this Chapter, the open area between the #street wall# of a #building# fronting on the #Major Deegan Expressway street line# and the western edge of such Expressway, shall be subject to the provisions of Section 28-23 (Planting Areas), whether the ground floor is occupied by #residential uses# or non-#residential uses#. Such provisions shall be modified by the provisions of this Section.~~

(1) ~~Primary circulation path~~

~~A circulation path, with a width of at least 13 feet or the width of such open area, whichever is less, and the western edge of such path shall be provided within five feet of a #street wall# facing the #Major Deegan Expressway street line#. Such circulation path shall extend along the entire frontage of the #zoning lot#, and shall be constructed in accordance with Department of Transportation standards for sidewalks.~~

(2) ~~Planting~~

~~At least 20 percent, but not more than 50 percent of the required open area shall be planted with any combination of perennials, annuals, decorative grasses, shrubs or trees in planting beds, raised planting beds or planter boxes. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material, and any individual planted area shall have a width of at least five feet. For planting located east of the circulation path required pursuant to this paragraph (a), the maximum linear length of any individual planting bed shall not exceed 50 feet.~~

(3) ~~Other amenities~~

~~The remainder of the open area may contain any combination of:~~

- ~~(i) streetscape amenities including, but not limited to, benches or tables and chairs~~
- ~~(ii) entertainment amenities including, but not limited to, water features, playgrounds, dog runs, game tables, courts or skateboard parks; and~~

- (iii) ~~streetscape-enhancing amenities including, but not limited to, trees in tree pits, and lighting, or sculptural artwork.~~

~~All streetscape and entertainment amenities provided in accordance with paragraphs (a)(3)(i) and (a)(3)(ii) of this Section shall be connected to the primary circulation path required by paragraph (a) of this Section through secondary circulation paths, paved with permeable materials, each with a minimum width of six feet. Any planting associated with an amenity including, but not limited to, playgrounds and dog runs, as applicable, may exceed the amount set forth in paragraph (b) of this Section.~~

~~Any open area not otherwise allocated to amenities or secondary circulation paths shall also be paved with permeable materials. The minimum clear space between any planted areas required by paragraph (b) of this Section, any amenity provided under this paragraph, or any combination thereof, shall be six feet.~~

(4) ~~Fencing~~

~~In no event shall chain link fencing or barbed or razor wire be permitted in any open area provided pursuant to this Section. No fences may exceed a height of four feet.~~

- (b) ~~In the event that Parcel 1 is #developed# with #mixed buildings#, sidewalks shall be provided on such parcel as follows:~~

- (1) ~~Sidewalks with a width of at least 15 feet shall be provided along the entire Exterior Street and East 149th Street frontage of a #zoning lot#.~~
- (2) ~~In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# such that the combined width of the sidewalk within the #street# and the sidewalk widening equals at least 15 feet. However, existing #buildings# remaining on the #zoning lot# need not be removed in order to comply with this requirement.~~

~~All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards and shall connect at grade to the adjoining public sidewalks.~~

* * *

87-70**HARLEM RIVER WATERFRONT ACCESS PLAN**

* * *

87-71**Special Public Access Provisions**

The provisions of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) shall apply to #developments#, as modified in this Section. For the purpose of this Section, “development” shall be as defined in Section 62-11. To “develop” shall mean to create such #development#. In addition, the #lot area# allocated to fire apparatus access road pursuant to the provisions of Section 87-60, inclusive, may count towards any required #supplemental access area# required pursuant to the provisions of Section 62-57 (Required Supplemental Public Access Areas).

* * *

(d) #Visual Corridors#

#Visual corridors# shall be located within Parcels 4, 9, 10, 11, 12 and 13, and mapped parkland, as indicated on Map 4 (Waterfront Access Plan: Visual Corridors) in the Appendix to this Chapter. For all required #visual corridors#, the provisions of Section 62-512 (Dimensions of visual corridors) shall be modified to allow the lowest level of a #visual corridor#, at its seaward points, to be measured to a height as set forth in Section 62-512 ~~two feet above #base flood elevation#~~ or a height equal to the Oak Point Rail Link train track bed elevation, whichever is higher.

The Oak Point Rail Link shall be a permitted obstruction for #visual corridors#.

* * *

Chapter 8**Special Hudson Square District****88-00****General Purposes**

* * *

88-02**General Provisions**

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Hudson Square District#, the provisions of this Chapter shall apply within the #Special Hudson Square District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 9**Special Hudson River Park District****89-00****GENERAL PURPOSES**

* * *

89-01**General Provisions**

The provisions of this Chapter shall apply within the #Special Hudson River Park District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

ARTICLE IX**SPECIAL PURPOSE DISTRICTS**

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Chapter 1
Special Lower Manhattan District

91-00
GENERAL PURPOSES

* * *

91-01
General Provisions

Except as modified by the express provisions of the #Special Lower Manhattan District#, the regulations of the underlying zoning districts shall remain in effect.

* * *

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 2
Special Park Improvement District

92-00
GENERAL PURPOSES

* * *

92-02
General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

For the purposes of this Chapter, Duke Ellington Circle, located at the intersection of Fifth Avenue and East 110th Street, shall be considered a separate #street#.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 3

Special Hudson Yards District

93-00

GENERAL PURPOSES

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93-02

General Provisions

The provisions of this Chapter shall apply within the #Special Hudson Yards District#. The regulations of all other chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4

Special Sheepshead Bay District

94-00

GENERAL PURPOSES

* * *

94-02**General Provisions**

In harmony with the general purposes of the #Special Sheepshead Bay District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Sheepshead Bay District# is superimposed are made inapplicable and special regulations are substituted therefor. The City Planning Commission, by special permit, may grant certain #uses# and may authorize #bulk# modifications within the Special District as set forth in this Chapter. Except as modified by the express provisions of this Special District, the regulations of the underlying zoning districts remain in effect.

In the #waterfront area#, the provisions of the #Special Sheepshead Bay District# are modified in accordance with the provisions of Section 62-13 (Applicability of District Regulations).

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 5**Special Transit Land Use District****95-00****GENERAL PURPOSES**

* * *

95-02**General Provisions**

#Special Transit Land Use Districts# are mapped in the vicinity of existing or proposed subway stations. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

Whenever this Special District overlaps another Special District and imposes contradictory regulations, the provisions of the #Special Transit Land Use District# shall apply. Nothing contained in this regulation shall be understood to supersede Landmark or Historic District designations of the New York City Landmarks Preservation Commission.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6

Special Clinton District

96-00

GENERAL PURPOSES

* * *

96-02

General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts, or as modified by the #Special Midtown District#, remain in effect.

The #Special Midtown District# and its regulations, where applicable in the #Special Clinton District#, shall also apply and shall supplement or supersede regulations as set forth in this Chapter pursuant to Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area). In the event of any conflict or discrepancy between the regulations, the more restrictive regulations shall apply in accordance with Section 11-22 (Application of Overlapping Regulations). This portion of the Special Purpose District is designated on the #zoning map# by the letters "CL-MiD."

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 8

Special West Chelsea District

98-00

GENERAL PURPOSES

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98-02**General Provisions**

The provisions of this Chapter shall apply to any #zoning lot#, or portion thereof, within the #Special West Chelsea District#, except that the provisions of Sections 98-11 (Special Regulations for Developments and Enlargements Above, Beneath or Adjacent to the High Line) and 98-16 (Air Space Over a Railroad or Transit Right-of-way or Yard) shall also apply to any #zoning lot# south of the #Special West Chelsea District# over which the #High Line# passes. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

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ARTICLE X**SPECIAL PURPOSE DISTRICTS**

* * *

Chapter 3**Special Planned Community Preservation District**

* * *

103-10**GENERAL PROVISIONS**

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Planned Community Preservation District#, no #development#, #enlargement#, or substantial alteration of landscaping or topography, shall be permitted within the Fresh Meadows, Harlem River Houses and Parkchester areas, except by special permit of the City Planning Commission, pursuant to Sections 103-11 (Special Permit for Bulk and Parking Modifications) and 103-12 (Special Permit for Landscaping and Topography Modifications).

No demolition of #buildings# shall be permitted within the Fresh Meadows, Harlem River Houses and Parkchester areas, unless it is an unsafe #building# and demolition is required pursuant to the

provisions of Chapter 26, Title C, Part I, Article 8, of the New York City Administrative Code, or its successor, except that such demolition may be permitted pursuant to a development plan for which a special permit has been granted under the provisions of Sections 103-11 and 103-12.

In a C8-4 District, however, a demolition permit may be issued for any #building# that is less than 10,000 square feet and was constructed after December 31, 1955, but prior to July 18, 1974. Special regulations for the Sunnyside Gardens area are set forth in Section 103-20, inclusive.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 4 **Special Manhattanville Mixed Use District**

104-00 **GENERAL PURPOSES**

* * *

104-02 **General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Manhattanville Mixed Use District#, the regulations of this Chapter shall apply within the Special District. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

104-30 **Special Height and Setback Requirements**

In the #Special Manhattanville Mixed Use District#, the height and setback regulations of the underlying C6 Districts shall not apply. In lieu thereof, the height and setback provisions of this Section, inclusive, shall apply in C6 Districts. In Subdistrict B, special height regulations for the underlying M1-2 District are set forth in Section 104-31, et seq.

In Subdistrict A, the height of all #buildings or other structures# shall be measured from the #base plane#. However, the provisions for establishing #base planes# set forth in Section 12-10 (DEFINITIONS) shall not apply. In lieu thereof, #base planes# are specified for each Parcel as shown on Map 5 (Parcel Designation and Maximum Building Heights) in Appendix A of this Chapter. The level of the #base plane# is designated for each such Parcel in Appendix B of this Chapter. ~~However, in #flood zones#, the level of the #base plane# shall be the #flood-resistant construction elevation#.~~

Wherever a #mandatory widened sidewalk line# is shown on Map 3 (Widened Sidewalk Lines) in Appendix A of this Chapter, such line shall be used instead of the #street line# for all purposes of Section 104-30, et seq.

The City Planning Commission may modify, by special permit, the special height and setback requirements of this Section pursuant to Section 104-60 (MODIFICATION OF SPECIAL BULK REQUIREMENTS AND TRANSFER OF FLOOR AREA BY SPECIAL PERMIT).

* * *

Chapter 5

Special Natural Area District

105-00

GENERAL PURPOSES

* * *

105-02

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Natural Area District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter, in order to protect outstanding #natural features# described herein. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect. The provisions of this Chapter shall apply to:

* * *

When a #zoning lot# existing on the effective date of the Special District designation is subdivided into two or more #zoning lots#, an application shall be submitted to the Commission for review and approval pursuant to Section 105-90 (FUTURE SUBDIVISION).

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 6

Special Coney Island Mixed Use District

106-00

GENERAL PURPOSES

* * *

106-01

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special Coney Island Mixed Use District# and in accordance with the provisions of this Chapter, regulations of the #Special Coney Island Mixed Use District# shall replace and supersede the existing district regulations. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7

Special South Richmond Development District

107-00**GENERAL PURPOSES**

* * *

107-02**General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special South Richmond Development District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas Flood Zones), the provisions of Article VI, Chapter 4 shall control. Additional provisions applicable in #flood zones# are set forth in Section 107-092 (Applicability of Article VI, Chapter 4).

* * *

107-09**Applicability of Article VI, Chapter 2**

~~The Chairperson of the City Planning Commission may, by certification, modify or waive a required #visual corridor#, as defined in Section 62-11, with respect to #developments#, including minor modifications thereto, that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development# is conditioned upon a restrictive declaration that includes a site plan for such #development#, including provisions for public access to such #designated open space# and #waterfront esplanade#, provided that at least one required #visual corridor# continues to be provided pursuant to the restrictive declaration.~~

107-091**Applicability of Article VI, Chapter 2**

[Note: Text moved from Section 107-09]

The Chairperson of the City Planning Commission may, by certification, modify or waive a required #visual corridor#, as defined in Section 62-11, with respect to #developments#, including minor modifications thereto, that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development# is conditioned upon a restrictive declaration that includes a site plan for such #development#, including provisions for public access to such #designated

open space# and #waterfront esplanade#, provided that at least one required #visual corridor# continues to be provided pursuant to the restrictive declaration.

107-092

Applicability of Article VI, Chapter 4

[Note: Text to substitute paragraph (b) of Section 64-A352]

For #zoning lots# in #flood zones# with #single-# or #two-family detached residences# utilizing the provisions for #cottage envelope buildings#, as defined in Section 64-11 (Definitions), the provisions of this Chapter pertaining to minimum #lot area#, #lot width#, and minimum sizes of #front yards# and #side yards# shall not apply, and in lieu thereof, the underlying district regulations shall apply for the purposes of determining the applicability of the definition of #cottage envelope buildings#, and the particular amount of relief permitted pursuant to Section 64-33 (Cottage Envelope Buildings), inclusive.

* * *

Chapter 8

Special Hunts Point District

108-00

GENERAL PURPOSES

* * *

108-01

General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Hunts Point District#, the provisions of this Chapter shall apply to all #developments# and #enlargements# within the #Special Hunts Point District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

ARTICLE XI SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1 Special Tribeca Mixed Use District

111-00 GENERAL PURPOSES

* * *

111-02 General Provisions

The provisions of this Chapter shall apply to all #developments, enlargements, extensions#, alterations, #accessory uses#, open and enclosed and changes in #uses# within the Special District.

Except as modified by the express provisions of the District, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 2 Special City Island District

112-00 GENERAL PURPOSES

* * *

112-02 General Provisions

In harmony with the general purposes of the #Special City Island District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special City Island District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying zoning districts remain in force. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 3

Special Ocean Parkway District

113-00

GENERAL PURPOSES

* * *

113-01

General Provisions

In harmony with the general purposes of the #Special Ocean Parkway District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Ocean Parkway District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying districts remain in force. #In flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4

Special Bay Ridge District

114-00

GENERAL PURPOSES

* * *

114-01**General Provisions**

In harmony with the general provisions and intent of this Resolution and the general purposes of the #Special Bay Ridge District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. The provisions of this Chapter shall apply to all #buildings#.

Except as modified by the provisions of this Chapter, the regulations of the underlying districts remain in effect.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6**Special Stapleton Waterfront District****116-00****GENERAL PURPOSES**

* * *

116-02**General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Stapleton Waterfront District#, the provisions of this Chapter shall apply to all #developments#, #enlargements# and changes of #use# within the #Special Stapleton Waterfront District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control, ~~except in Subarea E of this Chapter.~~

Within the #Special Stapleton Waterfront District#, the regulations of the underlying R6, C2-2, C4-2A and M2-1 Districts shall apply, as modified in this Chapter.

* * *

116-05

Applicability

In Subareas A, B and C, the #Esplanade#, #Pier Place# and the #Cove#, the provisions of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), shall not apply. In lieu thereof, the special #use#, #bulk#, #accessory# off-street parking, public access and urban design regulations of Sections 116-10 through 116-50 shall apply.

In Subarea D, the provisions of Article VI, Chapter 2 shall apply pursuant to the underlying M2-1 District regulations.

In Subarea E, the underlying provisions of Article VI, Chapter 2 shall apply, except as modified in Section 116-60 (SPECIAL REGULATIONS IN SUBAREA E), inclusive. In addition, the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), shall not apply. In lieu thereof, the provisions of Section 116-623 (Height and setback regulations), shall apply.

#Lower density growth management area# regulations shall not apply in the #Special Stapleton Waterfront District#.

* * *

116-221

Special floor area regulations for mixed buildings

For #buildings# containing #residences#, the area in such #buildings# occupied by non-#residential uses# on the ground floor, or within two feet of the as-built level of the adjoining sidewalk, shall be excluded from the calculation of permitted #floor area# in the #building#. However, the area occupied by non-#residential uses# on the ground floor shall be included as #floor area# for other purposes including calculating:

- (a) requirements for #accessory# off-street parking spaces;
- (b) #accessory# off-street loading berths; and
- (c) limitations on #floor area# occupied by certain #uses#.

~~In #flood zones#, the #floor area# exclusion permitted by this Section shall also apply to the area occupied by non #residential uses# on the #lowest occupiable floor#, as defined in Section 64-11.~~

* * *

Chapter 7

Special Long Island City Mixed Use District

117-00

GENERAL PURPOSES

* * *

117-02

General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article V, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 9

Special Hillside Preservation District

119-00

GENERAL PURPOSES

119-02

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Hillside Preservation District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

ARTICLE XII SPECIAL PURPOSE DISTRICTS

* * *

Chapter 3 Special Mixed Use District

* * *

123-10 GENERAL PROVISIONS

The provisions of this Chapter shall apply within the #Special Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4 Special Willets Point District

124-00**GENERAL PURPOSES**

* * *

124-01**General Provisions**

The provisions of this Chapter shall apply within the #Special Willets Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

124-10**SPECIAL USE REGULATIONS****124-14****Retail Continuity**

The following regulations shall apply within Area A, as shown on Map 1 in the Appendix to this Chapter, to all portions of #buildings# with frontage on 126th Street, the #primary retail street#, #retail streets#, #connector streets# and, in the event that a utility easement is retained on the #block# bounded by Roosevelt Avenue and 126th Street, along the frontage of the publicly accessible open space required by paragraph (d) of Section 124-42.

(a) Ground floor #uses#

#Uses# within #stories# on the ground floor or with a floor level within five feet of #~~base flood elevation#~~ the #base plane# shall be limited to #commercial uses# permitted by the underlying district, except #uses# listed in Use Groups 6B, 6E, 8C, 8D, 9B, 10B or 12D. A #building's# frontage shall be allocated exclusively to such #uses#, except for Type 2 lobby space or entryways, provided in accordance with Section 37-33 (Maximum Width of Certain Uses), parking pursuant to Section 124-50, inclusive, and vehicular access pursuant to Section 124-53 (Curb Cut Restrictions). Such #uses# shall have a minimum depth of 50 feet measured from any #street wall# facing 126th Street, the #primary retail street# or #connector streets#.

* * *

(d) Transparency

For any #building#, or portion thereof, #developed# or #enlarged# after November 13, 2008, each ground floor #street wall# shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements).

~~However, in locations where such ground floor #street wall# above the level of the adjoining sidewalk or public access area is below #base flood elevation#, the required glazed area shall occupy an area measured from #base flood elevation#.~~

124-15

Modification of Sign Regulations

~~The height of all #signs# shall be measured from #base flood elevation#.~~ The underlying #sign# regulations shall apply, except as set forth in this Section.

* * *

124-30

MANDATORY IMPROVEMENTS

124-31

Standards for Streets and Blocks

* * *

124-312

New streets

The provisions of this Section shall apply to all private streets constructed after November 13, 2008.

* * *

(f) #Service streets#

All newly constructed #streets#, other than those listed in paragraphs (a) through (e) of this Section, shall be improved as a #service street#. A minimum of 50 percent of the #uses#

within #stories# on the ground floor or with a floor level within five feet of #base flood elevation# the #base plane# fronting a #service street# shall contain non-#residential uses#. #Service streets# shall be provided, as follows:

* * *

Chapter 5

Special Hunters Point District

125-00

GENERAL PURPOSES

* * *

125-01

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Southern Hunters Point District#, the regulations of this Chapter shall apply within the #Special Southern Hunters Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6

Special College Point District

126-00

GENERAL PURPOSES

* * *

126-01

General Provisions

The provisions of this Chapter shall apply within the #Special College Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7

Special Flushing Waterfront District

127-00

GENERAL PURPOSES

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127-05

Applicability of District Regulations

* * *

127-055

Applicability of Article VI, Chapter 4

The provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones) shall apply. In the event of a conflict between the provisions of this Chapter and Article VI, Chapter 4, the provisions of Article VI, Chapter 4 shall control.

* * *

127-40

DISTRICT PLAN ELEMENTS

* * *

127-41

Special Streetscape Regulations

* * *

127-412

Special provisions for blank walls

The blank wall provisions of paragraph (a)(7)(ii) of Section 62-655 (Planting and trees) shall not apply. In lieu thereof, the visual mitigation elements shall be provided in accordance with the provisions for Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds). provisions of this Section, inclusive, shall apply.

~~Along all frontages, where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# lower than a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 25 feet, at least 75 percent of the linear footage of any such portions of a #ground floor level street wall# shall be treated by one or more of the following visual mitigation elements which shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations.~~

(a) — Planting

~~Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirements. Such planted area shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.~~

(b) — Benches

~~Fixed benches with or without backs shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

(c) — Bicycle racks

~~Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

(d) — Tables and chairs

~~Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

(e) — Wall treatment

~~Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

* * *

Chapter 8

Special St. George District

128-00

GENERAL PURPOSES

* * *

128-02

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special St. George District#, the regulations of this Chapter shall apply within the #Special St. George District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

ARTICLE XIII SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1 Special Coney Island District

131-00 GENERAL PURPOSES

* * *

131-01 General Provisions

The provisions of this Chapter shall apply within the #Special Coney Island District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

131-40 HEIGHT AND SETBACK REGULATIONS

* * *

131-42 Coney East Subdistrict

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131-421**Coney East Subdistrict, south side of Surf Avenue**

The following regulations shall apply along the south side of Surf Avenue and along those portions of #streets# intersecting Surf Avenue located north of a line drawn 50 feet north of and parallel to the northern #street line# of Bowery and its westerly prolongation.

(a) #Street wall# location

The #street wall# of a #building# shall be located within five feet of the #street line# and extend along the entire frontage of the #zoning lot#, except that:

- (1) a sidewalk widening shall be required at the intersection of Surf Avenue and West 10th Street, extending from a point on the Surf Avenue #street line# 125 feet west of West 10th Street to a point on the West 10th Street #street line# 20 feet south of Surf Avenue. Such area shall be improved as a sidewalk to Department of Transportation standards, be at the same level as the adjoining sidewalks, and be accessible to the public at all times. Such sidewalk widening line shall be considered a #street line# for the purposes of applying the #use# and height and setback regulations of this Chapter;
- ~~(2) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recesses does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~
- ~~(3)~~(2) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#;
- ~~(4)~~(3) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from the #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower, and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-423**Along all other streets**

The following regulations shall apply along Wonder Wheel Way, Bowery, and all other #streets#, and portions thereof, located south of a line drawn 50 feet north of and parallel to the northern #street# line of Bowery and its westerly prolongation.

(a) #Street wall# location

The #street wall# of the #building#, or portion thereof, shall be located within five feet of the #street line#. ~~However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, a recess shall be permitted to have a depth of up to 10 feet as measured from the #street line#, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

* * *

131-43

Coney West Subdistrict

* * *

131-431

Coney West District, Surf Avenue

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

(a) #Street wall# location

The #street wall# of a #building# base shall be located on the Surf Avenue #street line# and extend along the entire Surf Avenue frontage of the #zoning lot#, except that:

- (1) ~~ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances, except that for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

- (2)(1) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and
- (3)(2) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from a #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-432

Along all other streets, other than Riegelmann Boardwalk

The following regulations shall apply along all other #streets# in the Coney West Subdistrict, except within 70 feet of Riegelmann Boardwalk.

(a) #Street wall# location

The #street wall# of a #building# base, or portion thereof, beyond 50 feet of Surf Avenue, shall be located within eight feet of the #street line# except that, to allow portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from the #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower. ~~In addition, for #street walls# facing Ocean Way, #building# entrances providing direct access to the lowest #story# located above the #base flood elevation# may be recessed up to a depth of 10 feet as measured from the #street line#, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#.~~

The entire area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. No #zoning lot# shall be altered in any way that will either create a new non-compliance or increase the degree of non-compliance with the provisions of this Section.

* * *

131-44**Coney North Subdistrict**

* * *

131-441**Coney North Subdistrict, Surf Avenue**

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

(a) #Street wall# location

The #street wall# of a #building# base shall be located on the Surf Avenue #street line# and extend along the entire Surf Avenue frontage of the #zoning lot#, except that:

~~(1) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

~~(2)~~(1) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and

~~(3)~~(2) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from a #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-443**Mermaid and Stillwell Avenues**

Within 100 feet of Mermaid Avenue and within 100 feet of Stillwell Avenue, except within 100 feet of Surf Avenue, all portions of a #building or other structure# shall comply with the height

and setback regulations of a C2 District mapped within an R7A District, except that the #street wall# of a #building# shall be located on the #street line# and rise without setback to a minimum height of 40 feet or the height of the #building#, whichever is less, except that:

- (a) ~~ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~
- (b)(a) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and
- (e)(b) above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in paragraph (b) of this Section.

* * *

131-45

Mermaid Avenue Subdistrict

All portions of a #building or other structure# shall comply with the height and setback regulations of a C2 District mapped within an R7A District, except that on Mermaid Avenue, and on intersecting #streets# within 50 feet of Mermaid Avenue, the #street wall# of a #building# shall be located on the #street line# and rise without setback to a minimum base height of 40 feet or the height of the #building#, whichever is less, except that:

- (a) ~~ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~
- (b)(a) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and
- (e)(b) above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent

#building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in paragraph (b) of this Section.

* * *

131-49

Authorization for Exterior Ramps

The City Planning Commission may authorize modifications of the #street wall# location provisions of this Chapter to allow exterior ramps for access from the public sidewalk to the lowest #story# above the ~~#base flood elevation#~~ #flood-resistant construction elevation#, as defined in Section 64-11 (Definitions), provided the Commission finds that the design of such ramps:

- (a) maximizes visibility of interior ground floor space within the #building# from the public sidewalk;
- (b) incorporates amenities such as seating and planting as the Commission may find appropriate; and
- (c) relates harmoniously with the design and materials of the adjacent #building# and the surrounding streetscape.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

Chapter 5

Special Bay Street District

135-00

GENERAL PURPOSES

* * *

135-04

Applicability

* * *

135-044**Applicability of Article VI, Chapter 4**

Notwithstanding the general provisions of Section 135-01, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

135-10**SPECIAL USE REGULATIONS**

* * *

135-11**Ground Floor Use Regulations**

For the purposes of applying to this Chapter the special #ground floor level# streetscape provisions set forth in Section 37-30, any portion of a #ground floor level street# frontage along Bay Street, as well as any #street# frontage within 50 feet of Bay Street, shall be considered a #primary street frontage#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#. For the purposes of this Section, inclusive, defined terms shall include those in Sections 12-10 and 37-311.

The provisions of this Section shall apply to #developments# or #ground floor level enlargements#.

(a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 1 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

For #zoning lots# with a #lot area# of less than 5,000 square feet existing both on June 26, 2019 and on the date of application for a building permit, the provisions of this paragraph (a) shall not apply. In lieu thereof, the provisions of paragraph (b) of this Section shall apply.

In #flood zones#, ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 15 feet;~~ visual mitigation elements shall be provided in accordance with ~~Section 135-12 (Special Streetscape Provisions for Blank Walls) for such blank wall the provisions for Type 3 blank walls set forth in Section 37-361 (Blank wall thresholds).~~

* * *

135-12

Special Streetscape Provisions for Blank Walls

Physical Culture or Health Establishments

[Existing Text to be deleted and substituted by Section 37-36]

~~Where visual mitigation elements are required on a blank wall along the ground floor level street wall pursuant to the provisions of Section 135-11 (Ground Floor Use Regulations), at least 75 percent of the linear footage of any such blank wall shall be treated by one or more of the following visual mitigation elements:~~

(a) — Planting

~~Where utilized as a visual mitigation element, any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the street wall. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the street wall, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~Where a blank wall exceeds a street wall width of 50 feet, at least 25 percent of such street wall width shall be planted in accordance with the provisions of this paragraph.~~

(b) — Benches

~~Where utilized as a visual mitigation element, fixed benches with or without backs shall be provided in front of the street wall. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the street wall, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

~~(c) — Bicycle racks~~

~~Where utilized as a visual mitigation element, bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the street wall, and oriented so that the bicycles are placed parallel to the street wall. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

~~(d) — Tables and chairs~~

~~Where utilized as a visual mitigation element, fixed tables and chairs shall be provided in front of the street wall. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

~~(e) — Wall treatment~~

~~Where utilized as a visual mitigation element, wall treatment, in the form of permitted signs, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the street wall. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the street wall.~~

~~All visual mitigation elements shall be provided on the zoning lot, except where such elements are permitted within the street under other applicable laws or regulations.~~

[Text moved from Section 135-13]

Within the #Special Bay Street Corridor District#, a #physical culture or health establishment# shall be permitted as-of-right in #Commercial Districts#. For the purposes of applying the underlying regulations to such #use#, a #physical culture or health establishment# shall be considered a Use Group 9 #use# and shall be within parking requirement category PRC-B.

* * *

135-13**Physical Culture or Health Establishments****Breweries****[Existing Text moved to Section 135-12]**

~~Within the #Special Bay Street Corridor District#, a #physical culture or health establishment# shall be permitted as of right in #Commercial Districts#. For the purposes of applying the underlying regulations to such #use#, a #physical culture or health establishment# shall be considered a Use Group 9 #use# and shall be within parking requirement category PRC-B.~~

[Text moved from Section 135-14]

Within the #Special Bay Street Corridor District#, breweries, as listed in Use Group 18A, shall be permitted in Commercial Districts provided that:

- (a) the size of such brewery does not exceed 30,000 square feet; and
- (b) any brewery #developed# or #enlarged# after June 26, 2019, shall contain an #accessory# eating or drinking establishment.

For the purposes of applying the underlying regulations, such brewery shall be considered a Use Group 11A #use# and shall be within parking requirement category PRC-F. The performance standards for an M1 District set forth in Section 42-20, inclusive, shall apply to such breweries.

* * *

135-14**Breweries****Modification of Supplemental Use Provisions****[Existing Text moved to Section 135-13]**

~~Within the #Special Bay Street Corridor District#, breweries, as listed in Use Group 18A, shall be permitted in Commercial Districts provided that:~~

- ~~(a) the size of such brewery does not exceed 30,000 square feet; and~~

- (b) ~~any brewery #developed# or #enlarged# after June 26, 2019, shall contain an #accessory# eating or drinking establishment.~~

~~For the purposes of applying the underlying regulations, such brewery shall be considered a Use Group 11A #use# and shall be within parking requirement category PRC-F. The performance standards for an M1 District set forth in Section 42-20, inclusive, shall apply to such breweries.~~

[Text moved from Section 135-15]

In Subdistricts A, B and C, the underlying provisions of Section 32-421 (Limitation on floors occupied by commercial uses) shall be modified as follows:

- (a) For #mixed buildings#, offices, as listed in Use Group 6B, shall be permitted on the lowest two #stories# of a #building#, provided that no access exists between such offices and any #residential uses#;
- (b) For #commercial buildings#, the provisions restricting the location of #uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14 to two #stories#, shall not apply; and
- (c) Any brewery #developed# or #enlarged# in accordance with the provisions of Section 135-14, shall be subject to the provisions of Section 32-421.

* * *

135-15

Modification of Supplemental Use Provisions

[Existing Text moved to Section 135-14]

~~In Subdistricts A, B and C, the underlying provisions of Section 32-421 (Limitation on floors occupied by commercial uses) shall be modified as follows:~~

- (a) ~~For #mixed buildings#, offices, as listed in Use Group 6B, shall be permitted on the lowest two #stories# of a #building#, provided that no access exists between such offices and any #residential uses#;~~
- (b) ~~For #commercial buildings#, the provisions restricting the location of #uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14 to two #stories#, shall not apply; and~~

- (c) ~~Any brewery #developed# or #enlarged# in accordance with the provisions of Section 135-14, shall be subject to the provisions of Section 32-421.~~

* * *

135-20

SPECIAL BULK REGULATIONS

* * *

135-24

Special Street Wall Location Regulations

The underlying #street wall# location provisions are modified by the provisions of this Section.

(a) Along Bay Street

Along Bay Street, and along #streets# within 50 feet of their intersection with Bay Street, the following #street wall# regulations shall apply:

- (1) At least 70 percent of the #aggregate width of street walls# of a #building# shall be located within eight feet of the #street line#, and shall rise without setback up to at least the minimum base height specified in Section 135-25 (Special Height and Setback Regulations), or the height of the #building#, whichever is lower. Pursuant to Section 135-31 (Special Visual Corridor Requirements), required visual corridors shall be considered #streets#.
- (2) For #developments# or horizontal #enlargements# of #buildings#, or portions thereof, within the #flood zone# where no transparent materials are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk, pursuant to the provisions of Sections 135-11 (Ground Floor Use Regulations) and 37-34 (Minimum Transparency Requirements) for a continuous distance of more than 25 feet, such #street wall# shall be located at least three feet beyond the #street line#. Such #street wall# shall not be located beyond five feet of the #street line#, ~~except as permitted pursuant to Section 64-333 (Street wall location in certain districts).~~ Such #street wall# shall provide visual mitigation elements in accordance with the provisions of ~~Section 135-12 (Special Streetscape Provisions for Blank Walls)~~ for Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds), and any area between the #street wall# and the sidewalk that does not contain any planting material pursuant to the provisions of ~~paragraph (a) of Section 135-12~~ Section 37-362 (Mitigation elements) shall be improved to Department of Transportation standards for sidewalks.

* * *

Chapter 6
Special Downtown Far Rockaway District

136-00
GENERAL PURPOSES

* * *

136-01
General Provisions

The regulations of this Chapter shall apply within the #Special Downtown Far Rockaway District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7
Special Coastal Risk District

* * *

137-10
GENERAL PROVISIONS

The provisions of this Chapter shall apply in the #Special Coastal Risk District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control, except as specifically modified in this Chapter.

* * *

137-40

SPECIAL APPLICABILITY OF ARTICLE V

In #Special Coastal Risk District# 3, the provisions of Article V, Chapter 2 (Non-conforming Uses) shall be modified as set forth in this Section. In addition, the provisions of Article VI, Chapter 5 (Special Regulations Applying in Designated Recovery Areas) and Section 64-61 (Special Provisions for Non-conforming Uses) shall not apply.

#Non-conforming uses# may not be #enlarged# or #extended#. In addition, should 50 percent or more of the #floor area# of a #building# containing a #non-conforming use# be damaged or destroyed after September 7, 2017, the #building# may be repaired, #incidentally altered# or reconstructed only for a #conforming use#.

~~However, the provisions of this Section shall not apply to any #building# that was damaged to the extent of 50 percent or more due to the effects of #Hurricane Sandy#, as defined in Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas). The special regulations for #non-conforming buildings# of Section 64-70 shall apply to such #buildings#.~~

* * *

137-50

SPECIAL REQUIREMENTS FOR DEVELOPMENTS AND ENLARGEMENTS

In #Special Coastal Risk District# 3, no #development# or horizontal #enlargement# shall occur, except where authorized by the City Planning Commission pursuant to Sections 137-51 (Authorization for Development of Single Buildings and Enlargements) or 137-52 (Authorization for Development of Multiple Buildings), as applicable. In addition, the provisions of Article VI, Chapter 5 (Special Regulations Applying in Designated Recovery Areas) and Section 64-60 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS) shall not apply.

For the purposes of determining which authorization shall be applicable, the #zoning lot# upon which the #development# shall occur shall be considered to be a tract of land that existed under separate ownership from all adjoining tracts of land on April 24, 2017.

For the purposes of such authorizations, the alteration of any existing #building# resulting in the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development#.

The provisions of Section 137-50, inclusive, shall not apply to the reconstruction of any #building# that was damaged to the extent of 50 percent or more due to the effects of #Hurricane Sandy#, as defined in Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or to the reconstruction of a garage #accessory# to a #single-family residence# or #two-family residence#.

The provisions of Section ~~64-92-73-71~~ (Special Permit for Modification of Certain Zoning Regulations) shall be inapplicable to a #building# that is #developed# pursuant to this Section, inclusive.

* * *

Chapter 8

Special East Harlem Corridors District

138-00

GENERAL PURPOSES

* * *

138-01

General Provisions

The provisions of this Chapter shall apply within the #Special East Harlem Corridors District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

138-20

SPECIAL BULK REGULATIONS

* * *

138-22**Street Wall Regulations**

All #developments# and #enlargements# within the #Special East Harlem Corridors District# shall comply with the #street wall# regulations of Section 35-651 (Street wall location), as specified and modified in this Section. Where M1 Districts are paired with R9 or R10 Districts, #developments# and #enlargements# within such districts shall comply with the provisions of paragraph (b) of this Section. The applicable provisions of Section 35-651 are specified and modified as follows:

(a) Along #wide streets# other than Park Avenue

Along all #wide streets# other than Park Avenue, and along #narrow streets# within 50 feet of an intersection with such #wide street#, the provisions of paragraph (b) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(b) Along Park Avenue

Along Park Avenue and along #narrow streets# located within 100 feet of Park Avenue, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 40 feet, or the height of the #building#, whichever is less.

(c) Along all other #streets#

Along all #streets# not subject to the provisions of paragraph (a) or (b) of this Section, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(d) Within #flood zones#

For #buildings# within the #flood zone#, the provisions of paragraphs (a), (b) and (c) of this Section, as applicable, shall be modified as follows:

- (1) for #developments# or horizontal #enlargements#, or portions thereof, where no transparent materials are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk pursuant to the provisions of Section 37-34 (Minimum Transparency Requirements), for a continuous distance of more than 25 feet, such #street wall# shall be located at least three feet beyond the #street line#; and
- (2) ~~for portions of #developments# and #enlargements# where the provisions of paragraph (a) of this Section apply, such #street wall# shall not be located beyond~~

five feet of the #street line#, except that such #street wall# may be located beyond such distance pursuant to the applicable provisions of paragraph (b) of Section 35-651 or of Section 64-333 (Street wall location in certain districts); and

- (3) the area between such #street wall# and the sidewalk, or portions thereof, that do not contain any planting pursuant to the provisions of paragraph (a) of Section 138-32 (Special Streetscape Provisions for Blank Walls) paragraph (b)(1) of Section 37-362 (Mitigation elements) for at least 70 percent of the linear footage, shall be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk and be accessible to the public at all times. In addition, such area shall provide visual mitigation elements in accordance with the provisions of Section 138-32 Section 37-362 for at least 70 percent of the linear footage of such area per 50 feet of frontage.

* * *

138-30

STREETSCAPE REQUIREMENTS

* * *

138-31

Ground Floor Use Regulations

The special #ground floor level# streetscape provisions set forth in Section 37-30, shall apply to Second Avenue, Third Avenue, Lexington Avenue, Park Avenue and East 116th Street, within the #Special East Harlem Corridors District# which, for the purposes of applying such provisions, shall be considered designated retail streets, and any portion of a #ground floor level street# frontage along the designated retail streets, as well as any #narrow street# frontage within 50 feet of such #streets#, shall be considered #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#. For the purposes of this Section, defined terms shall also include those defined in Section 37-311 (Definitions).

- (a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 2 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and

Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements), except that:

- (1) in M1-6 Districts paired with an R9 or R10 District, where the #ground floor level# is occupied by #uses# in Use Groups 16, 17 and 18, up to 50 percent of the #ground floor level street wall# width may be exempt from such regulations, provided that ~~any #street wall# width exceeding 50 feet with no transparent elements on the #ground floor level# shall provide~~ planting or screening in accordance with the provisions of paragraphs (a) or (e) of ~~Section 138-32 (Special Streetscape Provisions for Blank Walls)~~ for at least 75 percent of such blank wall (a)(1) or (b)(1) of Section 37-362 (Mitigation elements) is provided pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds); and
- (2) in #flood zones#, ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# lower than a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 15 feet,~~ visual mitigation elements shall be provided in accordance with ~~Section 138-32 for such blank wall~~ the provisions for Type 3 blank walls set forth in Section 37-361.

* * *

138-32

Special Streetscape Provisions for Blank Walls

Off-street Relocation or Renovation of a Subway Stair

[Note: Existing text to be deleted and substituted by Section 37-36]

~~Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# pursuant to the provisions of Section 138-31 (Ground Floor Use Regulations), at least 75 percent of the linear footage of any such blank wall shall be treated by one or more of the following visual mitigation elements which shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations. Such features, when utilized as visual mitigation elements, shall include:~~

~~(a) —~~ Planting

~~Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirements. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least~~

~~five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.~~

(b) — Benches

~~Fixed benches with or without backs shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

(c) — Bicycle racks

~~Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

(d) — Tables and chairs

~~Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

(e) — Wall treatment

~~Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

[Note: Text moved from Section 138-33]

Where a #development# or #enlargement# is constructed on a #zoning lot# of at least 5,000 square feet that fronts on a portion of sidewalk containing a stairway entrance or entrances into the 116th Street Station of the Lexington Avenue subway line, such #development# or #enlargement# shall

be subject to the regulations of Section 37-40 (OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR).

138-33

~~Off-street Relocation or Renovation of a Subway Stair~~

[Note: Existing text moved to Section 138-32]

~~Where a #development# or #enlargement# is constructed on a #zoning lot# of at least 5,000 square feet that fronts on a portion of sidewalk containing a stairway entrance or entrances into the 116th Street Station of the Lexington Avenue subway line, such #development# or #enlargement# shall be subject to the regulations of Section 37-40 (OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR).~~

* * *

ARTICLE XIV SPECIAL PURPOSE DISTRICTS

* * *

Chapter 2 Special Inwood District

142-00 GENERAL PURPOSES

* * *

142-01 General Provisions

The provisions of this Chapter shall apply within the #Special Inwood District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

142-10**SPECIAL USE REGULATIONS**

* * *

142-14**Ground Floor Level Requirements**

For the purposes of applying the special #ground floor level# streetscape provisions set forth in Section 37-30 to this Chapter, any portion of a #ground floor level street# frontage along #streets# designated on Map 2 (Ground Floor Use and Curb Cut Regulations) in the Appendix to this Chapter shall be considered #primary street frontages#, and shall consist of Type 1, Type 2 and Type 3 #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage# except for frontages located within Subdistrict F. For the purposes of this Section, defined terms shall include those in Sections 12-10 and 37-311.

The provisions of this Section shall apply to #developments# or #ground floor level enlargements#.

(a) Along #primary street frontages#

(1) Type 1 #primary street frontages#

For #buildings#, or portions thereof, with Type 1 #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 1 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). Group parking facilities located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

(2) Type 2 #primary street frontages#

For #buildings#, or portions thereof, with Type 2 #primary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#, provided that group parking facilities located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35.

(3) Type 3 #primary street frontages#

For #buildings#, or portions thereof, with Type 3 #primary street frontage#, the following regulations shall apply to the #ground floor level# to a depth of 30 feet from the #street line#:

- (i) the maximum #street wall# width of a bank or loan office, as listed in Use Group 6C, shall not exceed 25 feet.

However, in Subarea A1 or B1, as shown on Map 1, for #buildings# containing predominantly commercial or public utility vehicle storage, including #accessory# fuel pumps, as listed in Use Group 16C, the screening provisions of paragraph (b) of Section 37-35 may be utilized as an alternative to such wrapping requirement and any transparency requirements need not apply.

(b) Along #secondary street frontages#

For #buildings#, or portions thereof, with #secondary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#, provided that any off-street parking spaces on the #ground floor level# shall be wrapped or screened in accordance with Section 37-35. Entrances and exits to accessory parking facilities shall be subject to the provisions of paragraph (b) of Section 37-33.

(c) For blank walls

In #Commercial Districts# or #Manufacturing Districts#, except for portions of #zoning lots# located within Subdistrict F, ~~any #street wall# width exceeding 50 feet with no transparent elements on the #ground floor level# shall provide planting or wall treatment in accordance with the provisions of Section 142-141 (Special Streetscape Provisions for Blank Walls) paragraphs (a)(1) or (b)(2) of Section 37-362 (Mitigation elements) shall be provided pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds).~~

The level of the finished floor of such ground floor shall be located not higher than five feet above nor lower than five feet below the as-built level of the adjoining #street#.

In C4-5D Districts, and in C2 Districts mapped within R7D Districts, the provisions of Section 32-434 (Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts) shall not apply. In lieu thereof, the provisions of this Section shall apply.

142-141**Special Streetscape Provisions for Blank Walls**

[Note: Existing Text to be deleted and substituted by Section 37-36]

Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# pursuant to the provisions of Section 142-14 (Ground Floor Level Requirements), at least 75 percent of the linear footage of any such blank wall shall be treated by any of the following visual mitigation elements, or both:

(a) — Planting

When planting is provided as a visual mitigation element, any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet. At least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.

(b) — Wall treatment

When a wall treatment is provided as a visual mitigation element, permitted signs, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.

* * *

APPENDIX K: Areas with Nursing Home Restrictions

The areas shown on the maps in this APPENDIX, in addition to any portion of a #zoning lot# that is located within the #high-risk flood zone# as defined in Section 64-11 (Definitions), are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes).

These areas include:

the following islands located within the Bronx Community District 10, and Manhattan Community Districts 1, 8, and 11, respectively:

City Island;

Governors Island;

Roosevelt Island; and

Randall's Island.

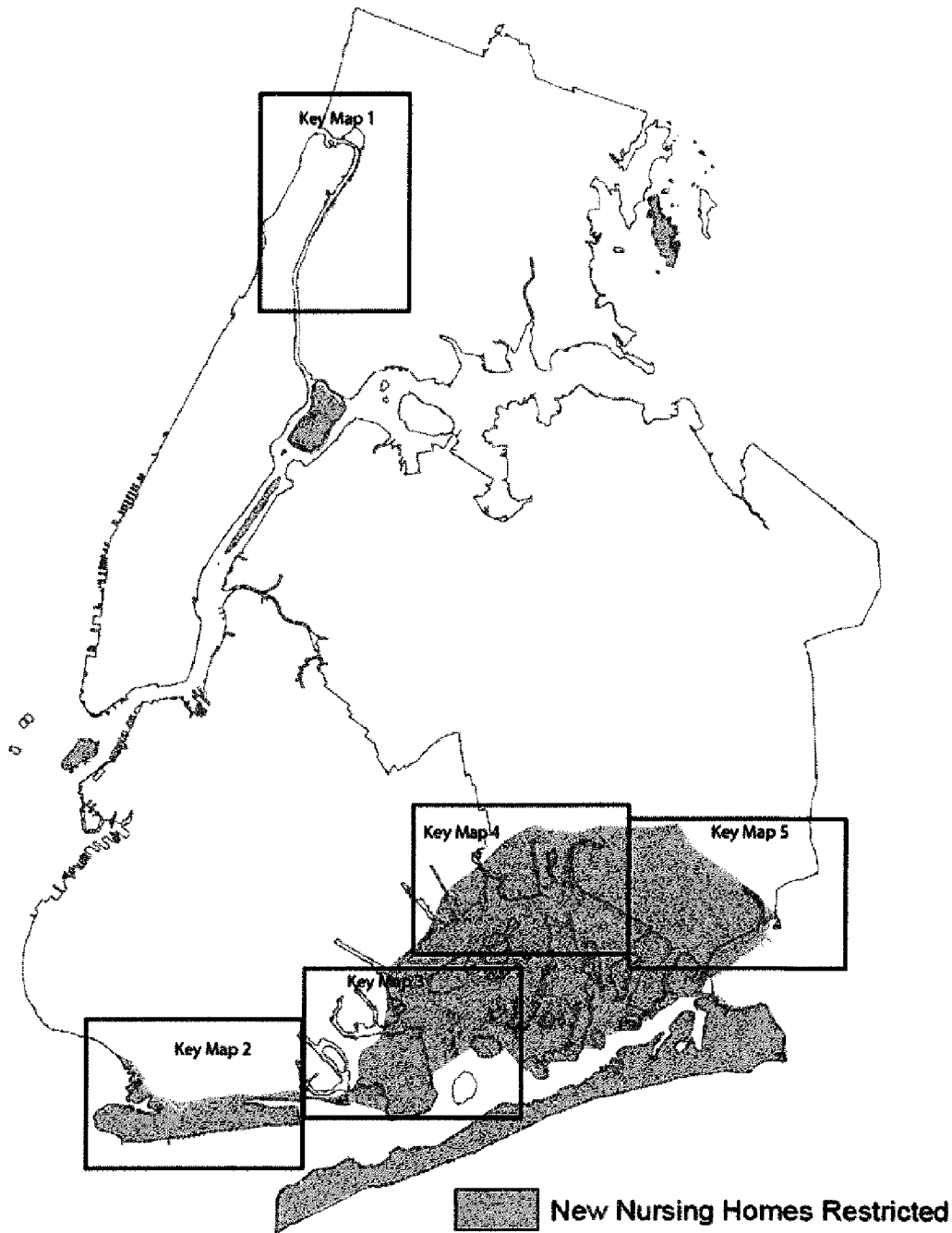
all of Queens Community District 14;

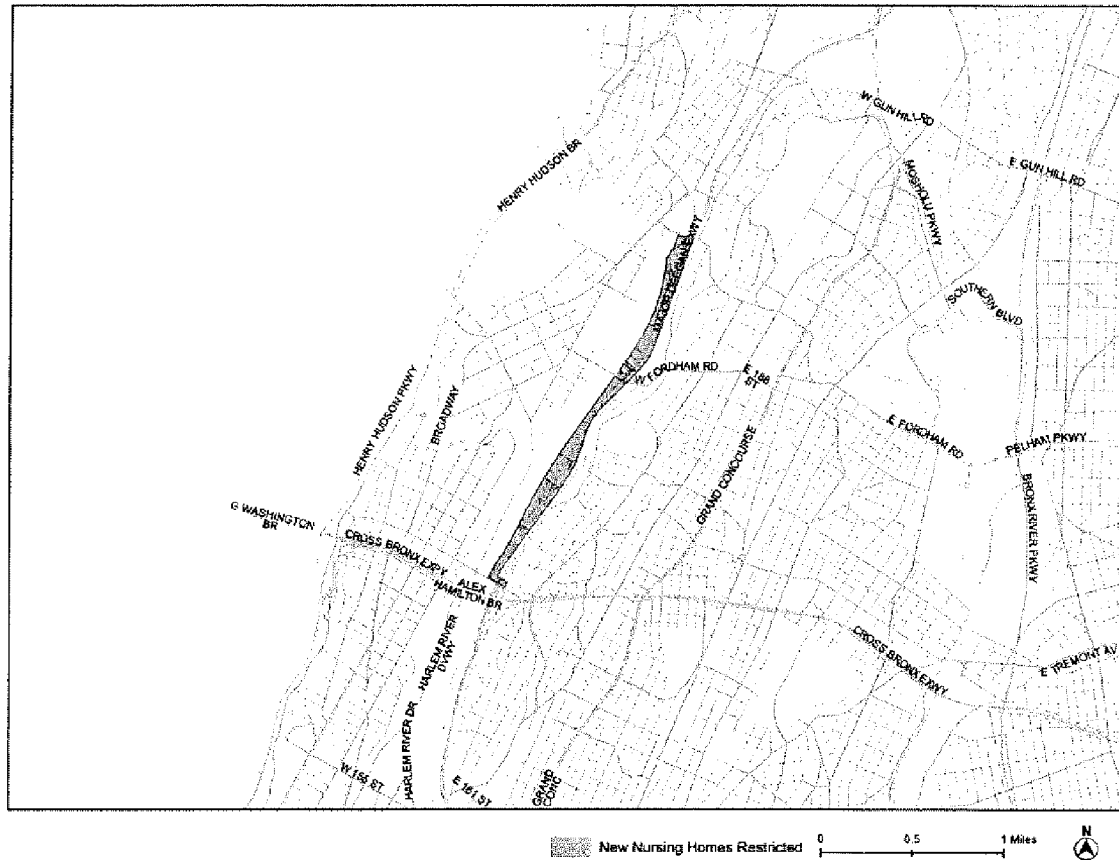
portions of the Bronx Community Districts 1, 4, 5, and 7;

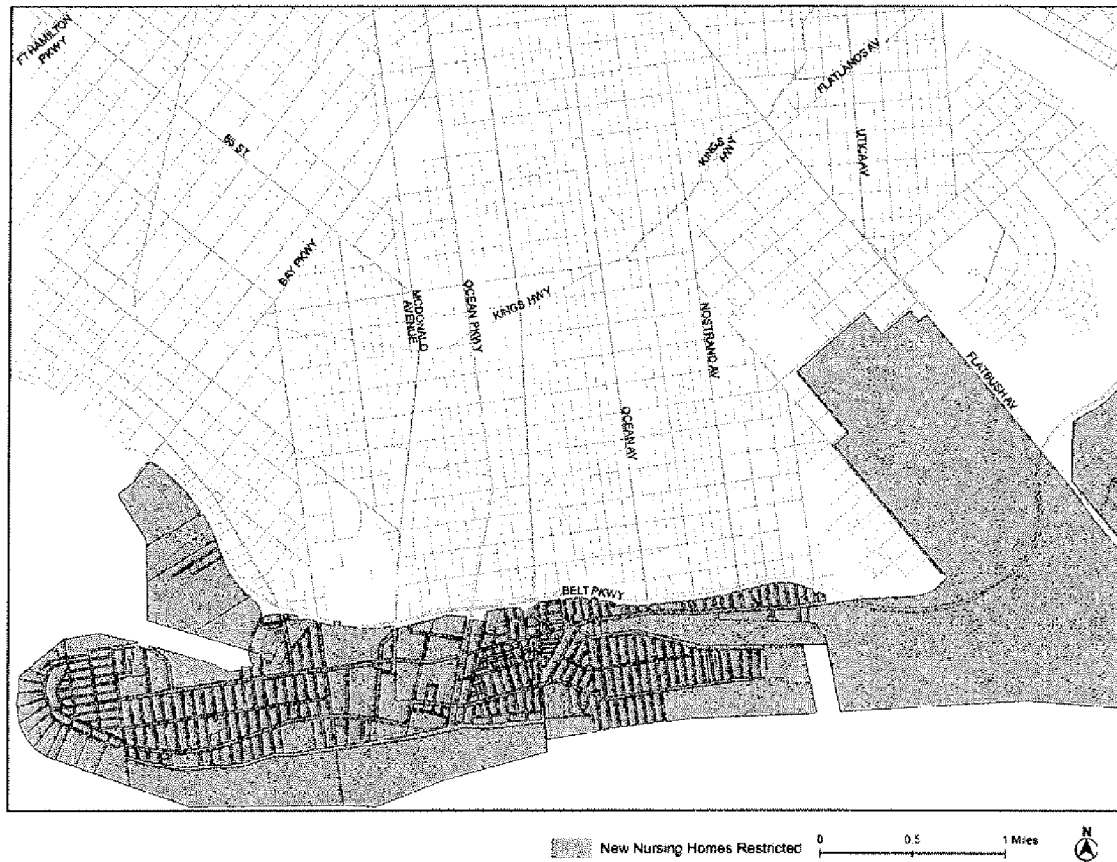
portions of Brooklyn Community Districts 11, 13, 15 and 18;

portions of Queens Community Districts 10 and 13;

Portions of Community Districts located within areas with nursing home restrictions are shown on Maps 1 through 5 in this APPENDIX.



Map 1 – the Bronx, Community District 5 and 7

Map 2 – Brooklyn, Community District 11, 13, 15 and 18

Map 3 – Brooklyn. Community District 18

Map 4 – Queens, Community District 10

Map 5 - Queens, Community District 13

* * *

The above resolution (N 210095 ZRY), duly adopted by the CPC on March 17, 2021 (Calendar No. 7), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, Chair

KENNETH J. KNUCKLES, ESQ., Vice Chairman

**DAVID BURNEY, ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO, III,
JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARÍN, LARISA ORTIZ, RAJ RAMPERSHAD**

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
Date of Vote: 1/28/2021 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	BX BP	Date: 2/3/2021 12:00 AM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 26	# Against: 0	# Abstaining: 0	Total members appointed to the board:
Date of Vote: 12/16/2020 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:		
Recommendation submitted by	BX CB2	Date: 1/26/2021 12:00 AM

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 17	# Against: 0	# Abstaining: 1	Total members appointed to the board:
Date of Vote: 12/16/2020 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	BX CB5	Date: 1/25/2021 12:00 AM
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**THE CITY OF NEW YORK****BOROUGH OF THE BRONX****COMMUNITY BOARD #5****Honorable Ruben Diaz, Jr., Bronx Borough President****Chairperson
Dr. Bola Omotosho****District Manager
Kenneth Brown**

Carol Samol
Bronx Borough Director
New York City Department of City Planning
1775 Grand Concourse; suite 503
Bronx, NY
10453

December 18, 2020

Dear Borough Director Samol,
Please accept this letter as affirmation of Bronx Community Board 5's assent to the Zoning Text Amendment to the Special Regulations Applying in Flood Hazard Areas as proposed by the Department of City Planning.

Bronx Community Board 5 assents to the proposal to change said regulation. The Board affirms that the proposal to update these regulations is beneficial. The proposed change to modify applicable geography within flood plains, changes to buildings, and the placement of permitted obstructions is affirmed by the vote of the board.

Staff from the Department of City Planning made a presentation to the Land Use Committee on December 15, 2020. The Committee thence made a recommendation to the Community Board to vote in the affirmative.

On December 16, 2020 at the Bronx Community Board 5 December General Board meeting, the Board did vote to approve the aforementioned text amendment. The vote of the Board was as follows:

Yes: 17

No: 0

Abstentions: 1

Please accept this letter as confirmation of Bronx Community Board Five's assent and recommendation to accept the Department of City Planning's proposed zoning text amendment amending the Special Regulations Applying in Flood Hazard Areas.

Sincerely,

Dr. Bola Omotosho

Chair, Bronx Community Board 5

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 16	# Against: 1	# Abstaining: 1	Total members appointed to the board: 18
Date of Vote: 12/10/2020 12:00 AM		Vote Location: Zoom Video Conference https://zoom.us/j/93615478640	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	BX CB6	Date: 1/11/2021 11:09 AM
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ATTENDANCE AND VOTING RECORDING FOR BRONX COMMUNITY BOARD #6 MEETING OF DECEMBER 9, 2020

NAME	ATTENDANCE	MINUTES OF DECEMBER 11, 2020	LOS 816 EAST 176TH STREET	LETTER TO NYCEDC	LETTER TO MAYOR AND HPD	RECOMME NDATION TO CITY PLANNING	ADJOURM ENT				
Clarita Bailon	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Virginia Bird											
Cornell Brown	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Milagros Cancel											
Evonne Capers	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Nicole Carter											
Sadija Cekovic	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Nelson Chimilio	Present	Yes	Yes	Yes	Yes	No	Yes				
Diana Diaz											
Margarita Espinosa	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Frank Franz	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Maria Garcia											
Lanell Gardenhire	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Julisa Hamilton	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Audrey Harden											
Laura James											
Maria Latimer	Present	Yes				Yes	Yes				
Assana Lloyd											
Matthew Martinez	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Francine Miller	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Michael Nelson											
Floretta O'Brien	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Rev. Marilyn Oliver											
Jorge Ortiz											
Rosa Peraza	Present	No	Abstain	Abstain	Abstain	Abstain	Yes				
Reggie Powell	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Paul Ramirez	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Carmen Rivera	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Kristine Rivera	Present	Yes	Yes	Yes	Yes	Yes	Yes				
Rev. Hiram Rathiff											
Helga Robles											

Bronx CB 7
MOTION SUMMARY

January 26, 2021

Title: Motion concerning the proposed Zoning for Coastal Flood Resiliency text amendment.

Committee(s): Housing, Land Use, & Economic Development

Recommended Action: Bronx Community Board 7 supports the proposed Zoning for Coastal Flood Resiliency text amendment to the NYC Zoning Resolution.

Background: In response to the widespread damage from Hurricane Sandy, the City Planning Commission proposes a text amendment to the NYC Zoning Resolution to promote resilient buildings in the city's floodplains. The zoning changes proposed would give building owners and operators workable options and flexibility with regard to existing buildings located in a floodplain. The proposed zoning change would amend and make permanent rules adopted on a temporary basis in 2013.

Rationale for Recommendation: Because this proposed zoning change would have a de minimis impact on Bronx community district 7, the Executive Committee voted in December 2020 to take no position and instead defer to the positions of Bronx Community Boards more substantially affected by the proposed zoning change. Subsequent to this meeting, CB 7 staff learned that Bronx Community Boards 2, 9, and 10 approved motions in support of this zoning text change.

Timing: The deadline to submit comments to the City Planning Commission is January 28, 2021.

Prior Action: This motion was tabled by the General Board at its December 2020 meeting.

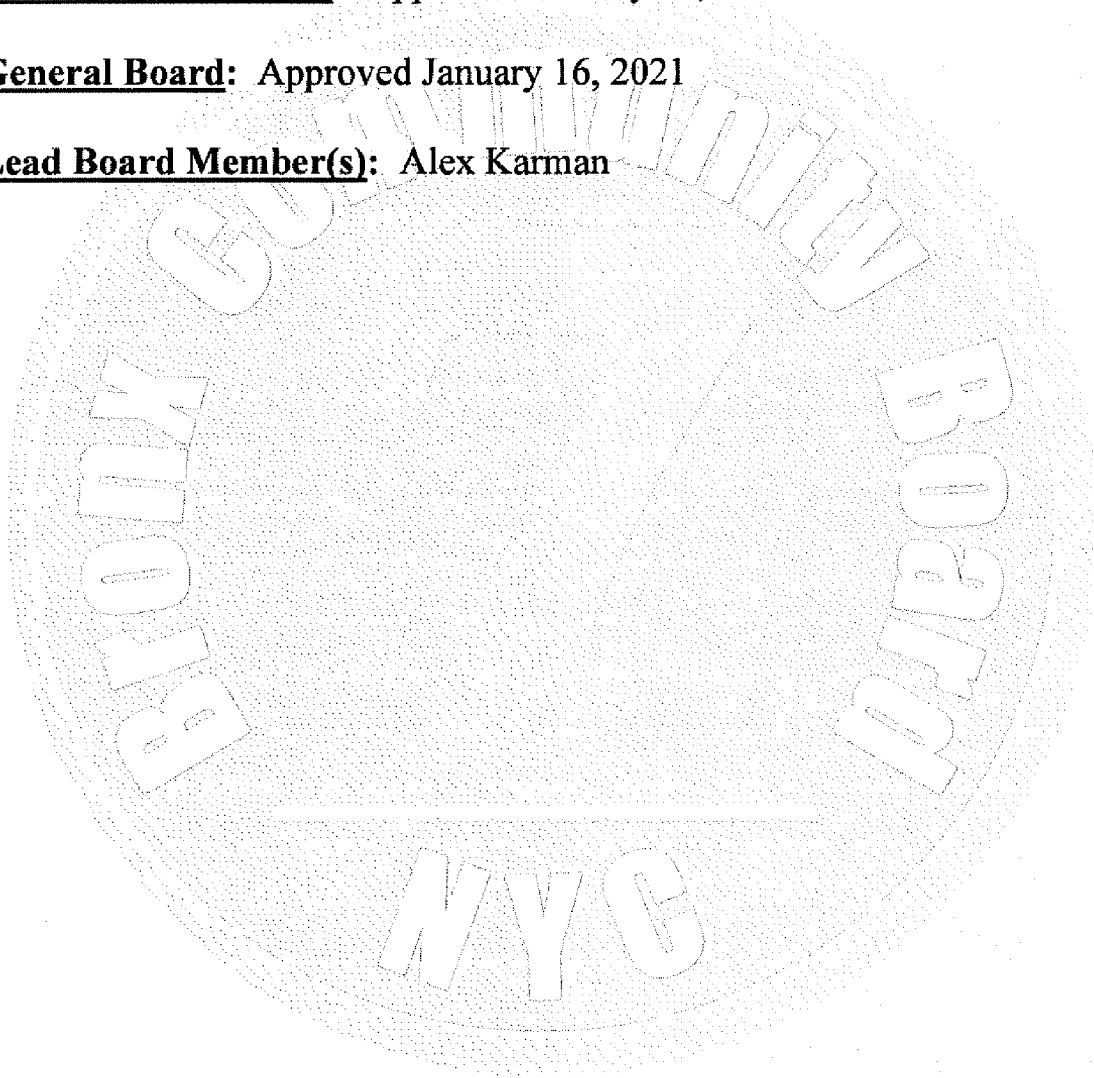
Future Actions: None at this time.

Committee: Approved January 12, 2021.

Executive Committee: Approved January 21, 2021.

General Board: Approved January 16, 2021

Lead Board Member(s): Alex Karman



FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Unfavorable			
# In Favor: 0	# Against: 39	# Abstaining: 0	Total members appointed to the board: 43
Date of Vote: 12/8/2020 12:00 AM		Vote Location: Zoom- Virtual Meeting	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/30/2020 7:00 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Zoom- Virtual Meeting

CONSIDERATION:

Recommendation submitted by	BX CB8	Date: 12/10/2020 12:59 PM
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[12-8-20]

RESOLUTION RE ZCFR

WHEREAS, pursuant to City Planning N210095 ZRY there has been proposed a Citywide text change in the Zoning Resolution with respect to Coastal Flood Resiliency ("ZCFR") and a public hearing thereon was duly noticed and conducted by the Land Use Committee of Community Board No. 8, Bronx, County ("Land Use" and "Board 8," respectively) on November 30, 2020;

WHEREAS, in addition to previously providing a copy of the proposed ZCFR and of links to the relevant Board 8 maps, representatives of the Department of City Planning ("DCP" or "City Planning") at the November 30, 2020 public hearing made a detailed presentation, having previously and thereafter provided additional mapping and other information to Members of Land Use and of the public in response to questions raised by them;

WHEREAS, ZCFR does not contribute to citywide sustainability goals or improve water management in FEMA-designated floodplains by failing to incorporate, through regulation, incentive, or example, building modifications, designs, and natural features that effectively manage flood and storm water and mitigate the impact of storm surges and coastal flooding on floodplain properties and communities

WHEREAS, upon the totality of the presentations made and data provided as noted above, as well as independent research by members of Land Use, the following appear:

1. ZCFR and its mapping data and conclusions appear based on 2007 Federal Emergency Management Agency ("FEMA") data and maps, which are currently scheduled to be revised and updated in 2021;
2. The maps provided to date indicate the specific properties included for coverage under ZCFR by a colored line only and without specificity, some of which was, however, obtainable by inquiry of City Planning representatives and an online link causing at least some meaningful burden to property owners seeking to determine whether their property is or is not included;
3. The language of the proposed ZCFR is cumbersome, if not confusing, as to the bases for action by City agencies in the grant or denial of applications thereunder, let alone the applicable standards governing determinations respecting grant or denial; what specific regulations are superseded, and to what extent and under what specific circumstances;
4. The presentations made expressly stated that the proposed ZCFR is intended to and would or could be used under so-called Emergency Declarations to afford remedies or permit governmental action wholly outside issues related to Coastal Flood Resiliency (e.g., Covid-19 circumstances were specifically cited) or even Zoning, but no standards, guidelines, scoping or management were presented respecting the circumstances surrounding invocation of the Emergency, its duration, its scope or remedies and the like.

WHEREAS, after due consideration and debate the Land Use Committee of Board 8 makes the following factual findings based upon the totality of the record before it:

1. Climate change and attendant issues, including Coastal Flooding, their impact and the need for governmental and public response, are undeniable matters of substantial public importance, as is the need that such responses be deliberate, reasoned and as soundly predicated as circumstances and available knowledge permit.
2. The proposed ZCFR is premature and ill-considered in view of the fact that the underlying FEMA maps and data are scheduled for change in less than a year and there presently exist interim regulations and procedures covering most, if not all, the issues and matters proposed to be made "permanent" (the term used by City Planning) by ZCFR;
3. The proposed ZCFR is, according to City Planning, intended to be and can be applied beyond Zoning concerns and even Coastal Flooding and Environmental concerns to as yet unspecified "emergencies," the nature, temporal and substantive scope of which are unspecified, as are the procedures for the implementation and management of which, thereby affording an unacceptable "blank check" to government that is both legally and philosophically unacceptable in a democratic society;
4. The bases for action and standards upon which decisions are to be rendered on applications under ZCFR are unspecified and thus leave room for unbridled arbitrary and capricious action (for example, the jurisdiction of the Board of Standards and Appeals – which is an agency with significant zoning authority – is inappropriately extended well beyond circumstances involving flood elevation without a showing of justifiable circumstance);
5. The proposed ZCFR permits the superseding of various unspecified regulatory controls with respect to not just zoning but to non-zoning matters and matters unrelated to flood control matters and does not clearly establish circumstances for the temporal or substantive need therefore, the term thereof, the attendant scope, management or governing standards applicable thereto, etc (to illustrate, Special Natural District requirements and zoning provisions designed to facilitate the construction of affordable housing are among the potential casualties of the overly broad provisions here proposed);
6. The proposed ZCFR relegates to at best afterthought basic zoning concepts—the juridical and practical basis of the Zoning Resolution (e.g., Use, parking, side yard and other concerns underlying the Zoning Resolution).

NOW THEREFORE, BE IT

RESOLVED THAT the Land Use Committee of Community Board 8, Bronx County, rejects and votes "NO" on the proposed ZCFR Citywide Text Amendment and all of its provisions, without prejudice to a duly notice future timely and appropriate submission.

Vote:

Approve (39): S. Alexander, B. Bender, C. Dartis-Galvin, L. Daub, M. Della, M. Donato, P. Ellis, D. Escano- Bell, M. Esema, B. Fanuzzi, N. Fazio, S. Froot, D. Gellman, R. Ginty, M. Gluck, J. Gomez, M. Goodman, E. Green, R. Jacklowsky, D.B. Jackson, M. Joyce, R. Kaplan, D. Leverett, L. Lopez, C. G. Moerdler, T. Morris, D. Padernacht, R. Pochter- Lowe, J. Reyes, G. Santiago, R. Singh, L. Spalter, C. Tepulus, D. Travis, J. Townes, S. Villaverde. M. Wolpoff

Oppose: (0)

Abstain: (0)



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 22	# Against: 0	# Abstaining: 1	Total members appointed to the board: 37
Date of Vote: 12/18/2020 12:00 AM		Vote Location: Webex Remote Meeting	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION: On June 18, 2020 the General Board voted in favor of zoning for flood resiliency text amendment.

Recommendation submitted by	BX CB9	Date: 1/8/2021 10:43 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

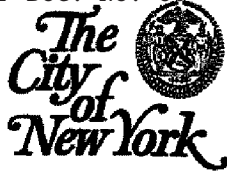
RECOMMENDATION: Favorable			
# In Favor: 37	# Against:	# Abstaining:	Total members appointed to the board:
Date of Vote: 11/9/2020 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/19/2020 7:00 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	virtual Cisco Webex

CONSIDERATION:

Recommendation submitted by	BX CB10	Date: 1/20/2021 12:00 AM
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Ruben Diaz, Jr.
Borough President

BRONX COMMUNITY BOARD No. 10

3165 East Tremont Avenue • Bronx, New York 10461

Tel: (718) 892-1161 • Fax: (718) 863-6860

E-mail: bx10@cb.nyc.gov

Facebook.com/BronxCommunityBoard10

Website: www.nyc.gov/bronxcb10



Joseph Russo
Chairperson

Matthew Cruz
District Manager

Public Hearing – N210095 ZRY
Citywide Zoning Text Amendment for Zoning for Coastal Flood Resiliency
and
Bronx Community Board #10

November 19, 2020, 7:00 p.m.

CISCO Webex Dial 646-992-2010, Access Key 1295938141

PRESENT: H. Acampora, T. Accomando, M. Ali, R. Baez, R. Barbarelli, R. Bieder, M. Bufano, P. Cantillo, M. Caruso, Col. W. Chin, A. Chirico, M. Davila, P. Del-Debbio, T. Franklin, I. Guanill, G. Havranek, D. Hunt, C. Isales, D. Krynicki, J. Landi, M. Morris, M.J. Musano, D. Noble, E. Olton, L. Popovic, D. Prioleau, J. Robert, N. Rosario, J. Russo, M. Sajous, N. Sala, T. Smith, J. Thomas, A. Torres, B. Vasquez, M. Velazquez, S. Woods (total # present = 37)

ABSENT: T. Chambers, L. Council, M. Johnson, J. Marano, S. McMillan, J. McQuade, J. Onwu, A. Salimbene, J.P. Santiago, (total # absent = 9)

Board #10 Staff: Matt Cruz, District Manager
Susan Duffy, Community Assistant

1st Vice Chair Noble opened the meeting at 7:00 with the Pledge of Allegiance, following by the public hearing.

Public Hearing – N210095 ZRY, Citywide Zoning Text Amendment for Zoning for Coastal Flood Resiliency – Presentation by the NYC Department of City Planning, Christine Camilleri.

Ms. Camilleri went over the amendment text which has been in place as temporary measures when the City of New York introduced the emergency rules in 2013 after Hurricane Sandy. The purpose was to have an updated presentation with the purpose of making the amendment permanent City-wide.

Ms. Camilleri went over the CD10 Flood Risk map and discussed the current risks and projected risks. The goals of the amendment will affect all types of buildings, commercial and residential, in the high-risk flood zones.

There was a brief discussion with Board members followed by public comment. A concern was raised that barrier walls installed on Long Island may make the City more vulnerable for flooding; inquiries about funding; HPD home fix program and a buyback program.

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Resolution:

“Resolved...at the recommendation of Bronx Community Board #10 that N210095 ZRY a Citywide Zoning Text Amendment for Zoning for Coastal Flood Resiliency be approved, with notification the New York City Department of City Planning and the Office of the Borough President.”

A motion to accept the Resolution was made by Mr. Accomando, seconded by Mr. Bieder with the following vote: unanimous. **The Resolution passed.**

A motion to close the Public Hearing was made by Mr. Franklin, seconded by Mr., Landi with all in favor.

There were no public speaker requests for the full Board meeting. Ms. Noble proceeded with Resolutions.

Resolution – October 15, 2020 Minutes

Resolution to accept the minutes from the October 15, 2020 Bronx Community Board #10 meeting was made by Mr. Bieder seconded by Mr. Accomando with a unanimous vote. **The Resolution passed.**

Resolution – Renewal Liquor Licenses

Resolved...at the recommendation of the Economic Development Committee of Bronx Community Board #10, that the following establishments applying for a renewal license have agreed to comply with the best management practice standards contained within the Stipulations, by signing them, and to further agree to attend ATAP training, and that their compliance be sent to the State Liquor Authority, along with the Resolution and the vote, and copies placed in the Board's file.

- Dallas BBQ, 2160 Bartow Ave, 10475, between Bay Plaza & Co-op City Blvds, License # 1267619, which expires on 11/30/2020.
- Black Whale, 279 City Island Ave, 10464, between Hawkins & Carroll Sts, License #1282255, which expires on 11/30/2020.
- Tequila & Mezcal, 2432 E Tremont Ave, 10461, between Lyvere & Seddon Sts, License #1298019, which expires on 11/30/2020.
- Taqueria Guerrero, 1761 Crosby Ave, 10461, between Roberts & Westchester Aves, License #1298330, which expires on 11/30/2020.
- Artie's Steak House, 394 City Island Ave, 10464, between Ditmars St & Reville Sts, License # 1004063, which expires on 12/31/2020.
- Vivienne's, 3044 Westchester Ave, 10461, between Mahan & Westchester Ave, License #1109127, which expires on 11/30/2020.

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A motion to accept the Resolution for renewal licenses was made by Ms. Noble, seconded by Mr. Cantillo with a unanimous vote. **The Resolution for renewal licenses passed.**

Resolution – New Liquor Licenses

Resolved...at the recommendation of the Economic Development Committee of Bronx Community Board #10, that the following establishments applying for a new license have agreed to comply with the best management practice standards contained within the Stipulations, by signing them, and to further agree to attend ATAP training, and that their compliance be sent to the State Liquor Authority, along with the Resolution and the vote, and copies placed in the Board's file.

- Mi Casita Pizzeria, 3439 E Tremont Ave, 10465, between Otis Ave & Bruckner Blvd, License # NEW. (Formerly Slice & Co)

Indoor	Sun	Mon	Tues	Wed	Thur	Fri	Sat
Hours:	10AM-2AM	10AM-2AM	10AM-2AM	10AM-2AM	10AM-2AM	10AM-2AM	10AM-2AM
MOP:	Recorded Music, Live Music, D J, Karaoke						

- Bayahibe Fusion Corp, 3791 E Tremont Ave, 10465, between Randall & Schley Aves, License #NEW

Indoor	Sun	Mon	Tues	Wed	Thur	Fri	Sat
Hours:	8AM-8:30PM	8AM-8:30PM	8AM-8:30PM	8AM-8:30PM	8AM-8:30PM	8AM-8:30PM	8AM-8:30PM
MOP:	Recorded Music						

A motion to accept the Resolution for renewal licenses was made by Mr. Cantillo, seconded by Ms. Noble, with a unanimous vote. **The Resolution for new licenses passed.**

Floor Resolution – Economic Development - Karibbean Krave – 50 ft. rule

- **“Resolved...**at the recommendation of Bronx Community Board #10 that a letter of no objection be issued to the State Liquor Authority application waiving the 500-foot rule for the application of Karibbean Krave LLC at 65 Westchester Square, Bronx NY 10461.”

The Westchester Square BID has no objection. The business was formerly SPRINT Mobile. The three businesses with liquor licenses within 500 feet are *Plush 101*, *Estrellita Poblana* and *La Casa de Sabor*.

Motion to accept resolution made by Mr. Landi, seconded by Bishop Rosario with a unanimous vote. **The floor Resolution passed.**

Floor Resolution – Economic Development – Elected Officials/SLA

- **“Resolved...**at the recommendation of the Economic Development Committee that the Board draft a letter to our to state elected officials and the State Liquor Authority asking that it 1) provide closings and limited reopening as a result of the pandemic, 2) that the fee structure be adjusted in light of

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possible forced closures, and 3) that the establishments be given a grace period to recoup losses once the restrictions have been lifted, and that this be forwarded to the Full Board for its approval.”

Motion to accept resolution made by Mr. Bieder, seconded by Mr. Smith with a unanimous vote. **The Floor Resolution passed.**

Senator Luis Sepulveda offered to speak with the Board on Friday, November 20, 2020 about the Resolution and letter.

Resolution - Parks and Recreation – Letter of Support

“**Resolved.** . . at the recommendation of the Parks and Recreation Committee that a letter be drafted to Borough Commissioner Rodriguez-Rosa of the Bronx Parks Department in support of the seawall repair project at the Pelham Bay Landfill and that this be forwarded to the Full Board for its approval.”

A motion to accept the Resolution for a letter of support was made by Mr. Landi, seconded by Mr. Bieder with a unanimous vote. **The Resolution passed.**

REPORTS

DISTRICT MANAGER’S REPORT: Mr. Cruz

- DM Cruz thanked Board members Marjorie Velasquez and Milagros Bufano with the turkey food distribution.
- COVID19 is increasing in parts of Westchester Square, Castle Hill and Zerega Avenue and are very close to being business being shut down if raised to an orange zone.
- Meetings will resume virtually in January 2021.
- Starting in 2021 EMS will respond to 911 calls for mentally ill.
- Schools have been closed by the Mayor with no timetable for reopening.
Note: public schools will reopen as of Monday, Dec. 7; no timetable for middle or public schools.
- Grab and go meals in schools are still available, Monday - Friday from 3 p.m. – 5 p.m.
- Contact DM Cruz if you know of a family that needs meals.

Board members discussed demographics, HIPPA guidelines and how to obtain more information on demographics. <https://covidhotspotlookup.health.ny.gov/#/home>

EXECUTIVE BOARD: Mr. Russo

The Committee met on November 16, 2020. Minutes are self-explanatory. Mr. Russo reiterated the need for committees to be proactive. He recognized Ms. Caruso for her work on the Housing and Zoning Committee.

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HOUSING/ZONING COMMITTEE: Mr. Popovic

The Committee met on November 9, 2020. Minutes are self-explanatory. The NYC Department of Buildings has identified a condition concerning 155 Pilot Street in that cranes are not permitted. The applicant has appealed.

ECONOMIC DEVELOPMENT COMMITTEE: Mr. Accomando

The Committee met on November 4, 2020. The minutes are self-explanatory. There were applications for renewal and new licenses which were favorably voted on in Committee. In addition there were two floor motions, one for a 50 ft. rule and the other for a letter to be sent to the SLA on relaxing the fee required for liquor serving establishment renewals which did not go through Committee and were presented to the full Board. These resolutions are reflected above under Resolutions.

YOUTH SERVICES/EDUCATION COMMITTEE: Mr. Bieder

The Committee met on October 26, 2020. Minutes are self-explanatory. Checks were finally received and distributed to the high school students for the Yankee Youth Leadership Program. It is hoped that new grant applications be received shortly. Mr. Bieder noted that as a result of the Tech Equity Day of Action, shelters are to receive technology.

MUNICIPAL SERVICES COMMITTEE: Ms. Velazquez

The Committee met on November 10, 2020. Ms. Velasquez went over the minutes, which are self-explanatory.

PARKS/RECREATION COMMITTEE: Mr. Franklin

The Committee met on November 12, 2020. Minutes are self-explanatory. A resolution for the Pelham Bay Landfill letter of support was discussed and passed in committee and is reflected in the Resolutions section above.

HEALTH/HUMAN SERVICES: Bishop Rosario

The Committee met on October 29, 2020. Minutes are self-explanatory.

NOMINATIONS AND ELECTIONS: Mr. Sala

Nominations have been closed. The current roster of Executive Board members were all re-nominated, seconded, and accepted. In addition, Mr. Andrew Chirico was nominated, seconded and accepted for the position of 1st Vice Chair. Voting for the Executive Board will take place at the January 21, 2021 meeting.

Chair: Joseph Russo

1st Vice Chair: Denise Noble (incumbent), Andrew Chirico

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2nd Vice Chair: Peter Cantillo
Secretary: Taisha Chambers
Treasurer: Mary Jane Musano

ELECTED OFFICIALS:

NYS Sen. Luis Sepulveda: offered his assistance to the Board for any matter; 718-991-3161 for assistance, email sepulveda@nysenate.gov

Farrah Rubin, Office of Council Member Mark Gjonaj: Call the office at 718-931-1721 for assistance.

Marcus Bedinger, Office of U.S. Congressperson Ocasio-Cortez: Call the office for assistance 718-662-6970.

All three representatives listed the numerous endeavors undertaken by the elected officials, most notably food distribution throughout their Districts and wished all a happy and safe Thanksgiving.

NYC Council Member Rafael Salamanca, Chair of NYC Land Use Committee: he discussed outdoor dining, introduced a bill for outdoor heating for medical facility establishments testing for COVID19.

His office is distributing food throughout his district and wants to partner with a pet food giveaway with Bronx Community Board #10 wished all a happy and safe Thanksgiving.

NYC Council Member Mark Gjonaj: listed joint efforts with CM Salamanca; went over the small business issues and the effects due to COVID19; continuing food outreach each week. Offered to assist securing devices for school children that need one; wished all a happy and safe Thanksgiving.

Miguel Rondon, Bronx Borough Director Mayor's Office: stay home if sick, wear a mask, keep hands clean and get tested. Discussed self-test kits for COVID-19; wished all a happy and safe Thanksgiving.

Angela Connelly, Office of NYS Senator Biaggi: turkey and produce distribution at CB10 office on 11/18/20; free covid mobile testing site Saturday/Sunday Nov. 21/22 at 3718 east Tremont Avenue; wished all a happy and safe Thanksgiving.

Leon Tulton, Office of NYS Assemblyman Michael Benedetto: Sunday, December 6, 5 p.m. tree lighting ceremony at DeRosa O'Boyle Triangle in Throggs Neck; wished all a happy and safe Thanksgiving.

Mirian Torrado, Office of Senator Sepulveda: office is working on food distributions to NYCHA and seniors; mask distributions in their district. The office has been very busy with food distributions throughout his district; wished all a happy and safe Thanksgiving. 718-991-3161

OLD BUSINESS: None

NEW BUSINESS:

Mr. Del-Debbio commended the FDNY for their heroic efforts in handling the recent fire on Harding Avenue. Bronx Solid Waste Review Program by Office of the Borough President – Mr. Del-Debbio will be the Bronx CB #10 representative.

DM Cruz – the Board collected clothing for the victims of the fire.

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The Board collected pots, pans etc. for St. Peters Church on Westchester Avenue.

Board member Velazquez asked that cat food be included in the food drive for animals.

Motion to close the November 19, 2020 Community Board #10 meeting was made by Mr. Bieder, seconded by Bishop Rosario and unanimously approved by all.

Respectfully submitted by Susan Duffy.

This is to certify that the foregoing minutes reflect the information that was discussed at the full Board meeting of November 19, 2020.



District Manager

Dated: December 9, 2020

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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A = ABSTAIN X = AGAINST V = IN FAVOR R = RECUSE

November 19, 2020 BRONX COMMUNITY BOARD 10 46 Members / 24=Quorum	A T T E N D	1. Public Hearing 1. Tom A. 2. Bob B.	2. 10/15/20 Minutes 1. Bob B. 2. Tom A.	3. ECON DEV Renewals 1. Demise N. 2. Peter C.	4. ECON DEV New 1. Peter C. 2. Denise N.	5. ECON DEV 500 FT 1. Jerry L. 2.. Bishop Nancy	6. ECON DEV SLA - 1. Bob B. 2. Tom S.	7. PARKS PELHAM BAY LANDFILL 1. Jerry L. 2. Bob B.
Board Member Name								
Acampora, Hannah	P	V	V	V	V	V	V	V
Accomando, Thomas	P	V	V	V	V	V	V	V
Ali, Mohammed	P	V	V	V	V	V	V	V
Baez, Raquel	P	V	V	V	V	V	V	V
Barbarelli, Robert	P	V	V	V	V	V	V	V
Bieder, Robert	P	V	V	V	V	V	V	V
Bufano, Milagros	P	V	V	V	V	V	V	V
Cantillo, Peter	P	V	V	V	V	V	V	V
Caruso, Maria	P	V	V	V	V	V	V	V
Chambers, Taisha	A							
Chin, Col. William	P	V	V	V	V	V	V	V
Chirico, Andrew	P	V	V	V	V	V	V	V
Council, Lauren	A							
Davila, Michele	P	V	V	V	V	V	V	V
Del-Debbio, Peter	P	V	V	V	V	V	V	V
Franklin, Terence	P	V	V	V	V	V	V	V
Guanill, Irene	P	V	V	V	V	V	V	V
Havranek, George	P	V	V	V	V	V	V	V
Hunt, Deborah	P	V	V	V	V	V	V	V
Isales, Cynthia	P	V	V	V	V	V	V	V
Johnson, Monique	A	V	V	V	V	V	V	V
Krynicky, Dorothy	P	V	V	V	V	V	V	V
Landi, Jerry	P	V	V	V	V	V	V	V
Marano, John	A							
McMillan, Susan	A							
McQuade, James	A							
Morris, Martin	P	V	V	V	V	V	V	V
Musano, Mary Jane	P	V	V	V	V	V	V	V
Noble, Denise	P	V	V	V	V	V	V	V
Olton, Errol	P	V	V	V	V	V	V	V
Onwu, Joseph	A							
Popovic, Louis	P	V	V	V	V	V	V	V
Pringleau, Devon	P	V	V	V	V	V	V	V
Robert, John	P	V	V	V	V	V	V	V
Rosario, Bishop Nancy	P	V	V	V	V	V	V	V
Russo, Joseph	P							V
Sala, Nick	P	V	V	V	V	V	V	V
Salimbene, Anthony	A							
Sajous, Michelle	P	V	V	V	V	V	V	V
Santiago, Jean-Pierre	A							
Smith, Tom	P	V	V	V	V	V	V	V
Thomas, Janine	P	V	V	V	V	V	V	V
Torres, Angela	P	V	V	V	V	V	V	V
Vasquez, Bryan Hodge	P	V	V	V	V	V	V	V
Velazquez, Marjorie	P	V	V	V	V	V	V	V
Woods, Stephanie	P	V	V	V	V	V	V	V

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NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: No Objection			
# In Favor: 35	# Against: 0	# Abstaining: 0	Total members appointed to the board: 49
Date of Vote: 1/28/2021 12:00 AM		Vote Location: virtual meeting	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	BX CB11	Date: 2/3/2021 3:06 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 31	# Against: 0	# Abstaining: 0	Total members appointed to the board: 45
Date of Vote: 11/19/2020 12:00 AM		Vote Location: Webex Portal	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/20/2020 7:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Webex Porta

CONSIDERATION:		
Recommendation submitted by	BX CB12	Date: 1/8/2021 2:57 PM

**BOROUGH PRESIDENT
RECOMMENDATION**

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Administrator: DCP - Department of City Planning (NYC)
Application # N210095ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable

Please attach any further explanation of the recommendation on additional sheets as necessary

CONSIDERATION:

Recommendation submitted by	MN BP	Date: 12/28/2020 4:20 PM
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OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

December 28, 2020

Recommendation on ULURP Application No. N210095ZRY
Zoning for Coastal Flood Resiliency
By the New York City Department of City Planning

PROPOSED ACTIONS

The New York City Department of City Planning (DCP) is seeking city-wide zoning text amendment primarily and heavily modifying text within Article VI, Chapter 4 of the Zoning Resolution, previously titled "Special Regulations Applying in Flood Hazard Areas" and proposed to be renamed "Special Regulations Applying in Flood Zones". The text amendment would make permanent the 2013 Flood Text, while making modifications, driven by four main goals outlined by DCP. These goals, with text modifications attached to each, are as follows:

1. Encourage resiliency throughout the current and future floodplains.
 - a. Expand available regulations beyond the 1 percent annual chance floodplain to the 0.2 percent annual chance floodplain.
 - b. Expand applicability from buildings to zoning lots.
2. Support long-term resilient design of all building types.
 - a. Utilize the flood-resistant construction elevation in zoning regulations.
 - b. Define a reference plane from which buildings can measure height and setback.
 - c. Provide various other envelope modifications deriving from the 2013 Flood Text.
 - d. Provide floor area exemptions for wet-floodproofed ground floor spaces.
 - e. Provide floor area exemptions for dry-floodproofed ground floor spaces along retail corridors.
 - f. Amend certain cellar regulations for floodproofed buildings.
 - g. Amend certain street wall regulations for floodproofed buildings.
 - h. Elevate ground floor regulations and uses to accommodate resiliency.
 - i. Expand the availability of the cottage envelope option in low-density districts.
 - j. Encourage parking below buildings in low-density districts.
 - k. Expand on the existing BSA resiliency special permit.
 - l. Create a new BSA special permit for ground floor use variance.
3. Allow for adaption over time through incremental retrofits.
 - a. Encourage placement of mechanical equipment within and on top of buildings.
 - b. Encourage placement of mechanical equipment in open areas.

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- c. Allow for placement of other important spaces above ground level.
- d. Allow flood protection measures as permitted obstructions.
- e. Facilitate resilient construction and elevation on waterfront sites.
- 4. Facilitate future recovery by reducing regulatory obstacles.
 - a. Allow power systems as permitted obstructions citywide.
 - b. Allow ramps and lifts as permitted obstructions citywide.
 - c. Limit the growth of nursing homes in the floodplain.
 - d. Provide disaster recovery provisions accessible in declared emergencies.
 - e. Facilitate resiliency in waterfront recreation districts.

BACKGROUND**Hurricane Sandy**

New York City is home to 520 miles of shoreline, providing the city with unique advantages alongside significant risks to flood-related natural disasters. While flooding can come from events such as heavy rainfall, coastal storms and hurricanes present a unique danger to the city, as was clearly realized in the aftermath of Hurricane Sandy in 2012. The city's vulnerability to such a storm was made evident, as historic storm surges flooded unprecedented swaths of the city, not only causing massive damages to buildings and infrastructure, but costing human lives as well.

The city has been a participant in the National Flood Insurance Program since 1983. This program grants assistance for property owners after floods, but more proactive measures are deemed necessary in the city's resiliency strategy. In the case of Hurricane Sandy, flood-related damages occurred well beyond the 1 percent annual chance floodplain, illustrating the need for proactive strategies to prepare for future disasters like Sandy, and make New York a more resilient city.

2013 Flood Text

In 2013, DCP introduced a temporary Flood Resiliency Zoning Text Amendment, intending to facilitate resilient construction mandated by Appendix G of the New York City Building Code. Adopted by the City Council on October 9, 2013, this text amendment introduced many of the provisions included in the Zoning for Coastal Flood Resiliency text amendment. These provisions include: allowing the height of a building to be measured by the Design Flood Elevation rather than the curb or ground level; allowing greater height where flood elevations are moderate; exempting access elements from zoned floor area; exempting ground floors from zoned floor area; facilitating above-ground parking; facilitating above-ground mechanical equipment; and mitigating blank street walls. The 2013 Flood Text was implemented as an emergency measure to facilitate resilient reconstruction of properties damaged by Sandy, and is expected to expire within a year of the adoption of new flood maps by FEMA, which is expected in the next few years.

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2015 Recovery Text

In addition to the 2013 Flood Text, DCP, with the Mayor's Office of Housing Recovery (HRO) and the Department of Housing Preservation and Development (HPD), introduced the Special Regulations for Neighborhood Recovery text amendment in 2015 to further facilitate resilient construction in certain coastal areas of Staten Island, Queens, and Brooklyn. This text amendment, adopted by the City Council on July 23, 2015, included provisions that complemented the 2013 Flood Text by further facilitating resilient reconstruction through zoning changes targeting low-density residential areas, facilitating the documentation process for non-complying and non-conforming uses, and establishing a new zoning envelope for smaller lots to help preserve neighborhood character while incentivizing resiliency. Designed to work in conjunction with the 2013 Flood Text and the Build-It-Back program administered by HRO and HPD, the 2015 Recovery Text expired in 2020.

COMMUNITY BOARD RESOLUTIONS

Each Manhattan Community Board was briefed by DCP at relevant committee meetings at least once through the months of November and December of 2020. Each Manhattan Community Board was given a 45-day period, simultaneous with the Manhattan Borough President time frame, to opine and present a resolution recommending approval or disapproval of the application.

Of the 12 Manhattan Community Boards, seven passed resolutions by December 28, 2020, regarding this application. Manhattan Community Boards 4, 7, 9, 10, and 12 plan to pass resolutions at their respective full board meetings in January, 2021. Of the seven that passed resolutions, four voted in favor of the application, while three voted against it. Five of the seven included conditions in their resolutions. The most common conditions were:

- Modify the text to restrict permitted obstructions in required yards, courts, and open spaces. While some Community Boards recommended that permitted obstruction provisions in this text amendment should not apply in their districts, others recommended Community Board approval for such obstructions, particularly concerning mechanical equipment and diesel generators (requested by four Community Boards).
- Provide robust and transparent funding mechanisms accompanying this text amendment to facilitate resiliency retrofits for existing buildings, particularly targeting small property owners wishing to opt into resiliency design standards (requested by two Community Boards).
- Further study the correlation between resilient design for existing buildings and new construction, and predicted savings on flood insurance costs, to better inform those opting into or mandated to comply with such resiliency design standards (requested by two Community Boards).

No. N210095ZRY – Zoning for Coastal Flood Resiliency

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- Consider, in addition to the restriction of new nursing homes in the floodplain, restricting other building uses housing vulnerable populations, such as hospitals (requested by two Community Boards).
- Modify the text to require prompt consultation with the local Community Board(s) once a proposed Designated Recovery Area is in effect in the event of a future disaster (requested by two Community Boards).

BOROUGH BOARD RECOMMENDATION

The Manhattan Borough Board received a presentation from DCP about this proposed text amendment at its November 19, 2020 meeting. Members raised questions and concerns which were fielded by representatives from the agency. Informed by these concerns, as well as by issues raised by individual Manhattan Community Boards during their public hearings, the Borough Board agreed at its December 17, 2020 meeting to postpone the final vote to January 2021.

The draft resolution as it stands on the date of this document recommends approval of the application with the following conditions:

- Within historic districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper notification to and review from relevant Community Boards and Borough Presidents, and require that any design and zoning changes pursuant to this text amendment be subject to approval from the Landmarks Preservation Commission;
- Within special zoning districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper notification to and review from relevant Community Boards and Borough Presidents;
- For new buildings along primary streets in commercial districts, require dry floodproofing without granting any zoning exemptions or changes;
- For existing buildings along primary streets in commercial districts, limit height increases due to exempted ground floor area related to dry floodproofing to one floor of no more than 15 feet above the existing building;
- For new buildings outside of primary streets in commercial districts, require wet floodproofing or dry floodproofing without granting any zoning exemptions or changes;
- For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
- For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
- For small property owners who are seeking or are required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures;

No. N210095ZRY – Zoning for Coastal Flood Resiliency**Page 5 of 8**

- Proposed ZR § 64-312(a)¹ should only be applicable to residential districts R1 through R5;
- Clearly define “primary street frontages” in commercial districts where dry floodproofing provisions would apply, and restrict the definition of “severe disaster” to natural disasters related to flooding and the purposes of this text amendment;
- In relation to the concurrent Governors Island rezoning, both zoning actions must be coordinated in order to ensure that no information, briefing, or proposal be undermined or contradicted, that each proposal be as transparent as possible, and each be amended to be consistent with and to complement the other; and
- Include a maximum number of variances that can be allowed by the Board and Standards of Appeals for any single site.

BOROUGH PRESIDENT’S COMMENTS

Resiliency is an important and timely priority for New York City. The impact of climate change on a coastal city like New York includes our vulnerability to rising sea levels, increasingly frequent coastal storms, and other events related to a sea level rise. These necessitate a swift and proactive resiliency framework that is holistic, cohesive, and adaptable in response to climate change.

Hurricane Sandy devastated Manhattan and the city at large. With properties inundated and damaged beyond repair from immense flooding, and lives lost due to the city’s lack of a resiliency strategy, a citywide framework would have prevented these human, physical, and economic losses. Since 2012, the City has taken important steps toward increased resiliency, through zoning tools and funding mechanisms for reconstruction and retrofitting, large capital projects like the East Side Coastal Resiliency Project, and other initiatives. However, there is still more to do.

A resiliency framework must be multifaceted and will require a multitude of resources, the coordination of city agencies, and support from state and federal government. From Housing Preservation and Development, to Small Business Services, to City Planning, to Environmental Protection and the Human Resources Administration, each agency has a pivotal role in this effort. This text amendment is an example of the collaboration between agencies necessary to achieve such a citywide framework. As the New York City Building Code was amended to mandate resilient building design in the floodplain, zoning regulations were identified as conflicting with such resiliency initiatives, slowing and in some cases prohibiting intended results. This application intends to facilitate such resiliency goals put forth by the Building Code, allowing for property owners to maintain as-of-right floor area, move necessary facilities above ground and flood levels, and ensure that resiliency code requirements are feasible for new and existing buildings. Zoning is a key but not the sole tool required to achieve resiliency.

¹ This section of the proposed text amendment is meant to allow for mechanical equipment to be a permitted obstruction in all required yards, courts, and open spaces.

No. N210095ZRY – Zoning for Coastal Flood Resiliency
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A text amendment such as this is timely and necessary. However, the review process has revealed contention over the details. These must be addressed by the City in order to make our building stock resilient.

Historic and special districts

Manhattan is home to an array of historic and special zoning districts, each with its own regulations regarding height, bulk, street wall, design, and other elements of the built environment. Due to the risks inherent to a 1 percent annual chance floodplain, and the 0.2 percent floodplain, these districts would overlap significantly with those where this text amendment applies. These districts are very intentional in their zoning restrictions and allowances, meant to either preserve the historic character of the area, or allow for and facilitate certain uses, and in either case to promote a certain intended outcome within the built environment.

This text amendment would take precedent over many regulations that protect these districts. I am concerned that this change could compromise the character of these districts and the physical changes brought about by new construction. It is in the best interest of the city to implement measures to explicitly protect and preserve these districts as they exist.

Maintaining a consistent and vibrant street wall

A major component of this application is the facilitation of floodproofing, both dry and wet, for buildings within the floodplain. While a building can opt into either type of floodproofing, the two differ in their treatment of the street wall and frontage. Dry floodproofing promotes a consistent and accessible street wall, while wet floodproofing often results in elevated ground floors with little connection to the street and sidewalk, and an inconsistent street wall.

While both types should be implemented, dry floodproofing should be utilized 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. The text amendment incentivizes dry floodproofing along commercial corridors, but the City must require that building owners meet dry floodproofing standards in these areas.

New construction and existing buildings

This proposed text amendment does little to differentiate zoning provisions between new and existing buildings. Most of the language and provisions pertain to all buildings within the floodplain, arguably favoring new construction because the cost of incorporating resiliency standards into a new design is negligible compared to that of a retrofit. The Building Code stipulates much of the design framework articulated in the text amendment. New developments would already be required to apply such resiliency standards, and thus should not be given zoning incentives to do so.

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Existing buildings should uniquely qualify 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 to or greater than the resiliency of new construction. Our planning must emphasize the resiliency of existing buildings, particularly small properties and their owners, and meeting the challenges that arise with such an effort.

Our efforts must also prioritize the resiliency of those communities most impacted by Hurricane Sandy because of their vulnerability to future storms. Our city's resiliency framework must support these individuals, their homes, and their businesses through zoning or any other mechanism if we are to achieve a future that is truly resilient.

BOROUGH PRESIDENT'S RECOMMENDATION

I therefore recommend **approval of the application with conditions**. Such conditions, to be amended prior to adoption of the application, and to only apply within the floodplain, are as follows:

- Continue to have these provisions apply to buildings rather than zoning lots within the floodplain, so as to differentiate between new and existing buildings;
- Within historic districts, require proper notification to relevant Community Boards and Borough Presidents, and require that any design and building envelope changes pursuant to this text amendment be subject to the approval of the Landmarks Preservation Commission;
- Within special zoning districts, require proper notification to relevant Community Boards and Borough Presidents;
- For new buildings along primary streets in commercial districts, require dry floodproofing without granting any zoning exemptions or changes;
- For existing buildings along primary streets in commercial districts, limit height increases due to exempted ground floor area related to dry floodproofing to one floor of no more than 15 feet above the existing building;
- For existing buildings in commercial districts or R6 through R10 districts, apply the optional floor area exemption for dry floodproofing (proposed ZR § 64-322(c)(1)²), to promote such resiliency measures in these areas;
- For new buildings outside of primary streets in commercial districts, require wet floodproofing or dry floodproofing without granting any zoning exemptions or changes;

² This section of the proposed text amendment is meant to incentivize dry floodproofing along primary streets in commercial districts through a floor area exemption up to the width of a building's street wall and 30 feet deep into the lot.

No. N210095ZRY – Zoning for Coastal Flood Resiliency
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- For existing buildings outside of primary streets in commercial districts, when wet floodproofing is applied, limit the floor area exemption (proposed ZR § 64-322(c)(2)³) to 10,000 square feet;
- For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
- For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
- For small property owners who are seeking or required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures; and
- Proposed ZR § 64-312(a) should only be applicable to residential districts R1 through R5.



Gale A. Brewer
Manhattan Borough President

³ This section of the proposed text amendment is meant to restore reimburse floor area of a building that has wet floodproofed its ground floor, by exempting such floor area.

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 18	# Against: 0	# Abstaining: 0	Total members appointed to the board: 23
Date of Vote: 1/21/2021 12:00 AM		Vote Location: Teleconference	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	MN BP	Date: 1/26/2021 8:39 PM
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OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

MANHATTAN BOROUGH BOARD RESOLUTION January 21, 2020

RECOMMENDING APPROVAL FOR AN APPLICATION BY THE NEW YORK CITY DEPARTMENT OF CITY PLANNING FOR AN AMENDMENT TO THE ZONING RESOLUTION: APPLICATION NUMBER N210095ZRY – ZONING FOR COASTAL FLOOD RESILIENCY

WHEREAS, The City's Department of City Planning (DCP) seeks a citywide text amendment to the Zoning Resolution (N210095ZRY) to update and make permanent the temporary 2013 Flood Resiliency Zoning Text Amendment, to incentivize long-term resilient design across the City's 1 percent and 0.2 percent annual chance floodplains, to allow buildings to be adapted over time through partial resiliency strategies, and to provide zoning tools meant to facilitate recovery following future disasters; and

WHEREAS, At the Manhattan Borough Board meeting dated November 19, 2020, DCP presented the Zoning for Coastal Flood Resiliency text amendment proposal, where several issues were raised by Community Board Chairs, including how the amendment will impact plans for Governor's Island, how it will impact new construction in historic districts, how the amendment will target benefits toward small businesses and property owners, the environmental impacts of buildings above 210 feet, zoning bonuses allotted to properties for resiliency practices that already benefit them, and incentivizing development in flood prone areas more broadly; and

WHEREAS, At a meeting of representatives from the Manhattan Borough President's Office and Manhattan Community Boards dated December 14, 2020, topics and issues related to the Zoning for Coastal Flood Resiliency text amendment were raised and discussed, including historic and special zoning districts, bonuses for dry and wet floodproofing, reference plane definitions and height bonuses, small businesses and property owners, mechanical equipment in outdoor areas, Governors Island, temporary flood protections, planting requirements, FEMA flood maps, specific definitions of exceptional risk zones and disasters; and

WHEREAS, At the Manhattan Borough Board meeting dated December 17, 2020, the application was discussed with representatives of DCP present, and as many of the Manhattan Community Boards had not yet voted on individual resolutions regarding the application, the Borough Board voted to postpone a vote on this resolution to the January 21, 2021 meeting, with agreement from DCP that they would still accept such a resolution; and

WHEREAS, DCP has briefed each Manhattan Community Board at monthly land use or related committee meetings through November and December 2020, where committee members have raised their own questions and concerns; and

WHEREAS, On December 22, 2020, Manhattan Community Board 1 adopted a resolution recommending disapproval of the application with conditions, including more individualized plans for resiliency in each Community Board, changes to the permitted obstructions provision, limits on FAR exemptions and height bonuses, the provision of adequate funding for retrofits, further study of insurance savings in connection with resiliency, a cap on BSA variances, expansion of restrictions on development of permanent housing for vulnerable populations in the floodplain, and proper Community Board consultation regarding a Designated Recovery Area in the event of a future disaster; and

WHEREAS, On December 17, 2020, Manhattan Community Board 2 adopted a resolution recommending approval of the application with conditions, including the provision of adequate funding for retrofits, further study of insurance savings in connection with resiliency, further study of the balance between resiliency and historic preservation, expansion of restrictions on development of permanent housing for vulnerable populations in the floodplain, and proper Community Board consultation regarding a Designated Recovery Area in the event of a future disaster; and

WHEREAS, On December 17, 2020, Manhattan Community Board 3 adopted a resolution recommending disapproval of the application with comments, including that while the application is well-intentioned, it relies too heavily on zoning exemptions to facilitate resiliency, that the text amendment prioritizes new construction over existing buildings, that zoning may not be the best way to address resiliency, that development should not be incentivized in the floodplain, that there are certain issues with the discontinuance provision, and that nursing homes should not be prohibited in the floodplain; and

WHEREAS, On January 6, 2021, Manhattan Community Board 4 adopted a resolution recommending approval of the application with conditions, including special permit approval from the City Planning Commission for any alterations in historic districts and new developments in special zoning districts, required dry floodproofing for new buildings on primary commercial streets and required dry or wet floodproofing for all other new developments in the floodplain without zoning changes, continued use of the curb level for height measurement of new buildings, the use of the Flood Resistant Construction Elevation for height measurement of existing buildings in commercial districts, the limitation of height increases related to dry floodproofing or wet floodproofing to one floor above the existing building in commercial districts, and the provision of adequate funding for retrofits; and

WHEREAS, On December 10, 2020, Manhattan Community Board 5 adopted a resolution recommending approval of the application with one condition, the prohibition of diesel generators as permitted obstructions in rear yards within Community Board 5; and

WHEREAS, On December 9, 2020, Manhattan Community Board 6 adopted a resolution recommending disapproval of the application with comments, including that the text amendment

potentially threatens open space and affordable housing within Community Board 6, that the text amendment should be coupled with an enforcement process with public review, that the 2013 flood text should be made permanent as it is written, and that a separate ULURP should be submitted once FEMA flood maps are updated; and

WHEREAS, On January 5, 2021, Manhattan Community Board 7 adopted a resolution taking no position on the application; and

WHEREAS, On December 16, 2020, Manhattan Community Board 8 adopted a resolution recommending approval of the application with one comment, that DCP should ensure that the placement of mechanical equipment in open spaces is only done where necessary, and that a contribution to open space must be made in these instances; and

WHEREAS, On January 14, 2021, Manhattan Community Board 9 met to discuss a resolution on the application, but did not hold a vote on the matter; and

WHEREAS, On January 6, 2021, Manhattan Community Board 10 adopted a resolution recommending approval of the application with no conditions; and

WHEREAS, On December 15, 2020, Manhattan Community Board 11 adopted a resolution recommending approval of the application with conditions, including full transparency from DCP regarding the East Harlem Resiliency Study, required approval from the Community Board for any modifications to the floodplain, required approval from the Community Board for any modifications to allow accessory mechanical buildings, and adherence to the local hiring guidelines of Community Board 11; and

WHEREAS, On January 26, 2021, Manhattan Community Board 12 will adopt a resolution on this application; and

THEREFORE, BE IT RESOLVED, The Manhattan Borough Board recommends approval of the application (N210095ZRY), Zoning for Coastal Flood Resiliency, with the following modifications¹:

1. Within historic districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper review from relevant Community Boards and Borough Presidents, and require that any design and zoning changes pursuant to this text amendment be subject to the approval of the Landmarks Preservation Commission;
2. Within special zoning districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper review from relevant Community Boards and Borough Presidents;
3. For new buildings along primary streets in commercial districts, require dry floodproofing without any zoning exemptions or changes attached;

¹ These recommendations would only apply to zoning lots partially or wholly within the 1 percent and 0.2 percent change floodplains as defined by FEMA.

4. For existing buildings along primary streets in commercial districts, limit height increases due to exempted ground floor area related to dry floodproofing to one floor of no more than 15 feet above the existing building;
5. For new buildings outside of primary streets in commercial districts, require wet floodproofing or dry floodproofing without zoning exemptions or changes attached.
6. For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
7. For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
8. For small property owners who are seeking or are required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures;
9. Require that the proposed Section 64-312 ("Permitted obstructions in required yards, courts, and open spaces for all zoning lots") only apply to residential districts R1 through R5;
10. Clearly define "primary street frontages" in commercial districts where dry floodproofing provisions would apply;
11. Restrict the definition of "severe disaster" to natural disasters related to flooding for the purposes of this text amendment;
12. In relation to the concurrent Governors Island rezoning, ensure that both zoning actions are coordinated in order to ensure that no information, briefing, or proposal be undermined or contradicted, that each proposal be as transparent as possible, and each be amended to be consistent with and to complement the other;
13. Include a maximum number of variances that can be allowed by the Board of Standards and Appeals;
14. Require that DCP and other city agencies provide full transparency regarding any resiliency-related studies conducted within Manhattan;
15. Require that relevant Community Boards be properly consulted regarding any establishment of a Designated Recovery Area in the event of a future disaster;
16. Require that DCP study other sites of vulnerable populations within the floodplain in addition to nursing homes, and the potential restriction of these uses within the floodplain; and
17. Regarding the East Side Coastal Resiliency project, require the City to urge FEMA to update relevant flood maps when this project is completed.



Gale A. Brewer
Manhattan Borough President
Chair of the Manhattan Borough Board

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Unfavorable			
# In Favor: 32	# Against: 2	# Abstaining: 3	Total members appointed to the board: 37
Date of Vote: 12/22/2020 12:00 AM		Vote Location: Virtual	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/16/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	https://live.mcb1.nyc/

CONSIDERATION: Please see attachment for recommendation.

Recommendation submitted by	MN CB1	Date: 12/24/2020 3:04 PM
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COMMUNITY BOARD 1 – MANHATTAN
RESOLUTION

DATE: DECEMBER 22, 2020

COMMITTEE OF ORIGIN: EXECUTIVE

COMMITTEE VOTE:	11 In Favor	2 Opposed	0 Abstained	0 Recused
PUBLIC VOTE:	0 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	32 In Favor	2 Opposed	3 Abstained	0 Recused

RE: Zoning for Coastal Flood Resiliency (ZCFR), Citywide Zoning Text Amendment (ULURP application 210095 ZRY)

WHEREAS: The Department of City Planning (DCP) is proposing a city-wide zoning text amendment, Zoning for Coastal Flood Resiliency (ZCFR), to update the Special Regulations Applying in Flood Hazard Areas (Article VI, Chapter 4). The current 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 there would be more resilient; and

WHEREAS: Through ZCFR, DCP seeks to improve upon and make permanent the relevant provisions of the current temporary zoning rules and provide homeowners, business owners, and practitioners who live and work in the city's floodplain the option to design or otherwise retrofit buildings to: (a) reduce damage from future coastal flood events, (b) be resilient in the long-term by accounting for climate change, and (c) potentially save on long-term flood insurance costs. In addition, DCP has stated that the zoning would allow resiliency improvements to be more easily incorporated on waterfront sites 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; and

WHEREAS: ZCFR would mostly affect New York City's current 1% annual and 0.2% annual chance floodplains. However, select provisions would be applicable citywide, affecting all five boroughs and the city's 59 Community Districts; and

WHEREAS: Manhattan Community Board 2 (CB2) has shared with Community Board 1 (CB1) its draft resolution on ZCFR. CB2 has done an excellent job capturing the proposal and outlining how it is likely to impact their district; and

WHEREAS: Community District 2 (CD1) borders Community District 1 (CD1), and CB1 shares many of the same concerns; and

WHEREAS: CB1 acknowledges with gratitude the use of much of the text provided by CB2 in summarizing the history and key points about ZCFR in the resolution; and

- WHEREAS: CD1 is a coastal district, surrounded on three sides by water and includes Governors Island, Liberty Island and Ellis Island; and
- WHEREAS: A majority of CD1's residents, workers and built environment are located within NYC's 1% chance and 0.2% chance floodplains, as defined by FEMA's 2015 Preliminary Flood Insurance Rate Maps ("PFIRM") and FEMA's 2007 Flood Insurance Rate Maps ("FIRM"); and
- WHEREAS: There is a scientific consensus that sea levels will continue to rise globally due to climate change, with the latest report by the UN Intergovernmental Panel on Climate Change ("IPCC") projecting a rise in sea levels of between 30cm – 110cm (11.8in – 43.3in) by 2100, depending on greenhouse gas emissions; and
- WHEREAS: A continued rise in sea levels as projected by the scientific community is likely to cause the size of the 1% and 0.2% chance floodplains within CD1 to increase in the coming decades; and
- WHEREAS: CD1 was impacted by Superstorm Sandy in 2012, with a large portion of the district being flooded, resulting in extensive property damage to buildings in the South Street Seaport, portions of Battery Park City, the Financial District and Tribeca, as well as the flooding of major transit hubs and arteries, including The Hugh L. Carey, Holland Tunnels and Battery Underpass; and
- WHEREAS: Following Superstorm Sandy, DCP implemented two Zoning Text Amendments, the 2013 Flood Text and the 2015 Recovery Text, which were intended to eliminate conflicts between the Zoning Resolution and regulations governing flood-resistant construction in Department of Buildings (DOB) Code Appendix G of the NYC Building Code, thereby helping to remove regulatory barriers to reconstruction of storm-damaged properties as well as to the retrofitting of existing buildings, and to help ensure that new buildings could be constructed to be more resilient; and
- WHEREAS: The 2013 Flood Text and the 2015 Recovery Text were both adopted on an emergency, temporary basis, were not subject to environmental review, and are set to expire in the next few years, with the 2013 Flood Text expiring within 1 year of the adoption of new FEMA PFIRMs, and the 2015 Recovery Text having already expired in July 2020, thus creating the need for a more permanent Zoning Text Amendment; and

Overview of Proposed Zoning Text Amendment

- WHEREAS: The proposed Zoning Text Amendment would apply to both buildings and lots within the 1% chance and 0.2% chance floodplains, as opposed to buildings in the 1% chance floodplain only in the 2013 Flood Text, thereby anticipating the expansion of the NYC floodplain in the future due to climate change; and

WHEREAS: The proposed Zoning Text Amendment would continue to provide additional building height where building owners are required or are opting to meet DOB Appendix G flood proofing standards, allowing building owners to physically elevate habitable spaces and other building support features above expected flood elevations, with the continuation and amendment of various provisions in the 2013 Flood Text and 2015 Recovery Text, including:

- a. Continuing to allow building height to be measured from the Flood-Resistant Construction Elevation ("FRCE"), which is defined as equivalent to the Design Flood Elevation ("DFE") in the 1% chance floodplain (same as in 2013 Flood Text) and 2' above the lowest adjacent grade in the 0.2% chance floodplain
- b. Continuing to allow building height to be measured from a "Reference Plane" as an alternative to measuring from FRCE, but redefining the Reference Plane to a maximum of 10' above grade for the 1% chance floodplain or 5' above grade in the 0.2% chance floodplain,
- c. Allowing building height to be measured from a Reference Plane above FRCE only if the first finished floor above the level to which the building complies with flood-resistant construction standards (defined as the "First Story above Flood Elevation" or "FSAFE") is placed at or above such Reference Plane height, which was not required under the 2013 Flood Text,
- d. Continuing to allow minimum base height to be measured from either the curb level or reference plane, as measuring from the curb would allow setbacks to be made closer to the ground and keep base heights lower,
- e. Modifying underlying dormer allowances, which permit 60 percent of building width as a permitted obstruction in the building setback above maximum base height, but diminishing in width as the building rises, to provide an alternative allowance for a dormer that extends up to 40 percent of the building with no diminishing, which could result in breaking up bulk in the upper portion of the building,

WHEREAS: The proposed Zoning Text Amendment attempts to incentivize ground-floor flood proofing while allowing for accessibility, promoting active street level use, and maintaining streetscape design, with the continuation and amendment of various provisions in the 2013 Flood Text and 2015 Recovery Text, including:

- a. Allowing both new and existing buildings to exempt wet-flood proofed spaces from floor area, as compared to the 2013 Flood Text which only applied to new buildings,
- b. Modifying floor area incentives to better encourage dry-flood proofing in Commercial Districts and M1 Districts paired with Residence Districts, while setting design requirements for those using the dry-flood proofing floor area exemption, with the proposed goal of maintaining retail continuity along commercial streets,
- c. Continuing to allow access to be exempted from floor area when located below FRCE, though modifying the cap from the 2013 Flood Text,
- d. Providing potential increased street wall flexibility to accommodate access, flood panels and streetscape regulations for buildings in zoning districts that require street walls to be located within 8' of the street line,

- e. Requiring blank walls created along retail corridors to be subject to streetscape rules, to be addressed by adding elements such as planting, street furniture or artwork,
- f. Expanding the range of design options available to comply with streetscape rules.

WHEREAS: The proposed Zoning Text Amendment expands the range of zoning rules which can be modified by the Board of Standards and Appeals ("BSA") to facilitate resiliency improvements in special situations; and

WHEREAS: The proposed Zoning Text Amendment continues provisions from the 2013 Flood Text allowing for new and existing buildings to increase bulkhead dimensions in order to facilitate the movement of mechanical equipment to the roof; and

WHEREAS: The proposed Zoning Text Amendment would allow for the second story of buildings to be used for non-residential uses across all commercial districts, when located in a floodplain; and

WHEREAS: The proposed Zoning Text Amendment expands upon the 2013 Flood Text which allowed for the deployment of temporary flood panels, by continuing to allow flood panel deployment and additionally providing for a minor floor exemption for flood panel storage, while also allowing landscaped berms and floodgates in the same open areas; and

WHEREAS: The proposed Zoning Text Amendment provides more flexibility for the grading of waterfront yards and visual corridors to enable the design of soft shorelines and bi-level esplanades, in order to allow public waterfront access while also providing for flood resilience; and

WHEREAS: The proposed Zoning Text Amendment attempts to remove regulatory obstacles to recovery from future flood events and other disaster types, through provisions which CB1 members have raised concerns including:

- a. Allowing all buildings to place power systems, including emergency generators, as permitted obstructions in open areas,
- b. Clarifying the floor area exemption for mechanical equipment,
- c. Permitting ramps and lifts for all building types in any required open areas,

WHEREAS: The proposed Zoning Text Amendment prohibits new nursing homes and restricts the enlargement of existing nursing home facilities within the 1% floodplain and within other designated areas where vehicular access would likely become limited during a disaster; and

WHEREAS: The proposed Zoning Text Amendment provides for a series of Recovery Provisions, including rules that could facilitate the recovery process from physical disasters (e.g. hurricanes) as well as a wider range of non-physical disasters (e.g. pandemics), and could be implemented in the event of a future disaster via a text amendment; and

WHEREAS: In the event that Recovery Provisions are activated during or following a disaster, such provisions are intended to be based on the specific types of impacts caused by such disaster and to apply only to “Designated Recovery Areas”, which would be selected based on the breadth and severity of the impacts as well as recovery plans, and are intended to be in effect on a temporary basis, determined at the time of the activation of such provisions, and subject to Community Board review at that time; and

WHEREAS: The proposed Zoning Text Amendment seeks to immediately put into effect two of these Recovery Provisions in the context of the current Covid-19 pandemic, with the entire city being set as a Designated Recovery Area, and which would relate to CPC Special Permits / Authorization Timeframes and Discontinuance of Non-Conforming Uses, and would remain in effect for a period of two years beyond the expiration of the Mayor’s Executive Order 98 (March 12, 2020); and

WHEREAS: A range of other provisions are included within the proposed Zoning Text Amendment which are applicable to lower-density residential communities, or other special situations, with less relevance to CD1; and

Analysis and Specific Applicability to Community District 1

WHEREAS: The proposed Zoning Text Amendment is not intended to account for funding for the retrofitting of existing buildings to be more resilient or the inclusion of resilient features in new construction, though building owners could potentially realize monetary incentives for such construction in the form of lower flood insurance rates; and

WHEREAS: The proposed Zoning Text Amendment, while attempting to incentivize the retrofitting of existing buildings, describes changes that are optional and does not require mandatory changes to be made to existing buildings, notwithstanding the fact that DOB Appendix G requires existing buildings with “substantial damage” or making “substantial improvements” to elevate all habitable spaces above DFE; and

WHEREAS: A portion of the FEMA 1% chance and 0.2% chance floodplains overlaps with landmarked historic districts within CD1, including but not limited to landmarked blocks in the South Street Seaport Historic District, Financial District, Governors Island and Tribeca; and

WHEREAS: Retrofitting of existing buildings within a historic district would still be subject to review by the Landmarks Preservation Commission (“LPC”), which could impose additional requirements in contrast to what would be permitted under the proposed Zoning Text Amendment, with the potential to result in more difficulty in retrofitting landmarked buildings, notwithstanding the option to pursue a variance with the BSA as outlined above; and

WHEREAS: The proposed ZCFR is only one component of the city's broader strategy around NYC's resiliency to coastal flooding, which includes other measures such as building up coastal defenses and protecting critical infrastructure; and

WHEREAS: Separately from this proposed zoning text and regarding stormwater retention, the City is investing billions of dollars in its sewer networks and doubling the size of its green infrastructure program by constructing 5,000 new street-side rain gardens. The NYC Department of Environmental Protection (DEP) is also developing a new citywide rule for on-site stormwater management for new buildings that will reduce stormwater runoff from future development properties. Additionally, the City has launched a study in 2019 to identify the NYC neighborhoods most vulnerable to flooding from extreme rain events and to suggest steps to protect against precipitation-based flooding; and

WHEREAS: When asked to indicate "where in CD1 the flood risk would be considered exceptional including where sea level rise will lead to future daily flooding," DCP had said that "No portions of CB1 are projected to face daily tidal flooding due to sea level rise, based on the NPCC's projections for 2050. CB1's primary flood risk is from coastal storm surges during severe Storms." CB1 engagement for years with the Mayor's Office of Resiliency and the Lower Manhattan Climate Coalition has indicated conclusively that lower Manhattan is likely to see sunny-day flooding as early as 2050 and as such should be considered an area with "exceptional" risk; and

WHEREAS: CB1 has expressed concern that the remaining mechanical void zoning loopholes will result in even greater height allowances when combined with this proposed zoning text; and

WHEREAS: CB1 has expressed specific concern over the extra height allowances, FAR exemptions and permitted obstructions as part of the existing and proposed text amendment which have the potential to negatively impact the community. CB1 specifically does not support the allowances for extra base heights and building top heights in historic districts; and

WHEREAS: CB1 does not support the allowance for new buildings to be provided with additional FAR when dry proofing or wet proofing the ground floors. CB1 feels that FAR bonuses can be given to building owners in existing buildings facing the challenges of making their buildings resilient. However, it is not equitable to allow the same incentive to be provided to new buildings who are already required to make their buildings meet building code for resiliency; and

WHEREAS: There has been no meaningful engagement with CB1 on this major city-wide zoning text amendment since 2017. Once engagement resumed after this application was certified on October 19, 2020, CB1 was already incredibly over-taxed in the review of other major ULURP, Landmarks and other time-sensitive applications. Many CB1 members have stated that they did not feel

they had enough time and resources to fully study this proposal and its potential implications, especially because CD1 contains many special zoning districts and it is still unclear exactly how this zoning text will manifest in those locations; and

WHEREAS: In order for building owners to fully take advantage of the proposed Zoning Text Amendment and retrofit their buildings for resiliency, CB1 believes a robust funding program would be needed; and

WHEREAS: Though direct funding to building owners should be the first consideration, CB1 also encourages the City to study additional indirect means to support retrofitting, including tax incentives or the implementation of Property Assessed Clean Energy and Resilience ("PACER") programs which could potentially allow for property owners to borrow against anticipated future savings on flood insurance; and

WHEREAS: CB1 encourages the City to further study the magnitude and nature of insurance savings that could be realized by building owners who retrofit their buildings to be more resilient, and to publicize the results to increase public awareness thereof; and

WHEREAS: CB1 continues to advocate for City funding for resiliency related projects within CD1, as outlined in our annual funding requests and in multiple past resolutions and testimonies; and

WHEREAS: Lower Manhattan has unique conditions. CD1 houses many historic districts and buildings. We are composed almost entirely of special district zoning and we are largely built out on landfill, which means that there are uniquely challenging infrastructure and environmental implications; and

WHEREAS: CB1 encourages DCP to provide further study and engage with the Landmarks Preservation Commission (LPC) to determine best practices for improving the resiliency of buildings within the Landmarked Historic districts that lie in the 1% annual chance floodplain; and

WHEREAS: Property owners already reap certain benefits from making their properties flood resilient, including but not limited to lower insurance rates. Further accommodating property owners by establishing additional zoning benefits and exemptions is unnecessary, and zoning should not be used as a mechanism to provide fiscal benefit to property owners; now

BE IT
FURTHER
RESOLVED

THAT: For the reasons set forth above and below, pursuant to Section 197-c(e) of the New York City Charter and Section 2-03(f) of the ULURP Rules promulgated by the NYC City Planning Commission (CPC), ***CB1 recommends the CPC***

disapprove the Application unless the following modifications and conditions are satisfied:

- CB1 urges that, rather than a one-size-fits-all approach, DCP work more closely with communities in order to develop specific versions of this text amendment that are more appropriate and contextualized for localized communities with unique historic and land use conditions
- CB1 asks for the zoning text to not change permitted obstructions or the definition of floor area in Lower Manhattan, recognizing that dense urban spaces are different than less dense environments and the expansion of permitted obstructions and exempt floor area in accessory buildings will unnecessarily consume some of the little existing open space in the district.
- CB1 urges the zoning text be amended so that only existing buildings are eligible for FAR exemptions and height bonus incentives, not new buildings (i.e. provisions like the wet flood proof FAR exemption as per the 2013 Flood Text)
- CB1 urges the City to provide clear, comprehensive funding options to the public for resiliency-focused retrofitting / building improvements, which could assist home and business owners in attaining state and federal government grants and/or subsidies
- CB1 encourages the City to further study the connection and potential of increased insurance savings that could be realized by building owners who complete a retrofit to be more resilient, and to publicize the results to increase public awareness
- CB1 requests the zoning text be modified to place a specific, measurable cap on BSA variances. CB1 believes that to the extent possible, any foreseen special situations should be addressed in the Zoning text itself rather than left to a future BSA variance
- CB1 requests the City consider types of buildings providing services and housing to vulnerable populations, in addition to nursing homes when limiting development within the floodplain, for example hospital use
- In the event of Recovery Provisions being activated in the context of a future disaster, with a proposed Designated Recovery Area that overlaps with CD1's boundaries, CB1 requests to be promptly consulted on the proposed geographic scope and timeframe of such provisions, as is required when proposing a text amendment to implement such provisions



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 46	# Against: 0	# Abstaining: 0	Total members appointed to the board: 46
Date of Vote: 12/17/2020 12:00 AM		Vote Location: Zoom (Videoconference)	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION: See attached resolution.

Recommendation submitted by	MN CB2	Date: 12/18/2020 4:42 PM
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Carter Booth, Chair
 Daniel Miller, First Vice Chair
 Susan Kent, Second Vice Chair
 Bob Gormley, District Manager



Antony Wong, Treasurer
 Valerie De La Rosa, Secretary
 Amy Brenna, Assistant Secretary

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

www.cb2manhattan.org

P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org

Greenwich Village Little Italy SoHo NoHo Hudson Square Chinatown Gansevoort Market

December 18, 2020

Andy Cantu
 Department of City Planning
 120 Broadway, 31st Floor
 New York, NY 10271

Dear Mr. Cantu:

At its Full Board meeting December 17, 2020, Community Board #2, adopted the following resolution:

Resolution in response to the Department of City Planning ("DCP") proposed Zoning Text Amendment, Zoning for Coastal Flood Resiliency ("ZCFR"), which would amend and update Article VI, Chapter 4 of the NYC Zoning Resolution, "Special Regulations Applying in Flood Hazard Areas," and Article VI, Chapter 2 of the NYC Zoning Resolution, "Special Regulations Applying in the Waterfront Area."

Whereas:

Background & History

1. Manhattan Community District 2 ("CD2") is a coastal district, with over a mile of waterfront along the Hudson River, stretching from Canal Street to West 14th Street;
2. A significant percentage of CD2's residents and built environment are located within NYC's 1% chance and 0.2% chance floodplains, as defined by the Federal Emergency Management Agency's ("FEMA") 2015 Preliminary Flood Insurance Rate Maps ("PFIRM") and FEMA's 2007 Flood Insurance Rate Maps¹, including:
 - a. as of the 2010 census, a population of 5,000 residents in the 1% chance floodplain and a population of 10.2k residents in the 0.2% chance floodplain;
 - b. 346 buildings (7% of all buildings in CD2) and 4,490 dwelling units (8% of all units in CD2) located in the 1% chance floodplain;
 - c. 777 buildings (15% of all buildings in CD2) and 7,620 dwelling units (13% of all units in CD2) located in the 0.2% chance floodplain.

¹ <https://communityprofiles.planning.nyc.gov/manhattan/2#floodplain>

3. There is a scientific consensus that sea levels will continue to rise globally due to climate change, with the latest report by the UN Intergovernmental Panel on Climate Change projecting a rise in sea levels of between 30cm – 110cm (11.8in – 43.3in) by 2100, depending on greenhouse gas emissions²;
4. A continued rise in sea levels as projected by the scientific community is likely to cause the size of the 1% and 0.2% chance floodplains within CD2 to increase in the coming decades;
5. CD2 was impacted by Superstorm Sandy in 2012, with a portion of the district being flooded, resulting in extensive property damage to buildings including the West Village Houses and the landmarked Westbeth Artists Housing³, as well as the flooding of the Holland Tunnel;
6. Following Superstorm Sandy, DCP implemented two Zoning Text Amendments, the 2013 Flood Text and the 2015 Recovery Text, which were intended to eliminate conflicts between the Zoning Resolution and regulations governing flood-resistant construction in NYC Department of Buildings' ("DOB") Appendix G of the NYC Building Code, thereby helping to remove regulatory barriers to reconstruction of storm-damaged properties as well as to the retrofitting of existing buildings, and to help ensure that new buildings could be constructed to be more resilient;
7. The 2013 Flood Text and the 2015 Recovery Text were both adopted on an emergency, temporary basis, were not subject to environmental review, and are set to expire in the next few years, with the 2013 Flood Text expiring within 1 year of the adoption of new FEMA PFIRMs, and the 2015 Recovery Text having already expired in July 2020⁴, thus creating the need for a more permanent Zoning Text Amendment;

Overview of Proposed Zoning Text Amendment

8. The proposed Zoning Text Amendment would apply to both buildings and lots within the 1% chance and 0.2% chance floodplains, as opposed to buildings in the 1% chance floodplain only in the 2013 Flood Text, thereby anticipating the expansion of the NYC floodplain in the future due to climate change;
9. The proposed Zoning Text Amendment would continue to provide additional building height where building owners are required or are opting to meet DOB Appendix G floodproofing standards, to allow building owners to physically elevate habitable spaces and other building support features above expected flood elevations, with the continuation and amendment of various provisions in the 2013 Flood Text and 2015 Recovery Text, including:
 - a. continuing to allow building height to be measured from the Flood-Resistant Construction Elevation ("FRCE"), which is defined as equivalent to the Design Flood Elevation ("DFE") in the 1% chance floodplain (same as in 2013 Flood Text) and 2' above the lowest adjacent grade in the 0.2% chance floodplain (new addition);
 - b. continuing to allow building height to be measured from a "Reference Plane" as an alternative to measuring from FRCE, but redefining the Reference Plane to a maximum of 10' above grade for the 1% chance floodplain or 5' above grade in the 0.2% chance floodplain;

² <https://www.ipcc.ch/2019/09/25/srocc-press-release/>

³ <https://www.villagepreservation.org/2018/10/29/remembering-hurricane-sandy/>

⁴ <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/flood-resiliency-update/project-description.pdf>

- c. allowing building height to be measured from a Reference Plane above FRCE only if the first finished floor above the level to which the building complies with flood-resistant construction standards (defined as the "First Story above Flood Elevation") is placed at or above such Reference Plane height, which was not required under the 2013 Flood Text;
 - d. continuing to allow minimum base height to be measured from either the curb level or reference plane, as measuring from the curb would allow setbacks to be made closer to the ground and keep base heights lower;
 - e. modifying underlying dormer allowances, which permit 60 percent of building width as a permitted obstruction in the building setback above maximum base height, but diminishing in width as the building rises, to provide an alternative allowance for a dormer that extends up to 40 percent of the building with no diminishing, which could result in breaking up bulk in the upper portion of the building.
10. The proposed Zoning Text Amendment would continue to incentivize ground-floor floodproofing while allowing for accessibility, promoting active street level use, and maintaining streetscape design, with the continuation and amendment of various provisions in the 2013 Flood Text and 2015 Recovery Text, including:
- a. allowing both new and existing buildings to exempt wet-floodproofed spaces from floor area, as compared to the 2013 Flood Text which only applied to new buildings;
 - b. modifying floor area incentives to better encourage dry-floodproofing in Commercial Districts and M1 Districts paired with Residence Districts, while setting design requirements for those using the dry-floodproofing floor area exemption, with the goal of maintaining retail continuity along commercial streets;
 - c. continuing to allow access to be exempted from floor area when located below FRCE, though modifying the cap from the 2013 Flood Text;
 - d. providing greater street wall flexibility to accommodate access, flood panels and streetscape regulations for buildings in zoning districts that require street walls to be located within 8' of the street line;
 - e. requiring blank walls created along retail corridors to be subject to streetscape rules, to be addressed by adding elements such as planting, street furniture or artwork;
 - f. expanding the range of design options available to comply with streetscape rules.
11. The proposed Zoning Text Amendment expands the range of zoning rules which can be modified by the Board of Standards and Appeals ("BSA") to facilitate resiliency improvements in special situations;
12. The proposed Zoning Text Amendment continues provisions from the 2013 Flood Text allowing for new and existing buildings to increase bulkhead dimensions in order to facilitate the movement of mechanical equipment to the roof;
13. The proposed Zoning Text Amendment would allow for the second story of buildings to be used for non-residential uses across all commercial districts, when located in a floodplain;
14. The proposed Zoning Text Amendment expands upon the 2013 Flood Text which allowed for the deployment of temporary flood panels, by continuing to allow flood panel deployment and additionally providing for a minor floor exemption for flood panel storage, while also allowing landscaped berms and floodgates in the same open areas;

15. The proposed Zoning Text Amendment provides greater flexibility for the grading of waterfront yards and visual corridors to enable the design of soft shorelines and bi-level esplanades, in order to allow public waterfront access while also providing for flood resiliency;
16. The proposed Zoning Text Amendment attempts to remove regulatory obstacles to recovery from future flood events and other disaster types, through provisions including:
 - a. allowing all buildings to place power systems, including emergency generators, as permitted obstructions in open areas, provided size limitations are met;
 - b. clarifying the floor area exemption for mechanical equipment;
 - c. permitting ramps and lifts for all building types in any required open areas.
17. The proposed Zoning Text Amendment prohibits new nursing homes and restricts the enlargement of existing nursing home facilities within the 1% floodplain and within other designated areas where vehicular access would likely become limited during a disaster;
18. The proposed Zoning Text Amendment provides for a series of Recovery Provisions, including rules that could facilitate the recovery process from physical disasters (e.g. hurricanes) as well as a wider range of non-physical disasters (e.g. pandemics), and could be implemented in the event of a future disaster via a text amendment;
19. In the event that Recovery Provisions are activated during or following a disaster, such provisions are intended to be based on the specific types of impacts caused by such disaster and to apply only to "Designated Recovery Areas", which would be selected based on the breadth and severity of the impacts as well as recovery plans, and are intended to be in effect on a temporary basis, determined at the time of the activation of such provisions, and subject to Community Board review at that time;
20. The proposed Zoning Text Amendment seeks to immediately put into effect two of these Recovery Provisions in the context of the current Covid-19 pandemic, with the entire city being set as a Designated Recovery Area, and which would relate to CPC Special Permits / Authorization Timeframes and Discontinuance of Non-Conforming Uses, and would remain in effect for a period of two years beyond the expiration of the Mayor's Executive Order 98 (March 12, 2020);
21. A range of other provisions are included within the proposed Zoning Text Amendment which are applicable to lower-density residential communities, or other special situations, with less relevance to CD2;

Analysis and Specific Applicability to CD2

22. The proposed Zoning Text Amendment is not intended to account for funding for the retrofitting of existing buildings to be more resilient or the inclusion of resilient features in new construction, though building owners could potentially realize monetary incentives for such construction in the form of lower flood insurance rates;
23. The proposed Zoning Text Amendment, while attempting to incentivize the retrofitting of existing buildings, describes changes that are optional and does not require mandatory changes to be made to existing buildings, notwithstanding the fact that DOB Appendix G requires existing buildings with "substantial damage" or making "substantial improvements" to elevate all habitable spaces above DFE;

24. A portion of the FEMA 1% chance and 0.2% chance floodplains overlaps with landmarked historic districts within CD2, including landmarked blocks in the Greenwich Village Historic District north of West 11th Street and west of Greenwich Street; the Weehawken Street Historic District; portions of the Sullivan-Thompson Historic District between Prince and Watts Streets; portions of the Gansevoort Market Historic District below 14th Street; and portions of the Soho Cast Iron Historic District between Broome and Canal Streets; as well as individual landmarked buildings outside of these historic districts⁵;
25. Retrofitting of existing buildings within a historic district would still be subject to review by the Landmarks Preservation Commission, which could impose additional requirements in contrast to what would be permitted under the proposed Zoning Text Amendment, with the potential to result in more difficulty in retrofitting landmarked buildings, notwithstanding the option to pursue a variance with the BSA as outlined in whereas #11 above;
26. Per DOB records, around 20 new building permits and 40 alternation permits have been issued within CD2's floodplain since the implementation of the 2013 Flood Text;
27. The implementation of floodproofing measures in certain buildings is not expected to have any measurable impact on the behavior of floodwaters during a coast storm inundation scenario;
28. DCP has performed extensive outreach to the NYC community on the topic of Zoning for Coastal Flood Resiliency in the years following Superstorm Sandy, including 110+ outreach events with approximately 2500 NYC residents and stakeholders engaged⁶;
29. The proposed ZCFR is only one component of the city's broader strategy around NYC's resiliency to coastal flooding, which includes other measures such as building up coastal defenses and protecting critical infrastructure.

Therefore, be it resolved that:

1. Community Board 2 ("CB2") generally supports the implementation of the proposed Zoning Text Amendment, though with certain proposed changes as outlined below, as a positive step to allow businesses and residents more flexibility in preparation for future storm surge and flooding events, as well as in the ability to recover from such events, especially as such events may become more likely in the future due to climate change.

Be it further resolved that:

2. In order for building owners to fully take advantage of the proposed Zoning Text Amendment and retrofit their buildings for resiliency, CB2 believes a robust funding program would be needed;
3. To this end, CB2 encourages the City to explore the viability of various options to provide funding for resiliency-focused retrofitting / building improvements, which could include, among other things, continuing to advocate to the state and federal government for direct grants and/or subsidies to home and business owners making such improvements;

⁵ <https://nycdpc.maps.arcgis.com/apps/webappviewer/index.html?id=93a88691cace4067828b1eede432022b>

⁶ <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/climate-resiliency/outreach-summary.pdf>

4. Though direct funding to building owners should be the first consideration, CB2 also encourages the City to study additional indirect means to support retrofitting, including tax incentives or the implementation of Property Assessed Clean Energy and Resilience ("PACER") programs which could potentially allow for property owners to borrow against anticipated future savings on flood insurance;
5. CB2 encourages the City to further study the magnitude and nature of insurance savings that could be realized by building owners who retrofit their buildings to be more resilient, and to publicize the results to increase public awareness thereof;
6. CB2 continues to advocate for City funding for resiliency related projects within CB2, as outlined in our annual register of funding requests,
7. Given the unique overlap of FEMA floodplains and historic landmarked districts that occurs within Community District 2, CB2 encourages further study to determine best practices for improving the resiliency of buildings within these overlapping districts while still maintaining their historic and aesthetic character,
8. Though CB2 understands the need to establish a process through which variances can be granted by the BSA in special situations, CB2 requests that the language in the Zoning Text Amendment be modified to place a specific, measurable cap on such variances, and in general believes that to the extent possible, any foreseen special situations should be addressed in the Zoning Resolution itself rather than left to a future BSA variance,
9. CB2 requests that the City consider whether or not additional types of vulnerable populations beyond nursing homes should be considered when limiting development within the floodplain,
10. In the event of Recovery Provisions being activated in the context of a future disaster, with a proposed Designated Recovery Area that overlaps with Community District 2's boundaries, CB2 requests to be promptly consulted on the proposed geographic scope and timeframe of such provisions, as is required when proposing a text amendment to implement such provisions.

Vote: Unanimously, with 46 Board Members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Carter Booth, Chair
Community Board #2, Manhattan



Joseph Gallagher, Chair
Quality of Life Committee
Community Board #2, Manhattan

CB/EM

c: Hon. Jerrold L. Nadler, Congressman
Hon. Carolyn Maloney, Congresswoman
Hon. Nydia Velasquez, Congresswoman
Hon. Brad Hoylman, NY State Senator

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021

Hon. Brian Kavanagh, NY Senator
Hon. Deborah J. Glick, NY Assembly Member
Hon. Yuh-Line Niou, NY Assembly Member
Hon. Gale Brewer, Manhattan Borough President
Hon. Corey Johnson, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Carlina Rivera, Council Member

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency			
Applicant:	DCP - Department of City Planning (NYC)	Applicant's Primary Contact:	DCP - Department of City Planning (NYC)
Application #	N210095 ZRY	Borough:	Citywide
CEQR Number:	19DCP192Y	Validated Community Districts:	CY00

Docket Description:

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

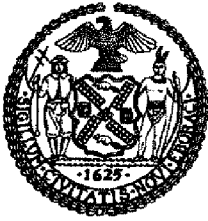
RECOMMENDATION: Conditional Unfavorable			
# In Favor: 39	# Against: 0	# Abstaining: 2	Total members appointed to the board: 49
Date of Vote: 12/17/2020 12:00 AM		Vote Location: Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/17/2020 6:30 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	https://zoom.us/j/93439932803

CONSIDERATION:

Recommendation submitted by	MN CB3	Date: 12/18/2020 2:48 PM
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THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

59 East 4 th Street - New York, NY 10003 Phone (212) 533-5300
www.cb3.manhattan.org – mn03@cb.nyc.gov

Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

December 18th, 2020

Marisa Lago, Chair
City Planning Commission
120 Broadway
New York, NY 10271

Dear Chair Lago,

At its December 2020 monthly meeting, Community Board 3 passed the following resolution:

TITLE: N210095ZRY - "Zoning for Coastal Flood Resiliency" Citywide Zoning Text Amendment

WHEREAS, the New York City Department of City Planning (DCP) has proposed a new zoning text amendment, referred to as the Zoning for Coastal Flood Resiliency (ZCFR) text amendment; and

WHEREAS, Community District 3 was severely impacted by coastal flooding from Hurricane Sandy in 2012 and remains vulnerable to coastal flooding with significant portions of the district lying within the 1% and 0.2% annual chance floodplains—including more than 27,000 dwelling units in the 0.2% floodplain¹—which underlines the importance of these zoning regulations; and

WHEREAS, the ZCFR text amendment updates and makes permanent zoning rules that were put in place after Hurricane Sandy in an emergency and temporary fashion; and

WHEREAS, these rules largely relate to Appendix G of the New York City Building Code, which governs buildings in the 1% annual chance floodplain and requires habitable spaces in new and rehab construction to be raised above the Design Flood Elevation, with everything beneath that elevation required to be wet-floodproofed (for residential uses) or dry-floodproofed (for non-residential uses); and

WHEREAS, because these requirements can be quite restrictive, in the wake of Hurricane Sandy temporary zoning texts were adopted in 2013 and 2015 on an emergency basis to allow increased flexibility for buildings in the coastal floodplain to rebuild and retrofit for resiliency, but those regulations are set to expire; and

WHEREAS, ZCFR would make these emergency regulations permanent, extend the new zoning rules to

¹ NYC Department of City Planning "Community District Profiles – Manhattan Community District 3"
<<https://communityprofiles.planning.nyc.gov/manhattan/3>>

cover a larger area, and add additional zoning rules to address issues that have arisen since the emergency rules were implemented; and

WHEREAS, ZCFR does this by:

- 1) Expanding the option of Appendix G regulations for flood-resistant construction standards to buildings in the 0.2% annual chance floodplain;
- 2) Determining Appendix G eligibility based on zoning lot rather than individual building, thus expanding qualifying areas;
- 3) Providing additional building height and allowing new reference planes for height measurements when building owners opt in or are required to comply with Appendix G floodproofing standards, so that no living spaces are located below the flood elevation but owners do not lose net habitable spaces in their buildings;
- 4) Making modifications to the Quality Housing program to promote lower building scale by allowing minimum base heights to continue to be measured from the base plane rather than the new reference plane, so setbacks in buildings can be closer to the ground and base heights can be lower;
- 5) Providing a full floor area exemption to wet-floodproofed ground floor spaces;
- 6) Providing floor area exemptions for the first 30 horizontal feet of non-residential floor space in Commercial and M1 Districts for buildings that employ dry-floodproofing;
- 7) Removing floor area exemptions for low-quality below-grade spaces such as cellars and basements;
- 8) Adjusting street wall requirements to accommodate exterior stairs, ramps, and flood panels;
- 9) Subjecting blank walls created by floodproofing requirements to streetscape rules that add elements such as planting, street furniture, or artwork;
- 10) Creating a Board of Standards and Appeals ground floor use special permit allowing for ground floor office use in residential districts to encourage more options for ground floor uses in dry-floodproofed buildings;
- 11) Creating additional bulkhead and height allowances to facilitate the relocation of mechanical equipment from basements and cellars to the top of buildings and allowing new utility structures as a permitted obstruction on properties larger than 1.5 acres;
- 12) Allowing flood barriers to be considered as permitted obstructions in required open areas, including landscaped berms and their associated floodgates which were not previously allowed;
- 13) Allowing space used for the storage of temporary flood panels to be exempted from floor area calculations;
- 14) Permitting the construction of bi-level esplanades that facilitate waterfront public access and raising the required level of visual corridors on upland streets from three feet above curb level to five feet
- 15) Allowing appropriately scaled power systems (generators, solar energy systems, fuel cells, batteries, etc.) to be considered as permitted obstructions in required open areas;
- 16) Classifying both ramps and lifts as permitted obstructions in all required open areas to improve accessible design standards;

- 17) Prohibiting the development of new nursing homes and restrict enlargement of existing facilities in the 1% annual chance floodplain
- 18) Creating a disaster recovery provision that would be available as a text amendment when a disaster occurs, providing a framework to allow uses in zoning districts where they are not typically permitted, and providing relief from other zoning rules for a length of time to be determined based on the disaster when the text amendment is approved;

THEREFORE BE IT RESOLVED, Community Board 3 disapproves of application N210095ZRY, the "Zoning for Coastal Flood Resiliency" citywide zoning text amendment with following concerns and observations:

- 1) The ZCFR is well intentioned in its efforts to address the critical issues New York City faces as climate change and coastal risk threaten a significant portion of the infrastructure of our city, including a very vulnerable portion of Manhattan CB 3; and
- 2) These regulations rely on floor area exemptions to facilitate the floodproofing of ground floor spaces and to encourage elevation of mechanical infrastructure in new and substantially improved buildings, and while these exemptions cannot exceed the ground floor area of the building, it does provide owners with an opportunity to move one floor of developable floor area to a higher elevation; and
- 3) These regulations are easier for highly capitalized new developments to take advantage of and the same regulatory incentives are not as financially viable for existing building owners and may further exacerbate built fabric inequities in CB 3 with newer buildings having stronger resiliency infrastructure in place; and
- 4) Zoning may not be the best way to address particularities of the various neighborhoods most at risk, and particularly it does not address the needs of higher density existing buildings which are not required to renovate and which, because they may house low- and moderate-income residents, do not have sufficient funds to make the significant investments in resiliency improvements that the ZCFR permits. To accommodate real resiliency in our community subsidies would be necessary; and
- 5) CB 3 is concerned that because the ZCFR concentrates on issues related to development in the flood plain, however, there is considerable thought that because of on-going climate change, development in such vulnerable areas should be curtailed and redirected to more sustainable areas. It behooves the City to think more comprehensively about this question; and
- 6) CB 3 is concerned about the provision of the ZCFR relating to grandfathered non-conforming commercial uses in residential districts (Section 65-13, "Discontinuance Provisions"). CB 3 has had a large number of complaints over the past 10 years because of conflict between businesses and residents caused by grandfathered nonconforming commercial uses on residential streets. Examples of this are generally bars open until 4 a.m. on residential streets with bedrooms on the street. This was caused by lack of enforcement to zoning regulations for many

years. This commercial use reverts back to residential use, providing much-needed housing, when vacant for 2 years. The current amendment would extend this 2-year period of vacancy to revert back to residential; and

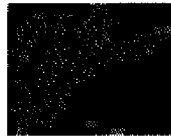
- 7) CB 3 objects to the provision of the ZCFR which imposes a particularly harsh restriction on nursing homes. Nursing home beds are needed in Community District 3 and limiting their expansion in the flood plain would rule out a significant part of the district for potential expansion of this important use. Other critical medical facilities such as hospitals, community health clinics and supportive housings are not limited by the ZCFR, and the risk posed to nursing home facilities located in flood prone areas should be mitigated by emergency protocols and infrastructure upgrades rather than zoning.

Please contact the community board office with any questions.

Sincerely,



Alysha Lewis-Coleman, Chair
Community Board 3



Jacky Wong, Chair
Land Use Committee

cc: Matthew Pietrus, Department of City Planning
Office of Councilmember Carlina Rivera
Office of Councilmember Margaret Chin
Office of Manhattan Borough President Gale Brewer
Mayor's Community Affairs Unit
Office of NYS Assemblymember Yuh-Line Niou
Office of NYS Assemblymember Harvey Epstein
Office of NYS Senator Brian Kavanagh
Office of NYS Senator Brad Hoylman



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 13	# Against: 0	# Abstaining: 0	Total members appointed to the board: 15
Date of Vote: 12/21/2020 12:00 AM		Vote Location: Virtual Zoom Meeting	

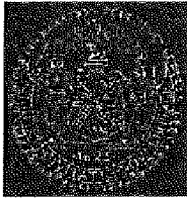
Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/17/2020 6:30 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	https://zoom.us/webinar/register/WN_DFb3VarcS5OyuTJ1I4oqi w

CONSIDERATION: Respectfully Submitted by Manhattan Community Board 4. Please see the attached letter.

Recommendation submitted by	MN CB4	Date: 12/28/2020 2:54 PM
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MANHATTAN COMMUNITY BOARD FOUR



P.O. Box 2622
New York, NY 10108
tel: 212-736-4536
www.nyc.gov/mcb4

LOWELL D. KERN
Chair

JESSE R. BODINE
District Manager

December 28, 2020

Marisa Lago, Chair
NYC Department of City Planning
120 Broadway
New York, NY 10271

Edith Hsu-Chen
Director, Manhattan Borough Planning Office
Department of City Planning
120 Broadway, 30th Fl.
New York, NY 10271

Re: Zoning for Coastal Flood Resiliency

Dear Chair Lago and Ms. Hsu-Chen,

On November 16, 2020, the Manhattan Community Board 4 (MCB4) Chelsea Land Use (CLU) Committee discussed the Department of City Planning's (DCP) proposed "Zoning for Coastal Flood Resiliency" (ZCFR) after a presentation by DCP staff. The ZCFR was discussed further at MCB4's Clinton/Hell's Kitchen Land Use Committee and the Executive Committee. Subsequent to those discussions the CLU Committee met on December 21, 2020 to review additional information specifically relevant to Community District 4. The CLU Committee voted unanimously in support of the intent of the Zoning Text Amendment with the condition that certain requirements are met which are detailed below.¹

CB4 supports proposed flood resiliency measures so long as provisions are included in the text amendment to respect our neighborhoods. Property owners should be able to protect themselves from damaging flood waters in ways that keep their insurance costs down and preserve their investments while also caring for our streetscape and neighborhood characteristics. CB4's concerns are rooted in the need to preserve the unique qualities of properties in our Historic Districts, to ensure protections codified in our Special Zoning Districts are respected, and to prevent new developments from using ZCFR regulations that add height or bulk.

¹ The public comment period for this application closes before MCB4's regularly scheduled Full Board Meeting. Therefore, this letter is being submitted by the date listed above and is subject to ratification at the January 6th Full Board meeting.

ZCFR PROPOSAL BACKGROUND

ZCFR would make permanent existing temporary zoning rules that were adopted on an emergency basis following Hurricane Sandy. These emergency regulations became widely applicable soon after the storm but posed conflicts with the Zoning Resolution which led to the 2013 Flood Text. The Flood Text provided zoning flexibility for buildings in the flood zone so that resiliency construction requirements could be more easily met. ZCFR builds upon the expiring 2013 Flood Text to provide flexibility and design options to help those living and working in the floodplain. The proposal would make permanent zoning provisions that were adopted on a temporary basis in 2013.

Important to note is that the proposed flexibility and design options introduced in ZCFR would:

- Make permanent already existing 2013 Flood Text flexibilities in the Zoning Resolution and enhance them based upon community engagement and lessons learned since Hurricane Sandy;
- Expand the applicability of these allowances to the 0.2% annual chance floodplain area (currently, these only apply to the 1% annual chance floodplain area);
- Provide optional rules to allow building owners the design flexibility sometimes needed to meet the NYC Building Code Appendix G requirements (either proactively or because it is required);
- Allow buildings to advance resiliency improvements incrementally.

COMMUNITY BOARD 4 STIPULATIONS**Historic Districts**

The floodplain identified within the parameters of this text amendment include a high percent of the most critical historic districts within CD4, notably the entirety of the West Chelsea Historic District, and large portions of the Chelsea Historic District and the Gansevoort Market Historic District. The proposed text amendment includes language stipulating that the new regulations would not override the regulations of the Landmark Preservation Commission for buildings within Historic Districts. However, CB4 has often promoted further protections than provided by LPC, including the attempts to stop the transfer of sub-grade floor area to rear yards. This Zoning Text Amendment opens the door for such a transfer.

Therefore, CB4 recommends that the Zoning Text Amendment include language **requiring Special Permit approval from the City Planning Commission for any alterations for flood resiliency measures to buildings within Historic Districts.**

Special Zoning Districts

CD4 has a unique Special Zoning District in West Chelsea, the Special West Chelsea District (SWCD) that was painstakingly negotiated to allow landowners to transfer development rights within the District while implementing specific criteria on bulk and height in order to protect and promote the High Line. CD4 is also home to Hudson Yards within the Special Hudson Yards District which similarly negotiated a great deal of specific allowances and limitations to ensure a new development area that integrates with the neighborhood. Any developer planning to build within the floodplain should be aware that the property is within a flood zone. The City should not offer bonuses on building bulk and heights to such developers to the detriment of our special areas. The fact that the ZCFR regulations would supersede any regulations negotiated within Special Districts would violate years of negotiations and compromises. The ability of a developer to utilize flood

resiliency measures to increase bulk and height of buildings is counter to the intent of our special districts.

Therefore, CB4 recommends that the Zoning Text Amendment includes language **requiring Special Permit approval from the City Planning Commission for any new developments that utilize flood resiliency measures within Special Districts.**

Streetscape

CB4 has consistently fought to protect our streetscape to ensure vibrant, well lit, and airy sidewalks in our commercial districts. If a new development utilizes flood resiliency measures to raise the height of a building beyond what is currently allowed, or to move mechanicals to floors immediately above sidewalk level to “mechanical voids,” or to install parking garages at street level to qualify for wet-floodproofing, our sidewalk life will be diminished as we know it. The quality of life and movement of the pedestrians in our commercial districts essential to our environment. Any developer proposing to build new construction in areas affected by this zoning text amendment is most likely aware of the fact that the property is within a floodplain. The community shouldn’t suffer because a developer wants to take advantage of zoning regulations in order to build higher floors which are at a premium revenue level.

Therefore, CB4 recommends that the Zoning Text Amendment includes language that states:

- **any new buildings within the floodplain on primary commercial streets require dry floodproofing without any zoning amendments or changes;**
- **any new buildings within the floodplain outside primary commercial streets require dry floodproofing or wet floodproofing without any zoning amendments or changes;**
- **any new buildings continue to measure building height from the curb level rather than the reference plane;**
- **any existing buildings within commercial districts limit reference plane to equal the Flood Resistant Construction Elevation;**
- **and, any existing buildings along primary streets in commercial districts limit height increases due to exempted ground floor area related to dry-floodproofing or wet-floodproofing to one floor above the existing building.**

Funding Sources

There is undoubtedly a cost associated with existing property owners implementing flood resiliency measures. This is most notable in our historic areas where homeowners would experience great expense to preserve and protect our treasured historic homes against rising floodwaters in the upcoming decades. There is tremendous value for the City to ensure these homes remain an important part of our community as the lifeblood for vibrant residential neighborhoods in Manhattan. The value added of protecting small homes should be shared by the City with property owners.

Therefore, CB4 recommends that the Zoning Text Amendment include language that states that **DCP work with other relevant agencies to create or identify funding streams or tax incentives for small property owners seeking to comply with floodproofing measures.**

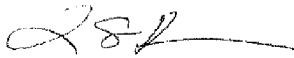
New York City Housing Authority (NYCHA)

There are two NYCHA developments (Fulton and Elliot Houses) within CD4 that partially fall within the identified floodplain. There is a long history of challenges moving forward with any development issues within these campuses. Creating separate rules and regulations for one portion of the development, but not in portions outside the floodplain, would add undue complications to an already cumbersome process.

Therefore, CB4 recommends that the Zoning Text Amendment includes language that states that **any NYCHA development seeking to implement flood resiliency measures to any building within the floodplain apply the same measures to all buildings within the same campus, even if those additional buildings are outside the floodplain.**

Community Board 4 is cognizant of the fact that implementing a City-wide Zoning Text Amendment faces challenges to address very unique--and often disparate--viewpoints of our great city with all its varied neighborhoods. We are framing our stipulations and proposed requirements in such a way that would adhere to the spirit of an important need for our residents across the City to protect their homes and investments while addressing our specific concerns. We urge DCP to include and implement our nine requirements in the final version of the Zoning Text Amendment.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Betty Mackintosh
Co-Chair
Chelsea Land Use



Paul Devlin
Co-Chair
Chelsea Land Use

CC: Hon. Corey Johnson, Speaker of the City Council
Hon. Gale A. Brewer, Manhattan Borough President
Sarah Carroll, Chair, Landmarks Preservation Commission
Gregory P. Russ, Chair and CEO, NYCHA
Historic District Council



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 44	# Against: 0	# Abstaining: 1	Total members appointed to the board: 45
Date of Vote: 12/10/2020 12:00 AM		Vote Location: Virtual	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/2/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	450 7th Avenue

CONSIDERATION: CB5 resolution attached.

Recommendation submitted by	MN CB5	Date: 12/15/2020 4:04 PM
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MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Marisa Maack, District Manager

December 11, 2020

Marisa Lago
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: Zoning for Coastal Flood Resiliency, a citywide text amendment to update and make permanent the temporary 2013 Flood Resilience Zoning Text Amendment

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, December 10, 2020, the following resolution passed with a vote of 44 in favor; 0 opposed; 1 abstaining:

WHEREAS, The Department of City Planning (DCP) is proposing a zoning text amendment, Zoning for Coastal Flood Resiliency (ZCFR) to update the Special Regulations Applying in Flood Hazard Areas; and

WHEREAS, ZCFR expands beyond the current zoning rules, which were adopted on an emergency basis in the 2013 Flood Text and the 2015 Recovery Text to remove zoning barriers hindering reconstruction after Hurricane Sandy as well as to ensure future construction would be more resilient to flooding; and

WHEREAS, ZCFR primarily affects development in the 1% annual and 0.2% annual chance floodplains, zones that touch 50 out of 59 community districts but not Manhattan Community District 5; and

WHEREAS, Despite Community Board 5 (CB5) being landlocked and not containing any 1% or 0.2% annual chance floodplains, certain aspects of the ZCFR text do apply, and therefore CB5 was compelled to comment on the proposed Zoning Text Amendment as it pertains to our district; and

WHEREAS, One of the goals of the ZCFR is to prepare New York for future recovery against potential disasters, ecological and otherwise, by reducing regulatory obstacles; and

WHEREAS, The rationale for including districts outside of the 1% and 0.2% annual chance floodplains is because areas impacted by disasters such as floods can include areas not in these floodplains, and areas outside of floodplains can aid in recovery efforts; and

WHEREAS, The part of the ZCFR text, among others, that applies to CB5 Manhattan is the "Power Systems and Other Mechanical Equipment" section, because "appropriately scaled power system on lots throughout the city...make it easier to provide back-up energy, especially in the event of a disaster," and a disaster like that of Hurricane Sandy can cause power system disruptions beyond the 1% and 0.2% annual chance floodplains; and

WHEREAS, This section of ZCFR expands beyond the 2013 Flood Text, which allowed back-up systems like emergency generators to be "considered permitted obstructions in the required yards and open spaces for single and two-family residences in the floodplain," although this only applied to the 1% annual chance floodplains; and

WHEREAS, ZCFR will expand this citywide, therefore including CB5 Manhattan, and would require power systems to be placed a minimum of five feet from property lines; and

WHEREAS, "Coverage would be limited to 25 percent of the minimum required open space, although the coverage would be restricted to 25 square feet if the equipment is located between the building and the front lot line to minimize its effect on the street;" and

WHEREAS, The text also explicitly exempts "space necessary for routinely accessing and servicing" mechanical equipment from floor area calculations, in addition to already clearly outlined exemptions for mechanical, electrical, plumbing equipment, fire protection, and power systems; and

WHEREAS, Community Board Five believes that the goals of ZCFR are important to ensure resiliency and adaptability in the face of any future disasters; and

WHEREAS, Community Board Five recognizes that the vast majority of ZCFR provisions do not apply to our district, and is not commenting on the portions of the text that do not apply to CB5; and

WHEREAS, Permitting Power Systems and Other Mechanical Equipment, such as diesel generators, to intrude upon building rear yards would have a negative impact on noise and air quality; and

WHEREAS, Rear yards play a crucial role in providing much needed access to air and light in our high density built environment and should not be encumbered with noise and fumes-producing equipment; and

WHEREAS, While the building code may have provisions restricting the generator permissibility in rear yards, it is essential that both Building Code and Zoning Resolution are harmonized so as to not create unnecessary conflicts, gray areas, contradictions between agencies and between their interpretation of the codes and rules; therefore be it

RESOLVED, Community Board Five **recommends conditional approval** of the Zoning for Coastal Flood Resiliency citywide zoning text amendment, on the condition that diesel generators are not permitted in rear yards in Manhattan Community Board Five.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Layla Law-Gisiko
Acting Chair, Land Use, Housing and Zoning Committee



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Unfavorable			
# In Favor: 38	# Against: 1	# Abstaining: 2	Total members appointed to the board: 41
Date of Vote: 12/9/2020 12:00 AM		Vote Location: Remote Zoom Meeting	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/23/2020 6:30 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Remote Hearing on Zoom

CONSIDERATION: See the attached recommendation resolution.

Recommendation submitted by	MN CB6	Date: 12/22/2020 10:10 AM
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KYLE ATHAYDE
CHAIR

SANDRO SHERROD, FIRST VICE CHAIR
MARK THOMPSON, SECOND VICE CHAIR



JESÚS PÉREZ
DISTRICT MANAGER

BRIAN VAN NIEUWENHOVEN, TREASURER
BEATRICE DISMAN, ASST. TREASURER
SEEMA SHAH, SECRETARY
MATT BONDY, ASST. SECRETARY

THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD SIX
211 EAST 43RD STREET, SUITE 1404
NEW YORK, NY 10017

VIA E-MAIL

December 22, 2020

Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Objecting to the proposed Zoning for Coastal Resiliency Citywide Zoning Text Amendment - ULURP No. N 210095 ZRY, CEQR No. 19DCP192Y by the Department of City Planning

At the December 9, 2020 Full Board meeting of Manhattan Community Board Six, the Board adopted the following resolution:

WHEREAS, in late October of 2012 Superstorm Sandy caused widespread damage to the City of New York, disrupting service to critical transportation, power, communications and medical infrastructure which adversely affected tens of thousands of residents of Manhattan Community District 6 (CD 6);

WHEREAS, the NYC Department of City Planning (DCP) has proposed an amendment to:

- update and make permanent the temporary 2013 Flood Resilience Zoning Text Amendment
- encourage long-term resilient design across the City's 1% annual chance floodplains
- expand the measures put in place for resilient design in the 1% annual chance floodplains to buildings that are in the 0.2% annual chance floodplain
- provide the zoning tools that are necessary to facilitate recovery after future disasters;

WHEREAS, this text amendment is meant to build upon the previous two post-Hurricane Sandy temporary text amendments which are expiring; it is based on research in multiple neighborhoods, with community engagement workshops and events to identify individual needs; one result was that DCP established that businesses and multi-family homes were not sufficiently addressed;

WHEREAS, the areas of concern for Manhattan Community Board Six (CB6) are identified in the Federal Emergency Management Agency (FEMA) maps that are referenced in the zoning text;

WHEREAS, the FEMA maps that are referenced in the text amendment materials should be altered after the construction of the East Side Coastal Resiliency (ESCR) project to reflect the revised flood zones;

WHEREAS, the revised maps would encourage future development to be more resilient and offer modifications of use to existing buildings by tax lot;

WHEREAS, the proposed text amendment contains new language that would allow for building-support mechanical equipment to be placed in alternative locations such as atop an existing building that, with the addition, might exceed maximum bulkhead height allowed under the current zoning text, or allow for the erection of mechanical buildings within the lots that are larger than 1.5 acres in a space that would not be permitted previously;

WHEREAS, large housing complexes within CD 6, like East Midtown Plaza or Stuyvesant Town and Peter Cooper Village (80 acres) that are within the 0.2% chance floodplain, enjoy vast swaths of open space in a community district that has the lowest amount of open space per capita, and contribute to the mental and physical health and well-being of residents of the area;

WHEREAS, the proposed text amendment also contains new language that would allow for second-story residential floors in existing buildings to be repurposed as support space for ground-floor commercial tenants in a mixed-use building;

WHEREAS, the proposed text amendment presents a further existential threat to the livability of our city and the dwindling stock of affordable housing by allowing some of the housing to be repurposed for commercial use;

WHEREAS, the proposed rule change sets forth a wide expansion of development of building envelopes in areas that have clearly defined zoning texts which serve to protect the character, historical context and housing in our City, and the rule change has little to no mechanism for the enforcement of compliance with these modifications or subsequent modifications of use in later years;

THEREFORE, BE IT RESOLVED that Manhattan Community Board Six finds portions of the proposed text amendment which deviate from the 2013 temporary flood text to be a wide deviation from current zoning text that has the potential to dramatically change the fundamental nature and character of our community district and **OBJECTS** to the proposed text amendment as written;

THEREFORE, BE IT FURTHER RESOLVED that CB6 holds affordable housing to be one of the principal tenets of land use canon. The proposed rezoning text requires further refinement to ensure that modified use or any new construction does not adversely affect the enjoyment of our limited open area space or remove needed affordable housing from our community without remediation to the respective concern;

THEREFORE, BE IT FURTHER RESOLVED that such an expansion of allowable deviation from the zoning text for new construction and for existing building lots,

perhaps to a greater degree, requires a formalized enforcement process that allows for public review;

THEREFORE, BE IT FURTHER RESOLVED that recognizing the long-term impacts of climate change and coastal flooding that are a continual threat to our district, the Board recommends that the Department of City Planning moves to make permanent the existing flood resilience zoning text originally adopted in 2013, without the broad new expansive text;

THEREFORE, BE IT FURTHER RESOLVED that a separate ULURP application be submitted for additional text modification once the FEMA maps are updated after the completion of the ESCR flood mitigations. This will ensure that the current proposed additions would not adversely affect affordable housing opportunities and the daily enjoyment of our communities in a manner that outweighs any potential it might provide for flood mitigation, and also ensure a formalized enforcement process is defined for any modifications recommended within.

VOTE: 38 In Favor 1 Opposed 2 Abstention 0 Not Entitled

Best regards,



Jesús Pérez
District Manager

Cc: Hon. Gale Brewer, Manhattan Borough President
Hon. Carlina Rivera, Council Member
Hon. Keith Powers, Council Member
Hon. Ben Kallos, Council Member
Adam Hartke, Chair, CB6 Land Use & Waterfront Committee
Azka Mohyuddin, City Planner, NYC Department of City Planning
Scott Williamson, City Planner, NYC Department of City Planning



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 37	# Against: 0	# Abstaining: 0	Total members appointed to the board: 47
Date of Vote: 1/5/2021 12:00 AM		Vote Location: Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	MN CB7	Date: 1/20/2021 12:19 PM
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COMMUNITY BOARD 7



Manhattan

RESOLUTION

Date: January 5, 2021**Committee of Origin: Land Use****Re: Coastal Flood Resiliency Text Amendment.****Full Board Vote: 37 In Favor 0 Against 0 Abstentions 0 Present****Committee: 5-0-2-0. Non-Committee Board Members: 3-0-0-0.**

The New York City Department of City Planning has proposed amendments to the Zoning Resolution to address the increased risk of flooding of structures in areas within the coastal flood plain. The only areas in Community Board 7 which are within a flood plain are portions of Riverside Park, not governed by the Zoning Resolution, and a garage area in an existing building at 59th Street and Riverside Boulevard.

The goals of the proposed amendments are:

- 1) to expand the scope of coastal flood zoning from areas with a 1% annual chance of flooding to areas with a .2% annual chance of flooding;
- 2) to exempt from floor area for zoning purposes certain ground floor spaces which are wet- or dry-flood proofed;
- 3) create alternatives to the location of mechanical, electrical and plumbing equipment from basements to other portions of structures or lots; and
- 4) enact rules that make it easier for buildings damaged in a flood to be reconstructed.

In large measure, temporary zoning rules enacted after Hurricane Sandy, would be made permanent by the proposed text amendment.

The new proposed rules are complex and their impact would vary from neighborhood to neighborhood, but would have no effect in Community Board 7/Manhattan.

THEREFORE, BE IT RESOLVED THAT:

- 1) Community Board 7/Manhattan approves, in principle, efforts by the Department of City Planning to make coastal areas of the City more resistant to and resilient from extreme flooding;
- 2) Analyzing the impact of DCP's specific proposals would require a neighborhood- by- neighborhood detailed analysis best undertaken by Community Boards with areas within the flood plain;
- 3) Accordingly, Community Board 7, takes no position as to the specifics of the detailed Zoning Resolution amendments contained in the DCP proposal.

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency			
Applicant:	DCP - Department of City Planning (NYC)	Applicant's Primary Contact:	DCP - Department of City Planning (NYC)
Application #	N210095 ZRY	Borough:	Citywide
CEQR Number:	19DCP192Y	Validated Community Districts:	CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 25	# Against: 8	# Abstaining: 6	Total members appointed to the board: 39
Date of Vote: 12/9/2020 12:00 AM		Vote Location: https://www.cb8m.com/event/18517/	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/9/2020 6:30 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Zoom - https://www.cb8m.com/event/18517/

CONSIDERATION: Please see attached resolution.

Recommendation submitted by	MN CB8	Date: 1/4/2021 11:24 AM
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Alida Camp
Chair

Will Brightbill
District Manager



**The City of New York
Community Board 8 Manhattan**

505 Park Avenue, Suite 620
New York, N.Y. 10022-1106
(212) 758-4340
(212) 758-4616 (Fax)
www.cb8m.com - Website
info@cb8m.com - E-Mail

December 16, 2020

Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

RE: N210095 ZRY Zoning for Coastal Flood Resiliency Citywide Text Amendment

Dear Chair Lago,

At the Full Board meeting of Community Board 8 Manhattan held on December 9, 2020, the board **APPROVED** the following resolutions in support of N210095 ZRY - Zoning for Coastal Flood Resiliency.

The following resolution was approved by a vote of 25 in favor, 8 opposed, 6 abstentions and 0 not voting for cause.

WHEREAS, Community Board 8 recognizes the impact of flooding and the need for city action to mitigate the impacts of floods to protect hundreds of thousands of people across the city,

WHEREAS, these changes could mean the difference between survival and extreme loss,

WHEREAS, CB8 recognizes that these changes may result in infrequent negative impacts, but these are outweighed by the benefits for those in locations most vulnerable to flooding to take actions to protect their lives and their livelihoods,

THEREFORE BE IT RESOLVED, that CB8 approves N 210095 ZRY – Zoning for Coastal Flood Resiliency Citywide Text Amendment.

Further, the following resolution was approved by a vote of 38 in favor, 2 opposed, 0 abstentions, and 0 not voting for cause.

WHEREAS, Community Board 8 has voted to support N210095 ZRY Zoning for Coastal Flood Resiliency Citywide Text Amendment,

THEREFORE BE IT RESOLVED, that CB8 urges the Department of City Planning to ensure that the placement of mechanicals on open space is only done in circumstances

where it is structurally necessary to do so. And if a building owner is required to do so, then they must be required to somehow contribute to open space in their communities to ensure no net loss of comparable open space.

Please advise us of any action taken on this matter.

Sincerely,

Alida Camp

Alida Camp
Chair

cc: Honorable Bill de Blasio, Mayor of the City of New York
Honorable Carolyn Maloney, 12th Congressional District Representative
Honorable Gale Brewer, Manhattan Borough President
Honorable Liz Krueger, NYS Senator, 28th Senatorial District
Honorable Jose M. Serrano, NYS Senator, 29th Senatorial District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
Honorable Robert Rodriguez, NYS Assembly Member, 68th Assembly District
Honorable Ben Kallos, NYC Council Member, 5th Council District
Honorable Keith Powers, NYC Council Member, 4th Council District



January 22, 2021

Hon. Marisa Lago
Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Dear Director Lago,

At its regularly scheduled General Board Meeting held remotely on Thursday, January 21, 2021, Manhattan Community Board No. 9 unanimously passed the following **Resolution re: Zoning for Coastal Flood Resiliency** by a vote of 37 in favor, 0 opposed, 0 abstentions.

RECOMMENDING APPROVAL FOR AN APPLICATION BY THE NEW YORK CITY DEPARTMENT OF CITY PLANNING FOR AN AMENDMENT TO THE ZONING RESOLUTION: APPLICATION NUMBER N210095ZRY – ZONING FOR COASTAL FLOOD RESILIENCY

WHEREAS, The City's Department of City Planning (DCP) seeks a citywide text amendment to the Zoning Resolution (N210095ZRY) to update and make permanent the temporary 2013 Flood Resilience Zoning Text Amendment, to incentivize long-term resilient design across the City's 1 percent and 0.2 percent annual chance floodplains, to allow buildings to be adapted over time through partial resiliency strategies, and to provide zoning tools meant to facilitate recovery following future disasters; and

WHEREAS, At the Manhattan Community Board 9 Housing, Zoning, and Land Use Committee meeting dated December 8, 2020, DCP presented the Zoning for Coastal Flood Resiliency text amendment proposal, it appears that the text amendment mostly affects parkland, Trinity Cemetery and portions of the Manhattanville Special District west of Broadway; and

WHEREAS, At a meeting of representatives from the Manhattan Borough President's Office and Manhattan Community Boards dated December 14, 2020, topics and issues related to the Zoning for Coastal Flood Resiliency text amendment were raised and discussed, including historic and special zoning districts, bonuses for dry and wet floodproofing, reference plane definitions and height bonuses, small businesses and property owners, mechanical equipment in outdoor areas,

-2-

Governors Island, temporary flood protections, planting requirements, FEMA flood maps, specific definitions of exceptional risk zones and disasters; and

WHEREAS, there have been concerns raised from several Manhattan Community Boards relating to the clarity, specificity, and applicability of the briefings led by representatives of DCP and presented at Manhattan Community Board meetings, leaving many members uncomfortable and unwilling to take a position on the Zoning for Coastal Flood Resiliency text amendment without further discussion and response from DCP on follow up questions submitted to the agency; and

THEREFORE, BE IT RESOLVED, The Manhattan Community Board 9 recommends approval of the application (N210095ZRY), Zoning for Coastal Flood Resiliency, with the following modifications¹:

1. Within historic districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper notification to relevant Community Boards and Borough Presidents, and require that any design and zoning changes pursuant to this text amendment be subject to the approval of the Landmarks Preservation Commission;
2. Within special zoning districts, require special permit approval from the City Planning Commission for any new building to utilize this text amendment, with proper notification to relevant Community Boards and Borough Presidents;
3. For new buildings along primary streets in commercial districts, require dry floodproofing without any zoning exemptions or changes attached;
4. For existing buildings along primary streets in commercial districts, limit height increases due to exempted ground floor area related to dry floodproofing to one floor above existing building;
5. For new buildings outside of primary streets in commercial districts, require wet floodproofing or dry floodproofing without zoning exemptions or changes attached.
6. For existing buildings, limit reference plane to equal the Flood Resistant Construction Elevation according to the New York City Building Code;
7. For new buildings, eliminate the reference plane provision and instead continue to measure building height from the curb level or base plane as currently measured;
8. For small property owners who are seeking or are required to comply with floodproofing provisions, DCP must work with other relevant agencies to create or identify sufficient funding streams for these property owners to properly implement such measures;

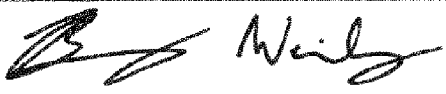
¹ These recommendations would only apply to zoning lots partially or wholly within the 1 percent and 0.2 percent change floodplains as defined by FEMA.

-3-

9. Proposed Section 64-312 ("Permitted obstructions in required yards, courts, and opens spaces for all zoning lots") is only applicable to residential districts R1 through R5;
10. Clearly define "primary street frontages" in commercial districts where dry floodproofing provisions would apply, and restrict the definition of "severe disaster" to natural disasters related to flooding and the purposes of this text amendment; and
11. In relation to the concurrent Governors Island rezoning, both zoning actions must be coordinated in order to ensure that no information, briefing, or proposal be undermined or contradicted, that each proposal be as transparent as possible, and each be amended to be consistent with and to complement the other.

If you have any questions and/or further information is needed, please do not hesitate contacting me or District Manager, Eutha Prince, at the board office (212) 864-6200.

Sincerely,



Barry Weinberg
Chair

cc: Hon. Bill De Blasio, Mayor
Hon. Scott Stringer, NYC Comptroller
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Brian Benjamin, State Senator
Hon. Robert Jackson, State Senator
Hon. Daniel J. O'Donnell, Assembly Member
Hon. Inez Dickens, Assembly Member
Hon. Al Taylor, Assembly Member
Hon. Mark Levine, City Council Member
Hon. Bill Perkins, City Council Member

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 31	# Against: 3	# Abstaining: 1	Total members appointed to the board: 35
Date of Vote: 1/6/2021 12:00 AM		Vote Location: Zoom- Online	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:		
Recommendation submitted by	MN CB10	Date: 1/20/2021 7:38 AM



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 10
215 West 125th Street, 4th Floor—New York, NY 10027
T: 212-749-3105 F: 212-662-4215

CICELY HARRIS
Chairperson

SHATIC MITCHELL
District Manager

Resolution

Manhattan Community Board 10

RESOLUTION: To approve the Zoning for Coastal Flood Resiliency Text Amendment to encourage long-term resilient design across the city's 1% and 0.2% annual chance floodplains.

WHEREAS, New York City Department of City Planning (*hereafter known as "DCP"*) are seeking approval of the Zoning for Coastal Flood Resiliency Text Amendment (*hereafter known as "ZCFR"*) application, N210095ZRY, to update and make permanent the temporary 2013 Flood Resiliency Zoning Text Amendment, to encourage long-term resilient design across the city's 1% and 0.2% annual chance floodplains; and

WHEREAS, Hurricane Sandy profoundly impacted the New York City area, it also highlighted the risk of future, severe flood events; and

WHEREAS, the current 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 there would be more resilient; and

WHEREAS, the goals of ZCFR is to encourage resiliency throughout the current and future floodplains, support long-term resiliency designs of all buildings, allow for adaptation over time through incremental retrofitting, and facilitate future recovery by reducing regulatory obstacles; and

WHEREAS, ZCFR includes dry floodproofing requirements for mechanical systems located below the design flood elevation (*hereafter known as "DFE"*), as well as the elevation of living spaces in mixed-use buildings; and

WHEREAS, ZCFR also includes wet floodproofing requirements for residential buildings including elevation of living spaces and mechanical systems above the DFE, while spaces below the DFE can only be used for parking, storage, or access; and

WHEREAS, there are currently 400,685 New Yorkers and 80,907 buildings in the 1% annual chance floodplain, it is estimated that by 2050 there will be 794,534 New Yorkers and 122,132 buildings in the 1% annual chance floodplain, zones that touch 50 out of 59 community districts; and

WHEREAS, in Manhattan Community Board 10 there are currently 5576 dwelling units and 45 buildings in the 1% annual chance floodplain, and 5476 dwelling units and 107 buildings in the 0.2% annual chance floodplain located north to the Harlem River Drive/New York City Housing Authority's Ralph J. Rangel Houses, south to East 135th Street, west to Adam Clayton Powell, Jr. Blvd., and east to 5th Avenue/Harlem River Drive; and

WHEREAS, Manhattan Community Board 10 recognizes that the density in the current 1% and 0.2% annual chance floodplain limits the likelihood of new construction, the wet floodproofing and dry floodproofing regulations for existing commercial and residential buildings will allow for a more flood resistant community; and

WHEREAS, on Thursday, December 17, 2020, Manhattan Community Board 10 Land Use Committee after hearing all of the views, including written submissions on the project voted 10 Yes, 0 No, 0 Abstention, and 0 Recusal to approve the application; and

WHEREAS, on December 23, 2020, The Executive Committee voted 13 Yes, 0 No, 0 Abstention, and 1 Recusal to approve the application.

NOW THEREFORE, BE IT RESOLVED

Manhattan Community Board 10 **APPROVES** application N210095ZRY, Zoning for Coastal Flood Resiliency Text Amendment. During the January 6, 2021 General Board Meeting, the board voted 31 Yes, 3 No, 1 Abstention, and 0 Recusal.



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 21	# Against: 1	# Abstaining: 7	Total members appointed to the board: 47
Date of Vote: 12/15/2020 12:00 AM		Vote Location: Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/9/2020 6:30 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Video Conference:

CONSIDERATION: Community Board 11 (CB11) recommends approval of Land Use Application N 210095 ZRY - Proposed Zoning for Coastal Flood Resiliency Citywide Text Amendment with the following conditions:		
<ol style="list-style-type: none"> 1. DCP and city agencies will provide with full transparency the East Harlem Resiliency study pertaining to the resiliency of our community and the comprehensive citywide resiliency strategies; 2. Proposed modifications to the floodplain will be brought to the community board for approval; 3. Proposed modifications to allow accessory mechanical buildings will be brought to the community board for approval; and 4. Any work to conform to CB11's local hiring guidelines 		
Recommendation submitted by	MN CB11	Date: 12/22/2020 3:30 PM



COMMUNITY BOARD ELEVEN

BOROUGH OF MANHATTAN
1664 PARK AVENUE
NEW YORK, NY 10035
TEL: 212-831-8929
FAX: 212-369-3571
www.cb11m.org

Nilsa Orama
Chair

Angel D. Mescain
District Manager

December 15, 2020

Marisa Lago
Director of Department of City Planning
120 Broadway
31st Floor
New York, NY 10271

Re: Recommendation on Land Use Application N 210095 ZRY- Proposed Zoning for Coastal Flood Resiliency Citywide Text Amendment

On December 15, 2020, Community Board 11 (CB11) voted on land use application No. N 210095 ZRY submitted by the Department of City Planning (DCP) who is proposing a zoning text amendment, Zoning for Coastal Flood Resiliency (ZCFR), to update the Special Regulations Applying in Flood Hazard Areas (Article VI, Chapter 4). The current 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 there would be more resilient. ZCFR would improve upon and make permanent the relevant provisions of the current temporary zoning rules and provide homeowners, business owners, and practitioners who live and work in the city's floodplain the option to design or otherwise retrofit buildings to: (a) reduce damage from future coastal flood events, (b) be resilient in the long-term by accounting for climate change, and (c) potentially save on long-term flood insurance costs. In addition, it would allow resiliency improvements to be more easily incorporated on waterfront sites 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. ZCFR would mostly affect New York City's current 1% annual and 0.2% annual chance floodplains. However, select provisions would be applicable citywide, affecting all five boroughs and the city's 59 Community Districts.

Description of The Proposed Project Area

ZCFR 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 2050 1% annual chance floodplain). 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. However, to help the city prepare for or respond to other disasters, select provisions in ZCFR would be applicable throughout the city.

1% Annual Chance Floodplain

The 1% annual chance floodplain encompasses a significant portion of land coverage in New York City, including approximately 65,600 lots and 80,900 buildings across the city's five boroughs.

0.2% Annual Chance Floodplain

The 0.2% annual chance floodplain encompasses a large portion of land in New York City, including approximately 36,700 lots and 44,600 buildings across the city's five boroughs.

Project Description

Like the 2013 Flood Text and the 2015 Recovery Text, ZCFR would generally provide optional zoning rules in the floodplain for buildings to fully incorporate "flood-resistant construction standards,"¹¹ but also for those who may want to incorporate incremental resiliency improvements to protect their buildings against flooding over time, as described in more detail below. Given the scale and variety of the city's floodplain, ZCFR necessarily includes modifications to many existing zoning regulations. These changes generally allow habitable spaces and other building support features to be better protected and raised out of harm's way and address the effect these elevated spaces can have on the city's streetscape. ZCFR also includes provisions with applicability beyond the floodplain to help address a wider variety of situations.

Goal 1. Encourage resiliency throughout the current and future floodplains. All building owners in areas subject to flood risk should have the option to proactively incorporate resiliency standards into their buildings, even when these standards are not required by FEMA and Appendix G of the New York City Building Code.

Goal 2. Support long-term resilient design of all building types. Zoning rules in the floodplain should facilitate protection from coastal flooding for all buildings, independent of their age, typology or specific location.

Goal 3. Allow for adaptation over time through incremental retrofits. Building owners should be able to incrementally incorporate resiliency improvements into all buildings and waterfront sites, including existing structures that are not able to fully meet Appendix G.

Goal 4. Facilitate future recovery by reducing regulatory obstacles. Zoning rules should assist vulnerable populations and the recovery process after a future storm or other type of disaster, including the ongoing COVID-19 pandemic.

Recommendation

Community Board 11 (CB11) recommends approval of Land Use Application N 210095 ZRY - Proposed Zoning for Coastal Flood Resiliency Citywide Text Amendment with the following conditions:

1. DCP and city agencies will provide with full transparency the East Harlem Resiliency study pertaining to the resiliency of our community and the comprehensive citywide resiliency strategies;
2. Proposed modifications to the floodplain will be brought to the community board for approval;
3. Proposed modifications to allow accessory mechanical buildings will be brought to the community board for approval; and
4. Any work to conform to CB11's local hiring guidelines

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

NYSCEF DOC. NO. 86


INDEX NO. 160565/2020

RECEIVED NYSCEF: 08/19/2021

Board vote: 21 In Favor, 1 Opposed, 7 Abstaining; 1 Present/Not Voting

If you have any questions regarding our recommendation, please contact Angel Mescaín, District Manager at 212-831-8929 or amescain@cb11m.org.

Sincerely,



Nilsa Orama
Board Chair

cc: Jose Turcios, New York City Department of City Planning
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Diana Ayala, New York City Council
Hon. Bill Perkins, New York City Council
Hon. Ben Kallos, New York City Council
Hon. Keith Powers, New York City Council
Steven Villanueva, Manhattan Community Board 11
Judith Febbraro, Manhattan Community Board 11



**Community Board 12 - Manhattan
Washington Heights & Inwood**

530 West 166th St. 6th Floor, New York, NY 10032

Phone: (212) 568-8500, Fax: (212) 740-8197

Eleazar Bueno, Chairperson
Ebenezer Smith, District Manager

January 29, 2021

Hon. Marisa Lago, Chair
New York City Department of City Planning
120 Broadway
31st Floor
New York, NY 10271

Re: Resolution commenting on the Department of City Planning's Zoning for Coastal Flood Resiliency Text Amendment

Dear Chair Lago:

At the General Meeting on Tuesday, January 26, 2021, Community Board 12 Manhattan, passed the following resolution with a unanimous vote of 43 in favor, 0 opposed, 0 abstentions, and 0 not voting, supporting the Department of City Planning's Zoning for Coastal Flood Resiliency Text Amendment and offering some comments on the proposed zoning regulations.

Whereas: The New York City Department of City Planning ("DCP") is proposing a citywide zoning text amendment, Zoning for Coastal Flood Resiliency ("ZCFR" or the "Text Amendment"), to update the Special Regulations Applying in Flood Hazard Areas (the "Special Regulations") of the New York City Zoning Resolution and to make permanent the provisions in the Flood Resilience Zoning Text Amendment, adopted in 2013, and the Special Regulations of Neighborhood Recovery, adopted in 2015. These 2013 and 2015 provisions were temporary measures adopted on an emergency basis after Hurricane Sandy hit New York City in 2012 to advance the reconstruction of storm-damaged properties and enable new and existing buildings to comply with flood-resistant construction standards outlined in the New York City Building Code; and

Whereas: The 2013 zoning text amendment removed zoning barriers to all storm-damaged and new buildings to comply with higher flood elevation and resiliency construction requirements. The 2015 zoning text amendment simplified documentation requirements and removed additional zoning barriers to give extra relief and accelerate post-Sandy recovery in certain areas that were heavily damaged; and

Whereas: The vast majority of the city's floodplain is already developed and includes 125,539 buildings citywide, 5,737 buildings in Manhattan, and 240 buildings in Manhattan Community District 12. Nearly 800,000 residents currently live in the city's floodplains. While many sources of flooding pose issues to New York City, including those from severe rainstorms and impaired infrastructure, DCP deems coastal flooding storms to pose the most significant risk because of their ability to compromise public safety, cause property damage and disrupt business; and

Hon. Marisa Lago, Chair

Re: Resolution commenting on the Department of City Planning's Zoning for Coastal Flood Resiliency Text Amendment

January 29, 2021

Page 2

- Whereas: The Text Amendment's regulations would apply to all lots wholly or partially located in the current 1% and 0.2% annual change floodplains. The storm surge from Hurricane Sandy went well beyond the 1% floodplain to inundate half of the city's 0.2% floodplain; and
- Whereas: The Text Amendment incorporates lessons learned from neighborhood studies and community workshops undertaken after Hurricane Sandy, closes certain loopholes in current regulations, and advances four major planning goals: i) to encourage resiliency throughout current and future floodplains; ii) to support the long-term resilient design of all building types; iii) to allow for adaptation of existing buildings over time through incremental retrofits, and iv) to facilitate future recovery by reducing regulatory obstacles; and
- Whereas: The Text Amendment would also provide flexibility for grading and shoreline design in waterfront areas to help mitigate flood risk, and would prohibit the construction of new nursing homes in flood-sensitive areas, given the negative health consequences associated with evacuating nursing home residents; and
- Whereas: The Text Amendment was presented by representatives of DCP at the June 5, 2019 meeting of Community Board 12-Manhattan (CB12-M)'s Land Use Committee to discuss the scope of its draft Environmental Impact Statement ("DEIS") and on December 2, 2020, and January 6, 2021, to discuss its goals and objectives; and
- Whereas: In February 2019 CB12M passed a resolution supporting the use of enhanced planning and design standards for waterfront development projects in the Manhattan Community District 12 and citywide and urging DCP and the Department of Buildings to update the Zoning Resolution and Building Code to incorporate best practices that maximize resiliency considerations in the planning, design, and construction of waterfront developments. In June 2019 CB12M passed a resolution offering comments on the scope of the draft Environmental Impact Statement for the Text Amendment. Now, therefore be it
- Resolved: Community Board 12-Manhattan supports the Department of City Planning's Zoning for Coastal Flood Resiliency Text Amendment and offers the following comments on the proposed zoning regulations:
1. 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. Increase Building Department enforcement of zoning regulations to ensure compliance with flood resiliency requirements.
 3. Consider reducing allowable density for new construction and set more restrictive standards for higher-density new construction in flood sensitive areas.
 4. 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.
 5. 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.

Hon. Marisa Lago, Chair

Re: Resolution commenting on the Department of City Planning's Zoning for Coastal Flood Resiliency Text Amendment

January 29, 2021

Page 3

6. 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.
7. 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.
8. Provide technical assistance and financial incentives to encourage retrofitting existing buildings in flood zones.
9. Consider a managed retreat scenario for undeveloped flood-sensitive sites, changing the land-use to parkland, wetlands, or other resilient open space.
10. 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.
11. Establish independent panels to consider climate risk on zoning and economic development and advise the City on applicable policy decisions.
12. Establish flood resiliency regulations and capital projects to address flood threats posed to infrastructure and resulting from impaired infrastructure.
13. Use consistent units of measure for expressing flood risk to allow for comparison across sites and flood events.
14. 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.

Sincerely,



Eleazar Bueno
Chairperson

cc: Hon. Bill de Blasio, Mayor
Hon. Jumaane Williams, Public Advocate
Hon. Scott M. Stringer, Comptroller
Hon. Brian Benjamin, State Senator
Hon. Robert Jackson, State Senator
Hon. Gale Brewer, Manhattan Borough President

Hon. Al Taylor, Assembly Member
Hon. Carmen De La Rosa, Assembly Member
Hon. Ydanis Rodriguez, Council Member
Hon. Mark Levine, Council Member



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 30	# Against: 1	# Abstaining: 0	Total members appointed to the board:
Date of Vote: 12/15/2020 6:00 PM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/15/2020 6:03 PM	
Was a quorum present? Yes	A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members
Public Hearing Location:	Zoom

CONSIDERATION:

Recommendation submitted by	QN CB1	Date: 1/4/2021 11:33 PM
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**EXECUTIVE BOARD**

Marie Tomiali
Chairperson
 Edward Baber
First Vice Chairperson
 Amy Hau
Second Vice Chairperson
 Richard Khuzami
Third Vice Chairperson
 Andy Aujla
Executive Secretary
 Thomas Ryan
Sergeant-at-Arms

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 RoseMarie Poveromo
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 Antonella Di Saveno
Health & Human Services
 Judy Trilivas
 Daniel Aliberti
Housing
 Eric Hantzopoulos
Land Use & Zoning
 Gerald Caliendo
 Elizabeth Erion
Legal, Legislative, Parliamentary
 Loren Amor
Office/Staff/Budget/PR
 Marie Tomiali
Parks/Recreation/Cultural
 Katie Ellman
 Kathleen Warnock
Public Safety
 Ann Bruno
 Antonio Meloni
Transportation
 Robert Piazza
 Mitchell Waxman

City of New York
Community Board #1, Queens

The Pistilli Grand Manor
 45-02 Ditmars Boulevard, LL Suite 1025
 Astoria, N.Y. 11105
 Tel: 718-626-1021, Fax: 718-626-1072
 E-mail: qn01@cb.nyc.gov

December 28, 2020

Honorable Marisa Lago
 Chair
 NYC City Planning Commission
 120 Broadway, 31st Floor
 New York, New York 10271

RE: N 210095 ZRY Zoning for Coastal Flood Resiliency -
 Department of City Planning application for a
 citywide text amendment to update and make
 permanent the 2013 Flood Resilience Zoning Text
 Amendments

Dear Chair Lago,

On December 15, 2020, Community Board 1 Queens held a remote public hearing on the referenced Zoning for Coastal Flood Resiliency (ZCFR) citywide text amendments (N210095 ZRY). After a presentation by representatives of the Department of City Planning and a report by the Board's Land Use and Zoning Committee, with a quorum present the Board voted 30 in favor, 1 opposed with 0 abstentions and 0 not voting for cause to recommend conditional approval with the following stipulations:

- Remove conflicts between the proposed text amendments, the NYC Building Code regulations and other sections of the Zoning Resolution with regard to permitted obstructions in required residential yards and open areas (e.g. handicap lift locations, mechanical equipment in multi-family zones);
- Reduce or eliminate restrictions on first floor uses if flood-risk in the surrounding area is mitigated with flood gates, seawalls, etc.;
- Widen the current waterfront access area or esplanades beyond the existing 40' requirement to provide additional protection to upland blocks and residential neighborhoods within the flood zones;
- DCP should conduct a study to determine appropriate densities for new development in high-risk floodplains in CD1Q.

Donovan Richards
Borough President, Queens

Director, Community Boards
 Marie Tomiali
Chairperson
 Florence Koulouris
District Manager

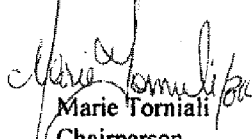
BOARD MEMBERS (cont.)

Rose Anne Alafogiannis
 George Alexiou
 Louise Bordley
 Irak Dahir Cehonski
 Jean Marie D'Alleva
 Mackenzi Farquer
 Dean O. Feratovic
 Shahenaz Hamde
 Helen Ho
 Pauline Jannelli
 Vanessa Jones-Hall
 Nancy Konipol
 Jerry Kril
 Hannah Lupien
 Jeffrey Martin
 Amin Mehedi
 Stella Nicolaou
 Norma Nieves-Bias
 Mary O'Hara
 Dino Panagoulas
 Juliet Payabyab
 Yawne Robinson
 Rodolfo Sarchese
 Dominic Stiller


December 28, 2020
 Honorable Marisa Lago
 Page 2

During the review of the proposed amendments, other important issues and comments were raised that might be considered though they may not be within the purview of this text amendment: how to address current flooding and climate change impacts; consider the relationship between higher density development and evacuation procedures as part of CEQR review for developments in floodplain zones; determine how to preserve flood-risk parkland areas; consider ways to incentivize flood-resilient retrofitting of older buildings or exceptional streetscape designs.

Sincerely,


 Marie Torniali
 Chairperson


 Elizabeth Erion
 Co-Chairs, Land Use and Zoning Committee


 Gerald Caliendo
 Co-Chairs, Land Use and Zoning Committee

cc: Honorable Donovan Richards, Queens Borough President
 Honorable Michael Gianaris
 Honorable Jessica Ramos
 Honorable Aravella Simotas
 Honorable Catherine Nolan
 Honorable Brian Barnwell
 Honorable Costa Constantinides
 Honorable Jimmy Van Bramer
 Mr. Irving Poy, Director, Land Use, BPQ
 Mr. John Young, Director, Queens Office DCP
 Ms. Joy Chen, DCP Planner
 Ms. Hallah Saleh, DCP Planner

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
Date of Vote: 12/3/2020 8:00 AM		Vote Location: Virtual	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/3/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Virtual

CONSIDERATION:		
Recommendation submitted by	QN CB2	Date: 12/23/2020 1:27 PM



Donovan Richards
Queens Borough President

Community Board No. 2

43-22 50th Street, 2nd Floor
Woodside, New York 11377

(718) 533-8773

Fax (718) 533-8777

Email qn02@cb.nyc.gov

www.nyc.gov/queenscb2

Lisa Deller
Chairperson

Debra Markell Kleinert
District Manager

December 4, 2020

Marissa Lago
Director
Department of City Planning
City Planning Commission
Calendar Information Office
120 Broadway, 31st Floor
New York, NY 10271

RE: **DCP – ULURP CEQR: N 210095 Zoning for Coastal Flood Resiliency**

Dear Ms. Lago:

On December 3, 2020, Community Board 2 held a public hearing concerning the DCP ULURP CEQR: N 210095 Zoning for Coastal Flood Resiliency.

At that meeting, with a quorum present, a motion was made and seconded to support the application. The vote was 42 in favor of the motion to support the application with none opposed and no abstentions.

If you have any questions, please feel free to contact Community Board 2.

Sincerely,


Debra Markell Kleinert
District Manager

DMK/mag

Cc: Honorable Alexandria Ocasio-Cortez, US Congress
Honorable Carolyn B. Maloney, US Congress
Honorable Grace Meng, US Congress
Honorable Nydia M. Velazquez, US Congress
Honorable Michael Gianaris, NY State Senate

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

NYSCEF DOC. NO. 86

INDEX NO. 160565/2020

RECEIVED NYSCEF: 08/19/2021

Honorable Brian Barnwell, NYS Assembly
Honorable Michael DenDekker, NYS Assembly
Honorable Catherine T. Nolan, NYS Assembly
Honorable Robert Holden, NYC Council Member
Honorable Jimmy Van Bramer NYC Council Member
Honorable Daniel Dromm, NYC Council Member
Honorable Donovan Richards, Queens Borough President
Irving Poy, Queens Borough President's Office
Vicky Garvey, Queens Borough President's Office
John Young, Department of City Planning
Alexis Wheeler, Department of City Planning
Teal Delys, Department of City Planning
John Perricone, Queens Borough President's Office
Lisa Deller, Chairperson, CB 2
Christine Hunter, Co-Chair Land Use Committee

DCP ULURP CEQR N 210095 Zoning for Coastal Flood Resiliency

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
Date of Vote: 12/19/2020 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	QN CB3	Date: 12/28/2020 7:18 PM
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December 19, 2020

Letter of Support

To: Kathi Ko, NYC Department of City Planning

From: Community Board 3, Queens, New York

Re: Proposed City-Wide Zoning Text Amendment – Zoning for Coastal Flood Resiliency (ZCFR)

We the full board of Community Board #3, Queens, New York and the Land Use Committee state, we are in full support of the above stated city-wide zoning text amendment, know as Zoning for Coastal Flood Resiliency. We also are in belief that the content and presentations supporting the intent and purpose of this amendment will be executed and performed, and will be in the best interest of the residence and environment of the city of New York, to enhance resiliency and recovery.

Submitted below please find our recommendation for your review and records.

Recommendation:

- 1. The Department of City Planning (DCP) will with all its ability, keep Community Board 3 informed of the progress and development of this Zoning Text Amendment.**
- 2. Provide subsidized low-cost loans for home owners, for property damage caused by storm and waste water backups on to property and any alterations of property caused by this law, should be a low cost loan or a grant that would be forgiven.**
- 3. Subsidies for backflow prevention devices for residential properties.**

Hamlett E. Wallace, Committee Chairperson

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 27	# Against: 0	# Abstaining: 0	Total members appointed to the board: 27
Date of Vote: 1/12/2021 12:00 AM		Vote Location: Online via Webex	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION: Community Board 4 Queens approved the Zoning for Coastal Flood Resiliency (projects/P2017Y0045)

Recommendation submitted by	QN CB4	Date: 1/27/2021 1:05 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: No Objection			
# In Favor: 29	# Against: 3	# Abstaining: 0	Total members appointed to the board: 45
Date of Vote: 12/9/2020 12:00 AM		Vote Location: Remote Due to COVID	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/18/2020 7:30 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Remote because of COVID

CONSIDERATION:		
Recommendation submitted by	QN CB5	Date: 12/28/2020 3:47 PM

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency			
Applicant:	DCP - Department of City Planning (NYC)	Applicant's Primary Contact:	DCP - Department of City Planning (NYC)
Application #	N210095 ZRY	Borough:	Citywide
CEQR Number:	19DCP192Y	Validated Community Districts:	CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 38	# Against: 0	# Abstaining: 0	Total members appointed to the board: 38
Date of Vote: 12/8/2020 12:00 AM		Vote Location: Remote Zoom Meeting	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/8/2020 7:30 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Online - Remote Zoom Meeting

CONSIDERATION: Resolution passed unanimously by Queens Community Board 9 on December 8, 2020

The zoning text amendment proposed to address flooding caused by climate change is a serious first step to deal with the issues of climate change. Queens Community Board 9 is in favor of this important beginning. We also recommend that the City address the potential for major wind damage also due to climate change.

Recommendation submitted by	QN CB9	Date: 12/16/2020 10:27 AM
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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 31	# Against: 0	# Abstaining: 0	Total members appointed to the board: 45
Date of Vote: 12/3/2020 12:00 AM		Vote Location: via Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/3/2020 6:45 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Via Zoom

CONSIDERATION: It is requested that the Proposed Text Amendment be modified to include:

- Floor Area Ratio bonuses to One & Two Family New and Altered Residential Developments in Residential Zoning Districts located in Flood Hazard Zones due to cellars not being allowed to be constructed.
- Specify that all required parking for the residential developments be located at the on-grade first floor level when the property fronts on a street that is of sub-standard width and does not provide curb side parking on both sides of the street.

Recommendation submitted by	QN CB10	Date: 12/28/2020 3:24 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 38	# Against: 4	# Abstaining: 0	Total members appointed to the board: 42
Date of Vote: 12/8/2020 12:00 AM		Vote Location: Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	QN CB11	Date: 1/27/2021 4:21 PM
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**MINUTES OF COMMUNITY BOARD 11
GENERAL BOARD MEETING**

December 7, 2020

Via Zoom Telephone Conference

Michael Budabin – Chair

PRESENT AT MEETING

CB 11 Staff:

Joseph Marziliano – District Manager

Christina Coutinho – Community Associate

Jane Bentivenga – Community Coordinator

Elected Officials and/or Representatives Present:

Donovan Richards	Queens Borough President
David Weprin	Assembly Member
Anne Marie Boranian	Representing Queens Borough President Richards
Dave Fischer	Representing Assembly Member Edward Braunstein
Susan Seinfeld	Representing Council Member Barry Grodenchik
Kevin Kiproviski	Representing Council Member Paul Vallone
Jon Gallo	Representing State Senator John Liu
Isabel Pulgarin	Representing Assembly Member Nily Rozic
Casey Lazcesky	Representing Congress Member Tom Suozzi
Maria Di Leone	Representing Congress Member Grace Meng
Anthony Lemma, Sr.	Representing Assembly Member David Weprin
Elaine Fan	Representing NYC Comptroller Scott Stringer
Dan Brown	Representing Queens DA Melinda Katz
Edward Lee	Representing Queens DA Melinda Katz

New York City Police Department

Police Officer Galano – 111th Precinct Community Affairs Unit.

The meeting was called to order at 7:32 pm by the Chair, Michael Budabin.

Mr. Budabin led the audience in reciting the Pledge of Allegiance.

PUBLIC PARTICIPATION

Officer Galano gave the monthly and year-to-date crime statistics within the district. He stressed the importance of locking vehicle doors and removing keys when not in use. Mrs. Haider discussed a matter regarding an illegal business taking place in the street and another issue of trucks parked overnight. Mr. Liatto spoke regarding drag racing in the vicinity of 73rd and Springfield Blvd.

Mr. Budabin welcomed newly elected Queens Borough President Richards. Borough President Richards spoke regarding the pandemic and briefly on the COVID19 vaccination. He asked for any suggestions on how to improve the Board offices.

Assembly Member Weprin stated that in January 2021, his office will be open to the public by appointment only. Currently they are working remotely. He spoke regarding police reform and a positive relationship between the police and the community.

CUNY graduate student, Lauren da Fonte spoke regarding food insecurity in NYC, especially amongst children. She stated that NYC Public Advocate Williams introduced File #: Int 2057-2020 establishing an emergency student food plan. She asked the Board for their support in passing this proposed legislation.

Steven Williams, Community Outreach Coordinator, spoke regarding Accessible Dispatch, a program that connects the community to wheelchair accessible taxis. Mr. Williams was sending additional information to the CB11 Office.

Joan Jaworski, a resident of the Auburndale area, made a proposal to have local two-way streets and avenues converted into one-ways for safety reasons. Mr. Budabin advised Ms. Jaworski to forward the locations to the CB11 office.

ROLL CALL

Members Present

Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Bernard Haber, Christine Haider, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel, Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Jyothi Sriram, Benjamin Turner, Sam Wong

Members Absent

Mary Donahue, Elias Fillas, Rosemarie Guidice, Laura James, Yosef Lee

ACCEPTANCE OF MINUTES

A motion was made to accept the minutes of the November 2, 2020 meeting by Mr. Wong. The motion was seconded by Mr. Popa. A roll call vote was taken resulting in 38 in favor, 1 abstention and 3 present. The minutes were approved as written.

(In-Favor - Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Bernard Haber, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel, Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Benjamin Turner, Sam Wong - Abstain - Lourdes December - Present - Christine Haider, Mohan Jethwani, Jyothi Sriram)

CHAIRPERSON'S REPORT

There was a moment of silence in memory of former Board Member, Alex Yagudaev.

Mr. Budabin said that there will be further discussion regarding the Greenway Project. This is a long-term project and the Committee and Sub-Committee will be working together.

There was a joint committee meeting with Douglaston Zoning and the Environmental regarding the Coastal Flood Text Amendment which will be discussed during the public hearing segment of the meeting.

Congratulations were given to Allan Palzer for 50 years of continued service as a CB11 Board Member. Mr. Budabin stated that Mr. Palzer is the second person to achieve 50 years of service. Last year, Bernard Haber was the first Board Member to achieve 50 years of service. Mr. Budabin presented a plaque to Mr. Palzer for his dedication. Several Member Boards praised Mr. Palzer for this significant accomplishment.

PUBLIC HEARINGS

BSA Cal. No. 227-10 BZ – 204-12 Northern Blvd. an application to the Board of Standards and Appeals for an extension of a 10-year term on an existing variance. Elyse Foladare, representing the applicant, was present. Mrs. Haider, Committee Chair, reviewed the committee report of November 11, 2020. The Committee questioned a car wash on the site and asked for the removal of a cigarette sale sign. Ms. Foladare advised the sign was removed. She said the car wash is allowed as long the BSA approves. Mr. Euler spoke regarding the drainage for the car wash. Ice was building up, therefore, drainage not properly installed. The Committee voted in favor to approve the application. There were no registered speakers. Mr. Euler made a motion to approve the application with all prior conditions. The motion was seconded by Mrs. Haider. Discussion ensued suggesting the removal of the rear right car wash. Mr. Budabin asked if proper drainage or corrected drainage would be an acceptable amendment? Mr. Euler accepted the friendly amendment. There was no further discussion. A roll call vote was taken resulting in 42 in favor. The motion carried.

(In-Favor - Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Bernard Haber, Christine Haider, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel, Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Jyothi Sriram, Benjamin Turner, Sam Wong)

BSA Cal. No 808-55 BZ – 35-04 Bell Blvd. an application to the Board of Standards and Appeals for an extension of a 10-year term on an existing variance. Elyse Foladare, representing the applicant, was present. Mrs. Claro, Committee Chair, discussed the committee report of November 11, 2020 stating that she had visited the site and noticed sidewalks that needed repair. She also noticed there were markings on the sidewalks and there were some improvements needed on the property. This is a BP gas station. Ms. Foladare followed-up that the markings were for sidewalk repairs, weather permitting. The Committee voted in favor of the application. There were no registered speakers. Mrs. Claro made a motion to approve the application with all prior conditions and an additional condition that the sidewalks are repaired, weather permitting. The motion was seconded by Ms. Pelle-Beer. There was no discussion on the motion. A roll call vote was taken resulting in 42 in favor. The motion carried.

(In-Favor - Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Bernard Haber, Christine Haider, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel. Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Jyothi Sriram, Benjamin Turner, Sam Wong)

BSA Cal. No. 887-54 BZ – 218-01 Northern Blvd. an application to the Board of Standards and Appeals for an extension of a 10-year term on an existing variance. Elyse Foladare, representing the applicant, was present. This is a BP gas station operated under Gasteria. Mrs. Claro, Committee Chair, discussed the committee report of November 11, 2020 stating that she had visited the site and found no concerns. She said the property is very well kept. The Committee voted in favor of the application. There were no registered speakers. Mrs. Claro made a motion to approve the application with a 10-year term. The motion was seconded by Ms. Sriram. There was no discussion on the motion. A roll call vote was taken resulting in 42 in favor. The motion carried.

(In-Favor - Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Bernard Haber, Christine Haider, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel. Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Jyothi Sriram, Benjamin Turner, Sam Wong)

Coastal Flood Resiliency Non-ULURP Zoning Text Amendment.

Environmental Committee Chair, Henry Euler and Douglaston Zoning Committee Chair, Douglas Montgomery. Mr. Euler reviewed the meeting of November 18, 2020. This text amendment is a citywide zoning change and affects the shorelines within the CB11 District. Scott Solomon was present at the Committee meeting. Mr. Euler stated that this amendment relaxes the zoning regulations in flood plain areas, and therefore, protects developed properties from flooding. Mr. Euler felt that future development was not taken into consideration with the anticipated rising water levels in the next 30 years. He also mentioned that there were several town hall meetings. He suggested a local town hall meeting for residents to ask questions. Mr. Montgomery discussed the proposal for flood gates at the Throgs Neck Bridge which has been withdrawn. He also spoke regarding permits for generators. Mr. Montgomery had questions regarding how the text amendment will impact the Landmark Districts. There was no Committee vote. Discussion ensued on how more information is needed. Mr. Budabin asked if Mr. Solomon followed up with Mr. Montgomery. Mr. Montgomery said that the Board should wait until additional information was obtained. Mr. Marziliano stated that the Board should vote on this matter because the proposal is time-sensitive, and the Board would waive their right to vote if they waited. Mr. Euler made a motion to accept the proposal providing the Dept. of City Planning provide more information on the flood plain development in the future, information on permits for generators and the regulations for Landmark Districts. The motion was seconded by Mr. Montgomery. Discussion ensued on the lack of information provided from City Planning regarding the Landmark Districts. Mrs. Haider asked if a letter will be forwarded to City Planning advising them of the results of the vote. Mrs. Garippa discussed how this could allow construction where it would not be allowed. She felt this was the wrong direction. Mr. Patel said that this proposal is an action on an environmental crisis. He said we can't locally fight climate change but we can protect the homes that are already built. Mr. Patel urged the Board the vote in favor.

Discussion ensued how natural vegetation and marsh lands are very important to help with storm surge. A roll call vote was taken resulting in 38 in favor and 4 opposed.

*(In-Favor - Sila Asa, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Michael Golia, Bernard Haber, Christine Haider, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel, Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Gunjan Rastogi, Christina Scherer, Benjamin Turner, Sam Wong-
Opposed – Adriana Aviles, Paul DiBenedetto, Joan Garippa, Jyothi Sriram)*

COMMITTEE REPORTS

Public Relations – Ms. Aviles, Committee Chair, stated that there was a Committee meeting to discuss posting meetings online. The Committee voted in favor of posting the audio portion of CB11 general meetings within a reasonable time. Ms. Aviles made a motion to approve posting the audio portion of the CB11 general meetings in a reasonable time after a meeting. The motion was seconded by Mr. Popa. Discussion ensued on how this is the first step and the Committee would later revisit the possibility of adding video. Currently, meetings are recorded by Zoom and there is no fiscal cost on posting recordings on YouTube. Further discussion ensued as to why YouTube is the suggested platform. Mr. Budabin explained the meetings are not a discussion on personal matters. Mr. Montgomery suggested if audio is only going to be used maybe people could announce their names so people could identify who is speaking. A lengthy discussion ensued regarding YouTube and posting the audio portion of a meeting. Mr. Bravo asked if audio is posted, is closed captioning required? Mr. Marziliano said he will look into this matter. Mr. Kelly spoke regarding his proposal to the Board three months ago to have meetings posted on a social media platform because there was a Committee meeting that reviewed a presentation. He explained that if the full Board was able to review the presentation from the committee meeting, it would have helped at the general meeting. Mr. Kelly stated that posting the audio only does not correct the problem raised three months ago. In his opinion, there are no security issues; other Boards post video and the audience can video and post. Mr. DiBenedetto said that he agrees with transparency but did not feel YouTube was necessary. He recommended that meetings be posted on the Board server. Mr. Marziliano stated that if the file size is small enough to fit on the CB11 official website that would be ideal. Mr. Marziliano will look into this matter. Mr. Palzer suggested a strategy to get the community involved to watch committee meetings. Mrs. Haider said she feels this is being rushed. Mr. Turner said the motion was made and this topic has been discussed for months. A roll call vote was taken resulting in 39 in favor, 1 opposed and 1 present. The motion carried.

(In-Favor - Sila Asa, Adriana Aviles, Carin Bail, Lana Bind, Lander Bravo, Michael Budabin, Susan Cerezo, Justin Chew, Sharon Chin, Ocelia Claro, Carmen Collado, Victor Dadras, Lourdes December, Paul DiBenedetto, Henry Euler, Mario Ferazzoli, Jack Fried, Albert Galatan, Joan Garippa, Michael Golia, Mohan Jethwani, Stanley Jin, John Kelly, Linda Lee, Robert Liatto, Fleur Martino, George Mihaltses, Eileen Miller, Douglas Montgomery, Allan Palzer, Akshar Patel, Wendy Pelle-Beer, Stephen Pivawer, Stephan Popa, Christina Scherer, Jyothi Sriram, Benjamin Turner, Sam Wong – Opposed – Christine Haider – Present – Bernard Haber)

MONTH AHEAD

Mr. Budabin said there will be a Public Safety and Licensing Committee meeting on December 10, Health Committee meeting on December 16, and a Douglaston Zoning Committee meeting on December 21.

Mr. Budabin thanked everyone and wished everyone a happy and healthy New Year.

The meeting adjourned at 10:05 PM.



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 35	# Against: 1	# Abstaining: 2	Total members appointed to the board: 45
Date of Vote:		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	QN CB12	Date: 12/4/2020 12:34 AM
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Community Board 12
The City of New York
Borough of Queens

Jamaica, Hollis, St. Albans, South Ozone Park, and Springfield Gardens

90-28 161st Street
Jamaica, New York 11432
qn12@cb.nyc.gov
www.nyc.gov/qcb12

(718) 658-3308
Fax (718) 739-6997

Donovan Richards
BOROUGH PRESIDENT

Rene Hill
CHAIRPERSON

Vicky Morales Casella
DIRECTOR OF COMMUNITY BOARDS

Yvonne Reddick
DISTRICT MANAGER

December 3, 2020

1. Proposed Zoning for Coastal Flood Resiliency Citywide Text Amendment submitted by the Department of City Planning N 210095 ZRY

Vote taken at Board Meeting on November 18, 2020

Place of Meeting: CB12 Zoom Meeting
Meeting ID: 935 1224 5948
Passcode: 903903

35 Members Present

32 Members Approved

1 Members Opposed

2 Members abstained

37 Voted

Two members logged off of Zoom before vote was taken

Signature of CB officer completing this form

Title

Date

Yvonne Reddick District Manager 12/3/2020



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 23	# Against: 0	# Abstaining: 0	Total members appointed to the board: 42
Date of Vote: 12/8/2020 12:00 AM		Vote Location: zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/8/2020 7:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	zoom

CONSIDERATION: With a quorum present and after a public hearing

the board voted yes with conditions:

1. That the text be amended to identify and include Homeless shelters, Adult homes, Nursing homes, assisted living facilities and NYC and NYS Group homes as Vulnerable populations in the text change
2. That any new senior housing built in CB14 Q shall only be occupied by current residents of Community board 14 Q
3. That all new housing built in CB14Q shall only be in proportion to the ability for new residents to safely evacuate on our two limited access evacuation routes/ roads.
4. That all areas zoned R-4 in Community board 14 be rezoned to a appropriate R-4A to prohibit infill housing.
5. That Appendix G in the proposed waterfront text be amended to the following -That the percentage required for new regulations to be mandatory be increased to 75% of market value of home instead of 50 % in community board 14 Q, however we respectfully recommend this change citywide

Recommendation submitted by	QN CB14	Date: 12/15/2020 12:35 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable

# In Favor:	# Against:	# Abstaining:	Total members appointed to the board:
Date of Vote: 1/5/2021 12:00 AM		Vote Location:	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION:

Recommendation submitted by	BK BP	Date: 1/6/2021 12:00 AM
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OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

RESOLUTION OF BROOKLYN BOROUGH BOARD

January 4, 2021

BE IT RESOLVED, that the **BROOKLYN BOROUGH BOARD** recommends approval of the Department of City Planning Application 210095ZRY – Zoning for Coastal Flood Resiliency Text Amendment; and

BE IT FURTHER RESOLVED that the Administration and City Council, in order to assist those households that would otherwise be paying more than 30 percent of their household income on additional housing costs to pay for mandatory flood insurance or alternative refinancing or secondary mortgages to fund the rebuilding or elevating of their homes, should include for the provision of financial assistance for homeowners to make such improvements through offerings such as low-cost loans, real estate tax abatements or exemptions, and other financial mechanisms, for household earning up to 250 percent of Area Median Income (AMI).



January 6, 2021

Ms. Marisa Lago
Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Re: Zoning for Coastal Flood Resiliency Zoning Text Amendment

Dear Director Lago:

At its stated meeting on January 5, 2021, the Brooklyn Borough Board ("Borough Board") adopted the enclosed resolution by a vote of 16 yes, 0 no, and 2 abstention, for the Zoning for Coastal Flood Resiliency Zoning Text Amendment.

I applaud the New York City Department of City Planning (DCP) for promptly developing this text amendment, which would remove impediments to the construction and retrofitting of buildings in the revised flood zones.

While the proposal substantially addresses the zoning considerations to rebuild or elevate homes for flood resiliency, the Borough Board believes the Administration and City Council should take steps to sufficiently minimize the financial burden for those property owners for whom the additional cost of mandatory flood insurance, alternative refinancing, or secondary mortgage to fund the rebuilding or elevating of their homes would result in a commitment of more than 30 percent of their household income to housing costs in which household incomes do not exceed 250 percent of Area Median Income (AMI).

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

INDEX NO. 160565/2020

NYSCEF DOC. NO. 86

RECEIVED NYSCEF: 08/19/2021

January 6, 2021

New York City Department of City Planning Director Marisa Lago

Re: Zoning for Coastal Flood Resiliency Zoning Text Amendment

Page 2

Should you have any questions, your office may contact my director of Land Use, Richard Bearak, at (718) 802-4057. Thank you for this opportunity to comment.

Sincerely,



Eric Adams
Brooklyn Borough President

EA/rh
enc.

cc: Members of the Brooklyn Borough Board
Winston Von Engel, Brooklyn Office Director, New York City Department of City Planning
Frank Ruchala, Jr., Director, Zoning Division, New York City Department of City Planning



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 31	# Against: 0	# Abstaining: 2	Total members appointed to the board: 33
Date of Vote: 12/9/2020 12:00 AM		Vote Location: Virtual https://tinyurl.com/yxqo9j7f	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/9/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Virtual

CONSIDERATION: Two abstentions from members who stated

1. The amendment was not well articulated
2. The amendment is only a guideline

Recommendation submitted by	BK CB2	Date: 1/7/2021 12:00 PM
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BROOKLYN COMMUNITY BOARD SIX

Peter D. Fleming
Chairperson

Michael Racioppo
District Manager

December 10, 2020

Marissa Lago
Chairperson
NYC Department of City Planning
120 Broadway
New York, New York 10271

Dear Chairperson Lago:

I am writing to advise you that Brooklyn Community Board 6, during our December 9, 2020, General Board Meeting, **took action on the Department of City Planning's proposed zoning text amendment for Coastal Flood Resiliency.**

We, Brooklyn Community Board 6, **recommended approval** of this application as presented with a **unanimous vote** of thirty-five in favor, zero opposition, and zero in abstention.

Along with that approval, we asked that the Department of City planning continue to do outreach about this in the community, specifically to groups such as and Resilient Red Hook and the Gowanus Community Advisory Group.

As always, thank you for the opportunity to comment.

Sincerely

Peter D. Fleming
Chairperson

CC: Borough President Eric L. Adams
Councilmember Brad Lander

250 Baltic Street • Brooklyn, New York 11201-6401 • www.BrooklynCB6.org:
(718) 643-3027 • f: (718) 624-8410 • e: info@BrooklynCB6.org

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

NYSCEF DOC. NO. 86

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RECEIVED NYSCEF: 08/19/2021



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 37	# Against: 0	# Abstaining: 1	Total members appointed to the board: 48
Date of Vote: 12/21/2020 12:00 AM		Vote Location: via Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION: Motion by Community Board 10 Members to approve N 210095 ZRY - Zoning for Coastal Flood Resiliency Citywide Text Amendment. Please see attached Zoning and Land Use Committee Report and Recommendation

Recommendation submitted by	BK CB10	Date: 12/22/2020 1:49 PM
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Zoning and Land Use Committee Report, December 21, 2020

The committees met in quorum via Zoom on December 2, 2020, for a review of the Department of City Planning's Citywide Zoning Text Amendment 210095 ZRY for Coastal Flooding Resiliency.

Due to the massive flooding and severe damage following Superstorm Sandy, the Department of City Planning (DCP) undertook a review of coastal zones, floodplains and existing zoning.

After the initial review, there was a period of public outreach and comment. The Zoning and Land Use Committee met on October 16, 2017, to discuss the proposed amendment, and it was discussed at the November 2017 Community Board 10 meeting. At that time the committee made a motion to support all efforts by DCP to put forth a Resiliency Text Amendment to help the NYC floodplain areas and the use of zoning as a tool to do so. The full board supported to committee recommendation to DCP. This was a recommendation only during the public comment period.

Now, after public outreach and comments, the DCP is moving forward with the Implementation of the Zoning Text Amendment.

It should be noted that a very small portion of CB10 lies within the flood plain, a few lots near the 69th Street pier.

The text amendment would allow new buildings in the floodplain to have increased height to allow open space such as a garage on the first floor to minimize damage to the other floors. It would also allow increased height to allow electrical and mechanical equipment to be located on higher floors. It would allow ground floors in existing buildings to be retrofitted. All of these changes can result in a change to the FAR.

The text amendment would apply to new buildings only. Existing buildings would not be required to be retrofitted and the sale of an existing home would not require compliance with the new regulations.

If the floodplain is redefined which could result in more areas in CB10 included in the floodplain.

A motion was made to support Zoning Tet Amendment 21095ZRY as submitted. (AF)

The motion was seconded. (DR)

Respectfully submitted,


Doris N Cruz



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 24	# Against: 0	# Abstaining: 0	Total members appointed to the board: 47
Date of Vote: 12/14/2020 12:00 AM		Vote Location: https://us02web.zoom.us/webinar/register/WN_TUHUhjjaS9KQtqrsquOOtA	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/14/2020 7:00 PM	
Was a quorum present? Yes	A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members
Public Hearing Location:	https://us02web.zoom.us/webinar/register/WN_TUHUhjjaS9KQtqrsquOOtA

CONSIDERATION: Community Board 11 unanimously approved the proposal with the recommendation that property owners who retrofit receive property tax incentives.		
Recommendation submitted by	BK CB11	Date: 12/28/2020 8:41 AM

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 33	# Against: 0	# Abstaining: 4	Total members appointed to the board: 50
Date of Vote: 12/21/2020 12:00 AM		Vote Location: Via Webex	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/16/2020 7:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Meeting via Webex

CONSIDERATION:

Recommendation submitted by	BK CB13	Date: 1/20/2021 11:40 AM
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BROOKLYN COMMUNITY BOARD 13
1201 Surf Avenue – 3rd Fl., Brooklyn, NY 11224
(718) 266-3001 FAX (718) 266-3920
<http://www.nyc.gov/html/bkncb13>

ERIC L. ADAMS
Borough President

LUCY ACEVEDO
Chairperson

EDDIE MARK
District Manager

Dec. 22, 2020

Collin Lee
City Planning Brooklyn Office
New York City Department of City Planning
clee2@planning.nyc.gov

Re: Zoning Text Amendment
(Zoning for Coastal Flood Resiliency)

Dear Mr. Lee:

Brooklyn Community Board 13 supports the Zoning Text Amendment (Zoning for Coastal Floor Resiliency) as presented.

If any further information is needed, please do not hesitate to contact the Board office at the number listed above.

Best Regards,

Lucy Acevedo
Chairperson
Community Board 13

Eddie Mark
District Manager
Community Board 13

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 41	# Against: 0	# Abstaining: 0	Total members appointed to the board: 41
Date of Vote: 11/17/2020 12:00 AM		Vote Location: webex	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/17/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	webex

CONSIDERATION: This project will prevent future damage due to flood.

Recommendation submitted by	BK CB15	Date: 12/29/2020 2:08 PM
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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough:
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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



RECOMMENDATION: Favorable			
# In Favor: 41	# Against: 0	# Abstaining: 0	Total members appointed to the board: 41
Date of Vote: 11/17/2020 12:00 AM		Vote Location: webex	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/17/2020 6:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	webex

CONSIDERATION: This project will prevent future damage due to flood.

Recommendation submitted by	BK CB15	Date: 12/29/2020 2:08 PM
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 BOROUGH PRESIDENT RECOMMENDATION Pursuant to the Uniform Land Use Review Procedure	
Application #: N 210095 ZRY CEQR Number: 19DCP192Y	Project Name: ZONING for COASTAL FLOOD RESILIENCY Borough(s): STATEN ISLAND Community District Number(s): 1,2,3
<i>Please use the above application number on all correspondence concerning this application</i>	
<p><i>Docket Description:</i></p> <p>A citywide text amendment to update and make permanent the temporary 2013 Flood Resilience Zoning Text Amendment to encourage long-term resilient design across the city's 1% and 0.2% annual chance floodplains, allow buildings to be adapted over time through partial resiliency strategies, and provide the zoning tools that are necessary to facilitate recovery post future disasters.</p>	
<p>RECOMMENDATION:</p> <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove </div> <div> <input type="checkbox"/> Approve with Modifications / Conditions <input type="checkbox"/> Disapprove with Modifications / Conditions </div> </div>	
<p><i>Explanation of Recommendation, Conditions or Modification:</i></p>	
<p>Related Application(s):</p>	
<p><i>Address all questions about this Recommendation to:</i></p> <p>OFFICE OF THE STATEN ISLAND BOROUGH PRESIDENT ATTN: LAND USE DIRECTOR Address: 10 Richmond Terrace, Room G-12 Staten Island, NY 10301 Phone: 718-816-2112</p>	
 _____ James S. Oddo President, Borough of Staten Island	Date <u>01/28/2021</u>

FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 22	# Against: 4	# Abstaining: 1	Total members appointed to the board: 27
Date of Vote: 12/8/2020 12:00 AM		Vote Location: virtual	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing:	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	

CONSIDERATION: Approve as submitted

Recommendation submitted by	SI CB1	Date: 12/11/2020 12:40 PM
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FILED: NEW YORK COUNTY CLERK 08/06/2021 04:38 PM

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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: No Objection			
# In Favor: 21	# Against: 2	# Abstaining: 0	Total members appointed to the board: 23
Date of Vote: 12/15/2020 12:00 AM		Vote Location: Zoom	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 12/15/2020 7:00 PM	
Was a quorum present? No	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Zoom

CONSIDERATION:		
Recommendation submitted by	SI CB2	Date: 12/28/2020 12:22 PM



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: Zoning for Coastal Flood Resiliency	
Applicant: DCP - Department of City Planning (NYC)	Applicant's Primary Contact: DCP - Department of City Planning (NYC)
Application # N210095 ZRY	Borough: Citywide
CEQR Number: 19DCP192Y	Validated Community Districts: CY00

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 25	# Against: 0	# Abstaining: 0	Total members appointed to the board: 25
Date of Vote: 1/26/2021 12:00 AM		Vote Location: General Board Meeting Virtual	

Please attach any further explanation of the recommendation on additional sheets as necessary

Date of Public Hearing: 11/12/2020 7:00 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Virtual Webex

CONSIDERATION:		
Recommendation submitted by	SI CB3	Date: 1/26/2021 9:32 PM