



BRONX COUNCIL FOR ENVIRONMENTAL QUALITY
Zoning for Housing Opportunity (ZHO)
DRAFT ENVIRONMENTAL IMPACT STATEMENT (CEQR No. 24DCP033Y
& ULURP Number: N240290ZRY)

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This has been prepared by the [Bronx Council for Environmental Quality](#) (BCEQ), a 501c3 non-profit association. It was formed in 1971 “to establish — as an Inherent Human Right — a sound, forward-looking environmental policy regarding an aesthetic, unpolluted, environment protecting a natural and historic heritage.” We are made up of volunteers as we have no staff. Between our Board of Directors and our Membership, we represent every part of the Bronx from Mott Haven – Port Morris, Highbridge, Lower Concourse, Soundview, Parkchester, Coop City, City Island, Pelham Bay Park, Pelham Parkway, Country Club, Throggs Neck, Wakefield, Woodlawn, Norwood, Van Cortlandt Park, Riverdale, Spuyten Duyvil, Jerome Park, Van Cortlandt Village, Bedford Park, etc.

Our organization’s goal is to advocate for improving water quality, developing waterfront greenways and recreational uses, increasing ecosystem services, and restoring shoreline natural habitats, among others. Early on, we fought the pollution of the Pelham Bay Landfill causing its closing; we were instrumental in starting the Bronx River Alliance; we fought the Croton Filter Plant in Jerome Park Reservoir; and successfully organized the last three decades of the Bronx Parks Speak Up -- an annual parks and open space meeting of hundreds of activists and community leaders. During the past decade, we focused on developing connections to and along the Harlem River and created on-water access and activities to improve water quality. This includes the formation the Harlem River Working Group with technical assistance from National Park Service Rivers, Trails & Conservation Assistance Program. After fighting for Harlem River equity, we remain active in the Urban Waters Federal Partnership for the Bronx & Harlem River Watersheds.



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PROJECT DESCRIPTION

Please accept these comments on the Draft Environmental Impact Statement (DEIS) for the proposal called the New York City (NYC) of Yes for Housing Opportunity or formally as the “Proposed Action” -- Zoning for Housing Opportunity (ZHO). “The NYC Department of City Planning (DCP) is proposing a citywide zoning text amendment to expand opportunities for housing within all zoning districts, and across all 59 of the City’s Community Districts. These changes to the City’s Zoning Resolution would enable more housing and a wider variety of housing types in every neighborhood, from the lowest-density districts to the highest, to address the housing shortage and high cost of housing in New York City”¹.

Due to the magnitude of the potential impacts of the text change, DCP was required to start an Environmental Assessment Statement (EAS) which led to a Positive Declaration for environmental impacts, the creation of a draft Scope of Work (DSOW), followed by the Final Scope of Work (FSOW) and this DEIS.

THESIS AND ARGUMENT

The ZHO makes no sense. Specifically, the purpose should be framed in terms of how the project meets public needs. This DEIS does not protect the environment, and is therefore, fatally flawed. Because of these serious deficiencies, we request that the DEIS be withdrawn, and a completely new affordable housing plan be developed by the administration. Then, if changes to the text are needed, provide zoning text amendments focused on the specific areas of NYC -- as it is inequitable for one community board to vote on items that are not in that district.

EXECUTIVE SUMMARY

From an environmental quality point of view, allowing unnecessary use of pervious area in the middle of a climate crisis without establishing sufficient need is arbitrary and capricious. Zoning laws are a balance and must be developed to comply with fair housing law, so that development mitigates rather than reinforces segregation in the city. This plan – “a little bit of housing in every neighborhood,” shares the pain, but does not mitigate past actions that would affirmatively increase fair housing. This report finds that because the ZHO DEIS has the potential to increase impervious surfaces it is fatally flawed, relies on factual assumptions that are wrong, and makes no sense.

¹ “Project Brief” in the New York City Zoning Application Portal (ZAP) for the [City of Yes for Housing Opportunity](#).



ENVIRONMENTAL QUALITY OF PLACE

ZHO makes no sense because right here in Riverdale, we have an amazing piece of nature – 900 acres in the big City -- where people have discovered a way to live in and protect their watershed by limiting landscape development to only 30% cover. This is quite a feat! Congratulations to the SNAD protectors in creating the urban rain forest. There are probably only a few other areas of the city that would fill this prescription -- Jamaica Bay comes to mind. Savor these areas – the lungs and the kidneys of the city, as they are just as important as our highways, subways, and stock market in keeping the heart of the city beating.

In the City of almost 9 million people, the development cover is at 72%. The Harlem River Watershed Plan in the Bronx, which covers CB 1, 4, 5, 7 and most of 8, is 66% impervious, while the Bronx as a whole is around 59%. In understanding how unique and significant this is, we turn to science. Tom Schueler of The Center for Watershed Protection, classifies stream quality levels by percent impervious:

- 1% to 10% are stressed
- 11% to 25% are impacted, and
- 26% to 100% are degraded.

In fact, research indicates that watersheds are demonstrably and irreversibly degraded when as little as 10% of their surface area is covered by imperviousness. This impacts runoff volume quite dramatically:

- 1-inch of rain over 1 acre of open space will typically generate 218 cubic feet of runoff.
- 1-inch of rain over 1-acre of a paved parking lot will produce 3,450 cubic feet of runoff -- nearly 16 times more than the natural setting.

The SNAD NA2 of Riverdale – Spuyten Duyvil – Fieldston is already delineated. Over the 40 years while the city built out 72%, the SNAD managed to survive with only 30% impervious cover. It is time to take a step back, look at the area as an urban Natural Area Watershed – an oasis, if you will. A good plan will show as the land becomes more sponge-like and runoff is absorbed, temperatures are lowered, storms are not as severe as other parts of the city. It will also cost less to provide these ordinary city services because of the protections voluntarily accepted in this area. Of course, there will be a goal to this big experiment. Let's lower the 30% impervious cover by 1% each year for a 5-year study period.

The city has made a commitment to lower its carbon footprint by 2030. The current plan will take us back to the 1970's when there was little no protection to our clean air and water. The days are getting warmer, the heat waves hotter and longer, and all we get is "let's help the developer." We are not saying that you should not build, but you need rules to build better. As of right is not going to help us breathe, or even get our neighbors a safe clean and affordable place to live, or more open space and parkland. We need more green infrastructure, everywhere -- green walls, roofs, rain gardens, trees,



parks and parkways. Green Infrastructure, known as GI is the standard for any new development over 20,000 SF. The reason is that the current infrastructure is at the 99% unmet need. City leaders do not want to acknowledge that, but the citizenry knows better. Flooding, sewerage coming into our homes, limits on swimming and fishing, polluted air – even the WAIT program to hold it when it rains is a clear indicator that there is no more room at the in. Yet, developers do not want to use GI, or Parking Lots, or anything else that residents want. Even worse, there is little support from the administration to enforce these rules. The mantra is build, build, build.

SUGGESTED ALTERNATIVE

In the federal NEPA, it states that: “The environmental impacts of the proposed action and reasonable alternatives to the proposed action and the significance of those impacts. The comparison of the proposed action and reasonable alternatives shall be based on this discussion of the impacts.” NYS SEQRA states: “a concise description of the environmental setting of the areas to be affected, sufficient to understand the impacts of the proposed action and alternatives.” NYC CEQR states: “a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives.” The CEQR Technical Manual states: “There is no prescribed number of alternatives that need to be examined. The only alternative required to be considered is the No-Action alternative and the lead agency should exercise its discretion in selecting the remaining alternatives to be considered.”

The DEIS needs a reasonable *alternative*, such as housing for 650,000 or so people in extremely low and very low incomes with rent and utilities are no more than 30% of income. Without an alternative analysis to the proposed zoning text and the existing condition (or no action), the decision maker has no ability to choose the one with the least adverse impact on the environment. This alternative is more environmental, effective, economical, and solves the problem of available and affordable rents.

A. Housing Preservation & Development

1. Create a fund and policy to KEEP people in their houses
2. Increase the HPD Affordable Housing section three times in the and define the drastic need for affordable rents to
 - a. Increase the numbers of rental housing that is affordable for those less than \$65,000.
 - b. Increase income eligibility in the housing lottery applications for new buildings to allow all making less than \$65,000 apply.
3. Work toward moving funding from homelessness and evictions by slowing the process of homeless sheltering, and evictions with the purpose to keep people in their homes.
4. All new housing starts with 75% affordable housing units (where depending on the district can be a low as 40%).
5. All new affordable housing should be mandated to be built on the high ground to comply with climate change.

B. Rent Guidelines Board

1. If there is a low vacancy rate, that is, under 5%, there should be



- a) No increase allowed in that year's rental rate.
 - b) No increase allowed in vacancy control first time rental apartments.
 - c) No increase rent in decontrolled units during low vacancy rate.
2. In order to balance supply and demand for the marketplace, add all decontrolled units to vacancy survey. This is no way to adjust competitive rents.
 3. Raising rents every two years is not appropriate. Consider a 5-year rent chart.
 4. Stop de-controlling units until the increase is equal to or greater than new units. (Over the last 3 decades, there were 338,408 units removed and 184,998 units added for a net loss of 153,410.)

C. Draft Environmental Impact Statement

1. As in the 1987 Quality Housing provide:
 - a) A detailed cost analysis of prototype buildings developed under both the current zoning and the proposed Housing Opportunities Program, and
 - b) An estimate of development patterns likely to occur if the proposal or one of the several alternatives were adopted.
2. Clarify the proposed action, the purpose and the need by identifying whether the goal is
 - a) Housing for a private concern to profit, or
 - b) Affordable rents for housing a public policy proposal.
3. Given Climate Change new buildings should be on high ground out of the 100-year floodplain, or any other risky place.
4. There should be no new housing that does not include affordable income restricted.

PROTECTION OF THE ENVIRONMENT

The rules for draft environmental impact statements originate with the federal National Environmental Protection Act (NEPA), the "Protection of the Environment." NYS adopted the federal rules, or more stringent ones, called SEQRA and NYC followed NYS's or more stringent rules, called CEQR. Under both the federal NEPA and state SEQR the same terminology is used. NEPA states that "*any irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented.*" The SEQR Handbook, on page 121, answers how the EIS should address this, as stated below:

"The extent to which a proposed action may cause permanent loss of one or more environmental resources should be identified as specifically as possible based upon available information. Resources which should be considered include natural and manmade resources that would be consumed, converted or made unavailable for further uses due to construction, operation, or use of the proposed project, whether those losses would occur in the immediate future, or over the long term. Examples include the filling of wetlands; paving over or construction on valuable agricultural soils; use of non-renewable, or non-recyclable materials in new structures; and use of fossil fuels in construction or operation of the project."

CEQR states: "any irreversible and irretrievable commitments of resources that would be



associated with the proposed action should it be implemented.” The word **“environmental”** is **missing** the “commitments of environmental resources” from the City’s rules. This causes the city to ignore the environmental and focus ONLY on the “person-made resources.”

The DEIS identifies no *impacts on infrastructure, enforcement, and other municipal services*. While there are no projections of what ZHO will provide, a power point slide estimates the citywide housing unit range to be a mere 58,000 to 108,000 units in 15 years, which is so low it does not trigger impact thresholds on those such as Land Use, Water & Sewer, Solid Waste, Libraries, Schools, etc. It is also less than what is being built under the existing zoning. There is no use going through it, there is nothing there.

This distinction between nature and urban is concerning. We are not asking for the zoning resolution to carve out a nature preserve from the city. We are asking for a green floodplain: a built environmental that incorporates green building design and water management. It becomes the new “Alternative” that was never created in the DEIS.

These are resources that will be lost based on the unintended consequences of hardening building infrastructure, rather than creating the low impact, green and natural infrastructure. Are they filling in wetlands, creating revetments, increasing impervious surface, or adding concrete to the front yard? Does the proposed action protect or harm nature, or does it cause irreversible and irretrievable commitment of environmental resources?

PURPOSE AND NEED

The City Environmental Quality Review (CEQR) has an accompanying Technical Manual that describes the purpose and the need for a public policy, such as creating housing that is affordable for those making the mean income in the City. See Section 210. Purpose and Need for Publicly and Privately Sponsored Actions of the CEQR Technical Manual states:

“The purpose of and need for the project should be explained clearly at the beginning of the EAS or EIS, **allowing the decision-makers to balance the goals** of the project with environmental concerns, if any, in determining **whether the project should be approved**. For city-sponsored projects, this statement of objectives or **purpose should be framed in terms of how the project meets public needs** and responds to public policies, such as the provision of affordable housing, . . .” [emphasis added]

One of the corner stones of an effective EIS, is to describe the purpose and need. Unfortunately, this DEIS has so many different explanations and proposals that confuse the decision maker. For example, the Project Brief’s purpose is “to address the housing *shortage* and the *high cost* of housing.” The EAS² describes the “*obstacles to more housing and more affordable housing are rooted in outdated or overly restrictive zoning regulations*”. A few months later, the DEIS describes the purpose and need is a “Housing *Crisis* and *Affordable Housing*.” At the same time, the FSOW only describes the continued housing *shortage*. Increasing housing *availability*, and not *affordability* housing, would likely

² EAS, Appendix A-1 Project Description



accelerate the construction of expensive market-rate housing, and *reduce* incentives to provide affordable units.

The DEIS should identify the *purpose and need* for market and affordable housing units. The most current 2023 Housing Vacancy Survey, as published by the NYC Department of Housing and Preservation (HPD) and based on information collected by the US Census, should be part of the DEIS. Using the source of the 1.4% vacancy rate found in that report to meet the need is not an accurate snapshot of unoccupied apartments. It measures only 33,210 lower rental units, and ignores 230,000 high rent vacant units that owners have kept off the market. With a vacancy rate at more than 11.1%, it is clear that there is not a housing quantity crisis, but an economical one. This is not the conclusion of the DEIS.

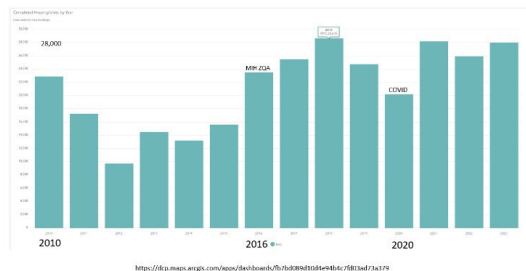
Based on the data in the Racial Equity Report of the DEIS is -- 27,261,057 housing lottery applications 10% of which are placed, 45,319 sheltered homeless persons, and 67,431 marshal evictions. The need is affordable housing, and the reasonable alternative to the proposed action is to build and rehab available rental housing that is affordable for those 304,125 people in extremely low income 30% AMI and the 344,072 people in the very low income 50% AMI.³ The RER uses the term of three⁴ AMI bands in Table 3.06 Rental Units

Table 3.06.T: Rental Units Affordable to Households by AMI Band

	2017-2021 ACS PUMS					
	Number			Percent		
	Estimate	MOE	CV	Estimate	MOE	CV
Occupied units paying rent	2,127,020	8,598	0.2	100.0%		
Extremely low-income (0-30% AMI)	304,125	6,051	1.2	14.3%	0.3%	
Very low-income (31-50% AMI)	344,072	6,190	1.1	16.2%	0.3%	
Low-income (51-80% AMI)	773,142	8,132	0.6	36.3%	0.4%	
Moderate-income (81-120% AMI)	450,659	6,034	0.8	21.2%	0.3%	
Middle-income (121-165% AMI)	156,066	4,050	1.6	7.3%	0.2%	
High-income (166% or higher AMI)	98,956	3,682	2.3	4.7%	0.2%	

The Universal Affordability Preference proposal is not enough and is voluntary. Meanwhile, the city states that there has been little construction since 2010, but the housing data base proves that is wrong. The lack of affordable rents is not new in the past zoning changes. In 1987, the zoning text amendment called Quality Housing used the wording “affordable” meaning cheaper to build for the developer and contractor, but not cheaper for the renter.⁵

Today, there exists a glut of upper-income available market-rate housing, but the current plan does not provide anything substantial to increase rent affordability. The new proposal is more of the same: removing required parking in new buildings and offering the Universal Affordability Preference to lower the cost



³ Note that this is only two AMI bands but is more than 50% of the people in Table 3.06 above.

⁴ RER p. 3.29.

⁵ “A MAJOR component of New York City's master plan to promote housing construction has been forwarded ... The proposal is a change in New York's zoning ordinance that is *designed to encourage lower, bulkier and more economical apartment buildings in multifamily districts* throughout the city.” Quality Housing! Zoning Nearing a Vote - The New York Times www.nytimes.com/1987/07/12/realestate/quality-housing-zoning-nearing-a-vote.html (*emphasis added*)



by changing the size of the units. This report will show that the city identified the wrong target, ignored 230,000 empty market housing rate units this year, and 74,000 construction and demolition jobs since 2010. They have not proven the need for change. The real crisis is the paucity of economical rents for low-to-middle income residents.

Construction project numbers are the highest in the last 14 years, as is units built. The city states that there has not been enough housing built since 2010. A review of the New York City Housing Snapshot from 2010 to 2024 proves that is a wrong assertion. In addition, the City Planning Housing Database contains all housing construction and demolition jobs approved by the NYC Department of Buildings or completed since January 1, 2010. Recently updated to March 2024, the chart below is the source used.

DCP DATABASE USED FOR GIS MAPPING
BY KAREN ARGENTI, BCEQ


DESCRIPTION
The NYC Department of City Plannings (DCP) Housing Database contains all NYC Department of Buildings (DOB) - approved housing construction and demolition jobs filed or completed in NYC since **January 1, 2010**. It includes all three construction job types that add or remove residential units: new buildings, major alterations, and demolitions, and can be used to determine the change in legal housing units across time and space. Records in the Housing Database are geocoded to the greatest level of precision possible, subject to numerous quality assurance and control checks, recoded for usability, and joined to other housing data sources relevant to city planners and analysts.

DETAILS
Source: Feature Service
Data updated: Nov 27, 2023, 2:42 PM
Schema updated: Nov 27, 2023, 2:42 PM
Size: 95.195 MB
Attachment size: 0 KB
ID: 1405109a43504487897aa03110c1

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TAGS
Housing, House, Building, Development, Dwelling Unit, Alteration, Demolition, Certificate of Occupancy, CO, Permit, Job Application, Filing, Net Units, Unit Change, Hotel, Class B, Class A, Pipeline, Existing Units, Proposed Units, Construction

Credits (Attribution) Department of City Planning (DCP), Department of Buildings (DOB)



Item created: Dec 14, 2020
from **update: Feb 1, 2024**

METHODS

The draft environmental impact statements originate with the federal National Environmental Protection Act (NEPA), the “Protection of the Environment.” The study needs to have several segments, including a project description with a proposed action and alternatives, purpose and need, public need and benefits including economic and social, review of impacts as to type and seriousness, degree of impact as to irreversible and ir retrievable resources, unmitigable, and mitigation. Among others, the chapters can address topics such as: land use and public policy, water resources, socioeconomics, or hazardous materials. These federal rules, are known as NEPA. New York State was able to adopt the federal rules, or add more stringent ones. NYS rules are called SEQRA. New York City had the ability to adopt the NYS’s or more stringent rules, and they called it CEQR.

CONCLUSIONS

At the City Planning Commission (CPC) meeting to approve the ULURP & the DEIS on May 23, 2024, CPC estimated a citywide housing unit increment range to be merely 58,000 to 108,000 units in 15 years. This low rate allowed them to declare no impact on categories such as Land Use, Water & Sewer, Solid Waste, etc. What makes this different from existing zoning?

Environmental Review

A little more housing in every neighborhood:

- The EIS estimates on average a **little less than 1 unit per acre over 15 years**

The results:

- The EIS estimates a citywide housing unit increment range of **58,200 to 108,900 units**



NYC



Conclusion

Environmental Review

A Notice of Completion of a Draft Environmental Impact Statement (DEIS) was issued on April 28, 2024

<p>The DEIS identifies no impacts in these categories:</p> <ul style="list-style-type: none">• Land Use, Zoning, and Public Policy• Socioeconomic Conditions• Water and Sewer Infrastructure• Solid Waste and Sanitation• Energy• Greenhouse Gases and Climate Change• Air Quality• Public Health• Neighborhood Character	<p>The DEIS identifies potential for "significant adverse impacts" in these categories:</p> <ul style="list-style-type: none">• Community Facilities and Services (early childhood programs, schools)• Open Space• Transportation (traffic, transit, pedestrian)
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The DEIS could not preclude impacts in the following categories because their likelihood depends on specific site characteristics: Shadows, Historical & Cultural Resources, Urban Design and Visual Resources; Natural Resources; Hazardous Materials, Noise; Construction.

No other significant adverse impacts were identified. Mitigation measures are identified in the DEIS and will be detailed in the Final Environmental Impact Statement (FEIS).

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It is clear, therefore, that the DEIS purpose and the need are wrong, public policy is not identified, and the number of units is kept purposely low to avoid a full-scale environmental review. The current purpose and need in the DEIS are misleading for three reasons: the vacancy rate is not in crisis, although affordable rental rates are; hundreds of thousands of market-rate housing units are vacant decontrolled rentals; and numbers of past construction and

demolition are not counted.

Thank you for this opportunity for public participation.
