

**A. INTRODUCTION**

This chapter summarizes and responds to all substantive comments on the Draft Scope of Work (Draft Scope) and the Draft Environmental Impact Statement (DEIS) for the proposed East Village/Lower East Side Rezoning project made during the public review period. For the Draft Scope, these consist of comments spoken or submitted at the Draft Scope public meeting on June 25, 2007, from 2:00 p.m. to 5:00 p.m. and 6:00 p.m. to 8:45 p.m. at the City of New York Department of City Planning (DCP), Spector Hall, 22 Reade Street, New York, New York 10007; written comments were accepted by the lead agency through the tenth day following this Draft Scope meeting (July 5, 2007). Comments on the DEIS consist of spoken or written testimony submitted at the DEIS public meeting on Wednesday, August 13, 2008 at 9:00 a.m. in Tishman Auditorium of Vanderbilt Hall, New York University School of Law, 40 Washington Square South, New York, New York 10012; written comments on the DEIS were accepted by the lead agency through the tenth day following this meeting (August 25, 2008). Written comments received on the Draft Scope and DEIS are included in Appendix I.

Section B, below, lists the elected officials, community board and organization members, and individuals who commented at the Draft Scope public hearing or in writing. The comments, which are presented in Section C, are organized by subject area following the organization of the Draft Scope. Similarly, Sections D and E lists elected officials, community board and organization members, and individuals who commented at the DEIS public hearing or in writing and their comments, respectively. The organization and/or individual that commented are identified after each comment. For statements that did not require a response, or where comments do not relate to the analyses of the proposed actions as presented in the Draft Scope or the DEIS, the response “comment noted” is provided.

**B. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT SCOPE OF WORK****ELECTED OFFICIALS**

1. Honorable Alan J. Gerson, New York City Council, 1st District, oral testimony delivered June 25, 2007, and written submission dated June 25, 2007 (Gerson)
2. Honorable Rosie Mendez, New York City Council, 2nd District, oral testimony delivered June 25, 2007, and written submission dated June 25, 2007 (Mendez)
3. Honorable Deborah J. Glick, Member of Assembly, 66th District, written submission dated June 25, 2007 (Glick)

---

<sup>1</sup> This chapter is new to the Final Environmental Impact Statement (FEIS).

## **East Village/Lower East Side Rezoning EIS**

---

4. Honorable Brian P. Kavanagh, Member of Assembly, 74th District, written submission dated July 3, 2007 (Kavanagh)
5. Representative Nydia Velazquez, United States House of Representatives, New York, 12th District, testimony delivered at public meeting (Velazquez)
6. Honorable Sheldon Silver, Speaker, New York State Assembly, 64th District, oral delivered testimony delivered at public meeting (Silver)
7. Representative Carolyn Maloney, United States House of Representatives, 14th District, oral testimony delivered at public meeting (Maloney)
8. Honorable Thomas K. Duane, New York State Senate, oral testimony delivered at public meeting (Duane)

### **COMMUNITY BOARDS**

9. Manhattan Community Board 3 (CB3), David McWater, Board Chairperson, oral comments, June 25, 2007, and written comments, July 5, 2007; Herman Hewitt, First Vice Chairperson, oral comments, June 25, 2007 and undated written submission; and Barden Prisant, oral comments, June 25, 2007 (CB3)

### **ORGANIZATIONS**

10. Lower East Side Business Improvement District (LESBID), Roberto Ragone, Executive Director, oral comments, June 25, 2007, and undated written submission; Howard Slonim, written submission dated July 5, 2007 (LESBID)
11. New York City Department of Transportation (DOT), Naim Rasheed, written submission dated July 3, 2007 (DOT)
12. Chinatown Tenant Union, Helena Wong, written submission dated July 5, 2007 (CTU)
13. Lower East Side People's Mutual Housing Association (LESPMHA), Mary Spink, Executive Director, oral comments, June 25, 2007 (LESPMHA)
14. East Village Community Coalition (EVCC), Aaron Sosnick, oral comments, June 25, 2007; Michael Rosen, oral comments, June 25, 2007 (EVCC)
15. Lower East Side Ecology Center (LESEC), Tara DePorte, undated written submission (LESEC)
16. Good Old Lower East Side, Inc. (GOLES), Damaris Reyes, oral comments, June 25, 2007 and undated written submission; Quiri Beato, oral comments, June 25, 2007 (GOLES)
17. Coalition to Save the East Village (CSEV), written submission dated July 5, 2007 (CSEV)
18. Lower East Side Tenement Museum, Renee Epps; Greenwich Village Society for Historic Preservation (GVSHP), Andrew Berman; City Lore, Marci Reaven; written submission dated July 2, 2007 (Epps/Berman/Reaven)
19. Lower East Side Tenement Museum, Margaret Hughes, oral comments, June 25, 2007 and undated written submission (LESTM)

20. Lower East Side Residents for Responsible Development, Rob Hollander, oral comments and written submission dated June 25, 2007 (LESRRD)
21. 210 Stanton Street Tenants Association, Marie Christopher, President, oral comments, June 25, 2007 and written submission dated July 5, 2007 (210Stanton)
22. GVSHP, Andrew Berman, Executive Director, oral comments, June 25, 2007 (GVSHP)
23. Cooper Square Committee (CSC), Lucille Carrasquero, Chair, oral comments, June 25, 2007 and undated written submission; Susi Schrop, oral comments, June 25, 2007 and undated written submission; and Brandon Kielbasa, oral comments, June 25, 2007 and undated written submission (CSC)
24. Cooper Square Mutual Housing Association (CSMHA), Valerio Orselli, oral comments, June 25, 2007 (CSMHA)
25. Asian Americans for Equality (AAFE), Robert Weber, oral comments, June 25, 2007 (AAFE)
26. University Settlement, Melissa Aase, Director of Community Development, oral comments, June 25, 2007 (US)
27. Pratt Center for Community Development, Patricia Voltolini, oral comments, June 25, 2007 (Pratt)
28. Lower East Side Coalition for Accountable Zoning (LESCAZ), Shoshana Krieger, oral comments, June 25, 2007; Paul Bartlett, oral comments, June 25, 2007; and written submission dated July 5, 2007 (LESCAZ)
29. City Lore, Marci Reaven, Managing Director, oral comments, June 25, 2007 and undated written submission (CityLore)
30. New York Industrial Retention Network, Adam Friedman, Executive Director, written submission dated July 3, 2007 (NYIRN)
31. Archdiocese of New York, David Brown, Director of Real Estate, written submission dated July 5, 2007 (ArchdioceseNY)
32. Bowery Alliance of Neighbors, David Mulkins, Co-Founder, oral comments, June 25, 2007 and written submission dated June 29, 2007 (BAN)
33. The Society for the Architecture of the City, Christabel Gough, Secretary, oral comments, June 25, 2007, and written submission dated July 5, 2007 (SAC)
34. Chinatown/Lower East Side Empire Zone, undated written submission (C/LESEZ)

**INTERESTED PUBLIC**

35. Harvey Epstein, oral comments, June 25, 2007 (Epstein)
36. Betty Brassell, oral comments, June 25, 2007 and undated written submission (Brassell)
37. Courtney Lee Adams, oral comments, June 25, 2007 and written submission dated June 28, 2007 (Adams)
38. Sheila Freedman Saks, written submission dated July 2, 2007 (Saks)

39. Alida Rodriguez, Gompers House resident, oral comments, June 25, 2007 and undated written submission (Rodriguez)
40. Mark Miller, written submission dated July 5, 2007 (MMiller)
41. Arlene Miller, JA-Mil Co., written submission dated July 5, 2007 (AMiller)
42. Bob Levy, written submission dated July 5, 2007 (Levy)
43. Tom Weiss, oral comments, June 25, 2007 (Weiss)
44. Susan Howard, oral comments, June 25, 2007 (Howard)
45. Pat DeAngelis, oral comments, June 25, 2007 (DeAngelis)
46. Carolyn Radcliffe, oral comments, June 25, 2007 (Radcliffe)
47. Deborah Gonzalez, oral comments, June 25, 2007 (Gonzalez)
48. Melissa Baldock, oral comments, June 25, 2007 (Baldock)
49. Paul Dougherty, oral comments, June 25, 2007 (Dougherty)
50. Shearl Realty, written submission dated July 2, 2007 (Shearl)

## **C. RESPONSE TO DRAFT SCOPE COMMENTS**

### **PROJECT REVIEW PROCESS AND PUBLIC PARTICIPATION**

**Comment 1:** Community Board 3 (CB3) formed a 197a Plan Task Force in 2005 to address community concerns and priorities with regard to an area-wide rezoning, as part of a comprehensive effort to address the neighborhood's changing character. The subsequent "11-Point Resolution" as authored by the Task Force and supported by the Full Board is the result of many meetings and a great deal of the community's input; we believe it reflects a high degree of neighborhood consensus and therefore must be given full consideration. The CB3 11-Point Resolution includes the following recommendations:

a. Anti-harassment set forth in the Special Clinton District and anti-demolition of sound residential buildings provisions provided for in the zoning text for the entire rezoning area. The rezoning should include: special enforcement and oversight provisions to prevent harassment; displacement and demolition for all Inclusionary Zoning (IZ) developments; and displacement analysis and evaluation for all rezoning areas.

b. CB3 and the City of New York agree that at least 30 percent of the floor area developed of the projected increase in built residential floor area ratio (FAR) will be for permanently affordable housing available to households at or below 80 percent of the area median income under a tiered system where lower income households will also be accommodated in fair proportion. If mutually agreed upon estimates of the private development that is likely to occur under this zoning indicates that this minimum will not be achieved,

the City will make available development or preservation sites in the study area to achieve this overall percentage.

c. The rezoning should zone R7A with a base FAR of 3.45 (with overlay, but not commercial equivalent) with 4.6 FAR IZ for First and Second Avenues; Avenues A, C and D; Forsyth, Essex, and Allen Streets (all wide streets 75 feet wide or more north and south of East Houston Street, except East Houston Street, Delancey Street, and Chrystie Street).

d. The rezoning should not include a commercial overlay on St. Marks Place.

e. The rezoning should zone R7B (not commercial equivalent) on all narrow streets less than 75 feet wide north and south of East Houston Street. IZ not supported/favored in these areas given existing information, but we request that the environmental impact statement (EIS) provide sufficient data to fully analyze the number of lower income units that could be produced in these regions if the area(s) were zoned for IZ.

f. The rezoning should zone East Houston and Delancey Streets with a new contextual IZ district with a base FAR of 4.5 with an IZ bonus to 6.0 and a maximum height of 100 feet (height and density in between the DCP-proposed R7A and R8A districts). Special consideration should be given to the north side of East Houston Street where narrow streets intersect, to determine the appropriate boundaries of this zone.

g. The rezoning should zone Chrystie Street with a base FAR of 6.0 with an IZ bonus to 8.0 and a maximum height of 150 feet (R8X) or as a R8A with IZ as proposed by DCP. The EIS should compare and evaluate both options in regards to benefits and adverse impacts.

h. The EIS should include and provide detailed information regarding the location and extent of current commercial and retail use below East Houston Street so that appropriate use regulations are developed in accordance with areas that contain commercial establishment uses that provide living wages, but curbs the current proliferation of commercial hotels and nightlife establishments.

i. Landmark survey of rezoning area should be conducted.

j. Energy efficient and green building (LEED [Leadership in Energy and Environmental Design] compliant) requirements when government financing or tax abatement is implemented. Provisions for green building sustainable development legislative and programmatic instruments are to be included at time of certification, or groundwork in EIS for a follow-up Uniform Land Use Review Procedure (ULURP) action.

k. Legal service fund for enforcement of anti-harassment and anti-demolition provisions and prevent illegal evictions should be included in the rezoning actions. (CB3)

**Response (1a):** Subsequent to the publication of the Draft Scope, Local Law 7 of 2008 was adopted by the City Council. This law allows tenants who are being harassed by their landlords to seek injunctive relief and civil penalties from their landlord in Housing Court. Other possible methods of preventing tenant harassment are outside of the scope of the proposed East Village/Lower East Side Rezoning.

One of the fundamental goals of the proposed actions, as agreed upon by a broad base of community participation, is the encouragement of additional housing, and specifically the promotion of affordable housing through application of the Inclusionary Housing program. Regulations that discourage the partial or complete demolition of existing buildings would be contrary to these established goals and could have adverse consequences for future housing production and therefore are not considered within the Final Scope of Work (Final Scope) of this EIS.

**Response (1b):** The City of New York demonstrates its commitment to affordable housing through an aggressive, proven and voluntary program that encourages affordable housing production through incentives for developments that can also be combined with a range of subsidies and additional tax incentives. Because affordable housing was identified as a leading priority by the community, inclusionary housing would be located in appropriate areas as part of the proposal. As with rezonings of similar size and scale, a range of city agencies is committed to working together to achieve the greatest levels of affordable housing possible. Attaining specific housing target goals beyond what is forecast in this EIS using the Inclusionary Housing Program would require programs whose implementation is beyond the scope of the proposed actions.

**Response (1c):** As noted in the Draft Scope for the R7A/C6-3A Inclusionary Alternative, the changes requested by the commenter are substantially similar to those described for this Alternative. The Alternative is consistent with the overall goals of the proposal and introduces expanded areas of affordable housing opportunities in selected R7A districts while maintaining the contextual building envelope requirements of the underlying zoning. It does not contemplate similar changes to the cited streets south of Houston Street, which would encourage residential development where the proposal aims to maintain the existing commercial character.

**Response (1d):** As noted in the Draft Scope, the proposed rezoning covers about 111 blocks of the East Village and Lower East Side neighborhoods in Manhattan Community

District 3, including St. Mark's Place east of Third Avenue. Due to public input prior to the publication of the Draft Scope, a commercial overlay along St. Mark's Place was not included in the proposed actions, consistent with this comment.

**Response (1e):** The proposed actions include changing existing R7-2 districts to R7B districts along three adjacent midblocks south of Tompkins Square Park; this is the only component that reduces the allowable residential FAR in the affected area. Consistent with the goal of mapping contextual districts in areas to more closely match the existing built character, this R7B district is complemented by new R8B districts in the remainder of the midblocks north of Houston Street. In the proposed R7B district, the number of substantially deep rear yards is higher than elsewhere within the rezoning area boundaries, resulting in reduced densities in this area. Given the existing built conditions and upon consideration of community feedback requesting more widespread R7B districts, this area alone would be appropriately mapped as a R7B district, and the remainder of the midblocks would be appropriately mapped as R8B districts. Therefore, the Final Scope does not include such an alternative as suggested by the commenter; however, the EIS may revisit this suggested alternative once the full extent of project impacts is identified.

**Response (1f):** The proposed rezoning and associated actions are the result of three years of engaged dialogue with the Community Board, residents, local elected officials and civic organizations. The proposed actions are intended to realize two of this community's most pressing needs: preserving the established neighborhood scale and character and providing incentives for affordable housing. The proposed actions include components that are similar in scale, if slightly higher than the requested framework, while at the same time introducing incentives to encourage the development of permanent affordable housing. The regulations of the proposed R8A district for the cited streets most closely match the requested parameters, while providing opportunities for affordable housing and remaining consistent with the proposal's goals and objectives. Therefore, the Final Scope does not include the suggested zoning refinement.

**Response (1g):** As noted in the Draft Scope of Work for the R7A/C6-3A Inclusionary Alternative, the changes requested by the commenter are substantially similar to those described for this Alternative. The Alternative is consistent with the overall goals of the proposal and introduces expanded areas of affordable housing opportunities along portions of Chrystie Street, which had been identified as an appropriate corridor for affordable housing opportunities. The Inclusionary Alternative, where it would apply on Chrystie Street, would

maintain contextual building envelope requirements using available zoning district designations that most closely match the requested parameters. This Alternative would result in slightly lower scale-development at a slightly higher density than that which would result from the zoning parameters requested the commenter. To maintain consistency with the established goals and objectives of the proposal, which include preservation of the established neighborhood scale and the provision of affordable housing opportunities where appropriate, the Final Scope does not include the suggested zoning refinement.

**Response (1h):** One of the goals of the proposed actions is to protect the low- to mid-rise streetwall character established throughout much of the neighborhood from out-of-scale development. The proposed actions would map contextual districts at densities appropriate to the existing land uses and built character of the area. As stated in the Draft Scope, the EIS will contain an analysis of existing uses as well as potential impacts as a result of the new development estimated to occur as a result of the proposed actions. The analysis will be prepared at a level of detail consistent with the *CEQR Technical Manual* standards. See also the responses to Comments 14 and 30 below.

**Response (1i):** As stated in the Draft Scope and in accordance with *CEQR Technical Manual* guidelines, the entire rezoning area and the area within 400 feet of the rezoning area will be surveyed to identify officially recognized architectural resources and potential architectural resources that appear to meet one or more of the criteria for listing on the National Register of Historic Places. The architectural resources survey will assess the array of building types listed in the comment and will consider the area's architectural, political, social, and cultural history. The EIS will describe all identified architectural resources, both known and potential, and will assess the potential for the proposed actions to have adverse direct physical impacts and indirect visual and contextual impacts on those resources. Potential impacts from development on the projected and potential development sites and projected and potential enlargement sites will be assessed.

**Response (1j):** Generally, green building initiatives and programs and related requirements could be addressed as part of PlaNYC 2030, a design for the sustainability of New York City introduced by the Mayor in 2007, and are outside the scope of the East Village/Lower East Side Rezoning EIS. The proposed actions are intended to be consistent with the Mayor's sustainable planning goals in that they promote the preservation of neighborhoods with special character while providing opportunities for modest growth and affordable housing along wide corridors well-served by mass transit.



**Response (1k):** The City currently has no available zoning mechanism to accommodate this request. This and other, related methods of addressing or preventing tenant harassment are outside of the scope of the proposed East Village/Lower East Side Rezoning.

**Comment 2:** DCP must give full documentation of all data, assumptions and calculations for its proposed plan. (CB3, Gerson)

**Response:** As noted in the Draft Scope, the EIS will contain documentation of data, assumptions and calculations for its environmental impact analyses, which will be subject to public review and comment in accordance with CEQR and New York State Environmental Quality Review Act (SEQRA) requirements.

**Comment 3:** I would like to take issue with the language of the environment impact statement. This type of highly technical jargon is nearly impenetrable by the average reader, and seriously inhibits their ability to participate in the process. (Adams)

**Response:** The Draft Scope contains a description of the proposed actions at a level of detail sufficient to allow the public and interested and involved agencies to understand the proposed actions and comment on the proposed methods of analysis in the EIS.

#### **PROJECT DESCRIPTION (PROPOSED ACTIONS)**

**Comment 4:** While LESBID supports several facets of the proposed zoning—including its consideration of the existing character of the neighborhood as well as its encouragement of development opportunities and incentives such as affordable housing—as Lower East Side stakeholders, our focus has been on the potentially adverse impacts of the proposed rezoning on this particular neighborhood that are cause for concern. With LESBID’s mission in mind, we believe several modifications are needed that preserve the unique character of the Lower East Side and advance the goals of the LESBID:

- a. The C6-1 area below Houston Street should be rezoned to C6-2A. The C6-2A areas should be generally bounded by East Houston Street, Essex Street, Grand Street, and Chrystie Street. East Houston Street, Allen Street and Delancey Street should be rezoned as a C6-2 district. Although the C6-2A district is not the perfect district to advance LESBID’s goals, most of the district's regulations are appropriate for the Lower East Side. For example, unlike the proposed C4-4A district, the C6-2A district includes Use Group 11 (jewelry making, etc.), allows for a commercial FAR comparable to the current zoning, and establishes building height limits. The C6-2A designation does have a residential FAR of 6.02, which we believe may be

too high for the narrow streets in the Lower East Side. It is worthwhile to explore a special district which would permit the appropriate FAR.

b. Treat Allen Street as a wide street and keep the building height limits and/or 6.0 FAR limit allowed by the current zoning while having developers contribute to a maintenance fund for the Allen Street mall. Allen Street is approximately 100 feet wide. A “boulevard” district (Allen Street and Orchard Street) should permit 6.0 FAR but regulate that the bulk be shifted to Allen Street and maintain a 65-foot height limit on Orchard Street. Allen Street developers would be required to contribute funds to an Allen Street median maintenance fund.

c. Rezone wide streets to accommodate significant density but impose building height limits. However, areas near transportation hubs should be rezoned to districts without building height limits. For example, a zoning district such as C6-2 would allow for Use Group 11, and maintain the 6.0 commercial FAR, and height allowance permitted by the current zoning. It would also allow for a residential upzoning. Transportation hubs would include the F subway station at Second Avenue, the F/V/J/Z subway station at Delancey Street/Essex Street, the D/B subway station at Grand Street, and the J/Z subway station at the Bowery.

d. Introduce commercial overlays in the R7A district east of Essex Street. (LESBID)

**Response (4a):** The commenter’s proposal either does not meet the goals and objectives of the proposed actions. Consistent with the objectives of the proposed actions, the approach to the existing C6-1 area below Houston Street is to use available zoning mechanisms to encourage growth along the certain wide streets, in conjunction with an affordable housing incentive program, and establish contextual building controls consistent with the built character in the interior and along the side streets. Therefore, the Final Scope does not include such an alternative as suggested by the commenter.

**Response (4b):** Accommodating this request to maintain the existing zoning framework regulations with regard to permitted height and density on Allen Street would be inconsistent with the goals and objectives of the proposed actions. The properties within the cited areas would continue to be included in the rezoning, and the existing C6-1 district would be re-mapped as described in the Draft Scope, to a mix of C4-4A and C6-2A districts. Requiring developers to contribute to a maintenance fund for the Allen Street mall through zoning would not further the goals and objectives of this rezoning proposal. Therefore, the Final Scope does not include the suggested zoning refinement.

**Response (4c):** This comment recommends an upzoning to a C6-2, where there are no limitations on height, which is inconsistent with the proposal's goals and objectives. The current proposal for the cited areas would change the existing

C6-1 zoning district to a mix of C4-4A and C6-2A districts. Through mapping contextual zoning districts with building height limits, the proposal seeks to reduce the out-of-scale development that has occurred under the existing zoning. Additionally, raising the residential density in selected areas to the extent stated in the above comment, absent any incentives for affordable housing, would be inconsistent with the project's goals. Therefore, the Final Scope does not include such an alternative as suggested by the commenter.

**Response (4d):** The introduction of commercial overlays in the R7A district east of Essex Street would not be consistent with the principal goals of the proposed actions. The existing zoning reflects established land uses in this area. Accordingly, the proposed actions would seek to maintain the existing commercial overlays along Clinton Street. The proposed actions, therefore seek to maintain the existing land use character and mapping new commercial overlay districts in the R7A area below Houston Street would alter the character and thus be inconsistent with the proposal's goals and objectives. Therefore, the Final Scope does not include such an alternative as suggested by the commenter.

**Comment 5:** [We] fully support CB3's 11-Point plan and would like this plan thoroughly analyzed and incorporated in the Environmental Impact Statement. (Gerson, Mendez, Kavanagh, Velazquez, CB3, LESPMHA, GOLES, LESTM, 210Stanton, GVSH, CSC, CSMHA, US, Pratt, LESCAZ, CityLore, Epstein, Brassell, Adams, Rodriguez, Weiss, Baldock)

**Response:** As noted in the response to Comment 1 above, the Draft Scope includes an alternative to the proposed actions that reflects key components of CB3 11-Point Resolution.

**Comment 6:** [We] support the position arrived at by LESBID on the proposed rezoning of the area. The LESBID's position is balanced, acknowledging the need for the type of scale that preserves the character of the community and the residential upzoning and affordable housing that recognizes the needs of a growing City population currently competing for limited living space. (LESBID, NYIRN, Saks, MMiller, AMiller, Levy, Shearl)

**Response:** Comment noted. Also see response to Comment 4.

**Comment 7:** Zone R7B (not commercial equivalent) should be mapped on all narrow streets less than 75-feet wide north and south of East Houston Street. Inclusionary zoning is not supported/favored in these areas, but we request that the EIS provide sufficient data to fully analyze the number of lower income units that could be produced in these regions if the areas were zoned for inclusionary zoning. (Velazquez, EVCC, GOLES, Pratt, LESCAZ, Baldock)

The EIS should study the community's proposal for the use of Inclusionary Zoning throughout the rezoning area. The EIS should study the impact of Zone R7A base FAR 3.45 with 4.6 FAR inclusionary zoning for First and Second Avenues; Avenues A, C, and D; and Forsythe, Essex, and Allen Streets. In addition, the EIS should provide sufficient data to fully analyze to number of lower income units that could be produced on all narrow streets if the areas were zone for R7B with inclusionary zoning. (Duane, Velazquez, GOLES, EVCC, CSC, LESCAZ, Gonzalez)

We urge DCP to do an analysis of the impact of rezoning Houston and Delancey Streets with a new contextual inclusionary zoning district with a base FAR of 4.5 with an inclusionary zoning bonus to 6.0 and a height cap of 100 feet. Special consideration should be given to the north side of Houston Street where narrow streets intersect, to determine the appropriate boundaries of this zone. We believe such a rezoning would be more appropriate for our community. (Duane, CSC, LESCAZ)

The EIS should include detailed information regarding existing commercial uses in the area below Houston Street, so that appropriate use regulations can be implemented in order to allow for the creation of jobs but “curbs the current proliferation of commercial hotels and nightlife establishments. (Duane, LESCAZ)

**Response:** These comments refer to the CB3 11-Point Resolution; see the response to Comment **1** above.

**Comment 8:** Treat Allen Street as a wide street and keep the building height limits and/or 6.0 FAR limit allowed by the current zoning while having developers contribute to a maintenance fund for the Allen Street mall. A boulevard district should permit 6.0 FAR, but regulate that the bulk be shifted to Allen Street and maintain a 65-foot height limit on Orchard Street. (Saks, Shearl)

**Response:** This comment refers to LESBID's recommendations; see the response to Comment **4** above.

**Comment 9:** The EIS should analyze the area south of Houston Street regarding residential versus commercial uses because it appears that some of these streets are very residential. Although currently zoned commercial C6-1, there are no compelling arguments for why the area south of Houston should be rezoned commercially. (LESCAZ)

The existing C6-1 district below Houston Street (generally bounded by Houston, Allen, Grand and Chrystie Streets) should be rezoned with residential districts, a change which would “provide a counterbalance to the forces which have heretofore held sway” and would improve the quality of life for current residential tenants and stave off direct and indirect displacement driven by

commercial uses currently active in the area, including hotels and nightlife establishments. (CB3, LESCAZ, Howard)

**Response:** Comment noted. This comment substantially echoes the requests made in the CB3 11-Point Resolution. See the response to Comment 1.

**Comment 10:** Chrystie Street is currently zoned as C6-1 and it is proposed to be rezoned to C6-2A. DCP should explore the possibility of R8X or R8Z with Inclusionary Zoning on this street with a commercial overlay in order to discourage the development of large commercial establishments but allow local retail and services. (LESCAZ)

**Response:** Comment noted. This comment substantially echoes the requests made in the CB3 11-Point Resolution. See the response to Comment 1.

**Comment 11:** Lower East Side Residents for Responsible Development asks that the three following alternatives be included in the scope of the Environmental Impact Statement: 1) include the Bowery in the C4-4A zone; 2) keep the current 3.44 FAR for the Avenues north of Houston Street; and 3) do not upzone Avenue D, East Houston, Delancey, or Chrystie Streets. (LESRRD, BAN)

The proposed rezoning should have the following provisions: 1) include the Bowery; 2) maintain the current 3.44 FAR; 3) remove the community facility bonus; 4) cap building heights at 70 feet (3.44 FAR is equivalent to an average five-story tenement, so the added height won't threaten existing tenements); 5) include a moratorium on construction until a rezoning is approved; and 6) grant historic district designation to the Lower East Side north of Houston Street. (LESRRD)

**Response:** These comments substantially echo the requests made in the CB3 11-Point Resolution. As noted in the response to Comment 1 above, the Final Scope has been revised to include an alternative to the proposed actions that reflects key components of the CB3's plan.

**Comment 12:** Study an alternative of zoning R7B for narrow streets in the rezoning area, that zoning East Houston Street with a new inclusionary zoning district with a base FAR of 4.5 with an inclusionary zoning bonus to 6.0 and a height cap of 100 feet. (GVSHP)

East Houston and Delancey Streets should be rezoned with a new contextual inclusionary zoning district with a base FAR of 4.5 with an inclusionary zoning bonus to 6.0 and a height cap of 100-feet [height and density in between the proposed R7A and R8A districts]. Special consideration should be given to the north side of East Houston Street where narrow streets intersect, to determine the appropriate boundaries of this zone. (CB3, CSC, LESCAZ, GVSHP)

The proposal should include R7B districts above and below Houston Street in the areas currently mapped as R7-2 districts, as well as in the areas currently mapped as C6-1 districts below Houston Street. Houston Street should be mapped with a mix of C4-2A and R8B districts, while Delancey and Chrystie Streets should be mapped with C4-2A districts. (CSEV)

**Response:** Comment noted. These comments substantially echo the requests made in the CB3 11-Point Resolution. See the response to Comment 1 above.

**Comment 13:** Because inclusionary zoning encourages displacement of residents and commercial establishments, and because inclusionary zoning does not protect existing residents from displacement, and because “new affordable housing’ created is not affordable to the displace residents,” and because residents who are displaced are not guaranteed an affordable unit and because the total number of affordable units provided through the rezoning “does not accommodate the needs of the community”, we recommend that the proposal not include the inclusionary zoning program. (CSEV)

**Response:** The proposed rezoning and associated actions are the result of three years of engaged dialogue with the Community Board, residents, local elected officials and civic organizations. The proposed actions are intended to realize two of this community’s most pressing needs: preserving the established neighborhood scale and character and providing incentives for affordable housing. Elimination of the inclusionary housing program from the proposal would be inconsistent with these goals.

**Comment 14:** “Any rezoning plan” should include transit upgrades, building height limits, curbs on hotel development, and ways to address bar proliferation. (Adams)

**Response:** As noted previously, the proposed actions seek to preserve the established neighborhood scale and character and providing incentives for affordable housing. As such, building height limits in all of the proposed zoning districts are consistent with that goal. With regard to certain types of development, hotel development will be less likely under the proposed regulatory framework than under the existing zoning. With regard to transit upgrades, the EIS will contain an analysis of potential transit impacts as a result of the development estimated to occur as a result of the proposed actions and identify any necessary mitigation measures. The proposed actions would not introduce use regulations to restrict the development of nightlife establishments. The New York State Liquor Authority (SLA) is responsible for properly issuing liquor licenses and ensuring that those licensed establishments comply with the State’s Alcoholic Beverage Control Law. According to its website, the SLA attempts “to work cooperatively with local law enforcement, government officials, community groups, and local leaders to ensure public participation in the licensing and enforcement process.” Due to the significant regulatory authority delegated to the SLA by State law,

the appropriate avenue for addressing nightlife issues in the Lower East Side would be for community groups and elected officials to work with that agency.

**Comment 15:** I am disappointed that the Third to Fourth Avenue corridor is not included in the study area. This area is under huge real estate pressure by developers in general and particularly those that would build community facilities. (Mendez, Duane)

The proposed rezoning plan should also include the Bowery within the scope; efforts should be made to preserve the rich neighborhood character along the street. (Duane, LESBID, CSEV, LESRRD, BAN, SAC, Adams, Weiss)

Although the proposed rezoning area affects the entirety of the East Village and only a portion of the Lower East Side, we believe it is important to take into consideration the wider land use study area, and in fact, we would have liked to have seen a wider area analyzed. For example, we would have recommended a study area as far west as the Bowery and as far east as the water. (LESBID)

**Response:** The rezoning area encompasses the majority of CB3 that still exhibit the historic mid-rise character of the East Village and the Lower East Side. Areas redeveloped as high-density housing complexes—including Village View Housing and other high-density tower-in-the-park residential developments—or slated as such (the vacant Seward Park area south of Delancey Street) are not candidates for rezoning as they do not have the low- to mid-rise streetwall character that the proposed actions are meant to protect. The areas between Third and Fourth Avenues at and below East 13th Street, as well as frontage along the Bowery, are areas that do not exhibit the consistent low- to mid-rise streetwall character widely established within the proposed rezoning boundaries. Additionally these areas have different land use patterns and a more varied character resulting from their irregularly-shaped blocks and proximity to wide, busy streets. For these reasons, the areas requested by the commenter are outside the proposed rezoning area, and including these areas would be inconsistent with this proposal's goals and objectives.

As stated in the Final Scope, the land use study area will consist of the proposed project area, where the potential land use effects of the proposed actions will be straightforward and direct (reflecting the development scenario), and neighboring areas within a ¼-mile distance that could experience indirect impacts. This secondary study area does include the Bowery to the west and east to the water.

**Comment 16:** Avenue D and Pitt Street should also be considered as any other avenue in this rezoning. DCP has repeatedly stated that when identifying potential locations for where to provide the inclusionary zoning bonus, it considers the width of the street and accessibility to transportation. Under these criteria, both First and

Second Avenues are just as logical streets to include in the Inclusionary Housing Program as Avenue D and Pitt Street. (LESCAZ)

**Response:** As noted in the Draft Scope, the EIS will analyze a R7A/C6-3A with Inclusionary Alternative, which is identical to the proposed actions except that it would map R7A districts with inclusionary housing program areas along the wide avenues above Houston Street (Second Avenue, First Avenue, Avenue A, and Avenue C) and C6-3A districts with inclusionary housing program areas along the west side of Chrystie Street. While seeking to achieve the same overall goals and objectives of the proposed actions, this alternative responds to concerns expressed by Manhattan CB3, elected officials and members of the public regarding the potential effects of new development that would continue to drive housing costs upward and reduce the overall supply of affordable housing opportunities.

**Comment 17:** It is not clear what the rationale would be for a C4-4A district, if the current commercial FAR allows more opportunity to encourage the commercial presence that the Lower East Side needs and that would underscore its image as a place of creativity, local business, and entrepreneurship. (LESBID)

Small industrial businesses in Manhattan can benefit from commercial zoning which permits Use Group 11 uses. Such uses, including “light industrial and artisanal” operations should be given consideration in this rezoning, including in the “eastern portion of the Lower East Side.” (NYIRN, AAFE)

Specific small, commercial businesses and uses such as plumbing/repairs can benefit from commercial zoning which permits Use Group 7 uses. Such uses should be given consideration in this rezoning in the areas proposed to be rezoned from C6-1 to C4-4A. C6 districts would allow those uses to remain as-of-right. (AAFE)

**Response:** The proposed C4-4A district would be mapped in the existing C6-1 district with the exception of the properties along wide streets (East Houston, Delancey, and Chrystie Streets). One of the main goals of the proposal is the protection of the low- to mid-rise streetwall character established throughout much of the neighborhood from out-of-scale development. To that end the proposed rezoning would map contextual districts at densities appropriate to the existing land uses and built character of the area. The proposed actions' continuation of the general use framework outlined by the existing zoning is appropriate given the established patterns and history of the area and this area's accessibility to mass transit. The EIS will provide further explanation of the specific aims that each proposed zoning district is intended to achieve as the result of the proposed actions.



**Comment 18:** The zoning proposal treats the area east of Essex Street as a residential area, with one commercial overlay district mapped along Clinton Street. However, in general there is a significant amount of non-residential square footage (in the form of commercial and community facility FAR). Thus, we would like to propose that the ground and second floors along streets east of Essex Street be zoned for commercial and light manufacturing uses. In keeping with the mixed-use character of the area, commercial and light-manufacturing use should be permitted throughout the eastern portion of the Lower East Side. (LESBID, AAFE)

**Response:** The rezoning area east of Essex Street is predominantly residential with a substantial amount of community facility space and commercial uses—mostly in the form of street-level retail, along East Houston, Clinton, and Delancey Streets. The proposed actions are intended to promote future land uses at densities appropriate to the existing land uses and built character of the area. The areas currently zoned C6-1 east of Essex Street would be rezoned to C4-4A and would continue to allow commercial uses, with the only difference being that under the proposal Use Groups 7 and 11 would no longer be permitted as-of-right. The existing C1-5 overlay along Clinton Street would remain and continue to allow local commercial uses at 2 FAR in the proposed R7A (former R7-2) district. Light manufacturing uses are not common in this area—or in the entire rezoning area—and represent undesirable uses for this area per the City’s existing and proposed zoning. Mapping additional commercial overlays in the cited area would be inconsistent with the goals and objectives of the proposed actions.

**Comment 19:** We do not believe that any part of Chinatown should be rezoned with a higher density than what is proposed in other parts of the rezoning. Particularly, we are very concerned about the proposed zoning of Chrystie Street with a base FAR of 6.0 with an inclusionary zoning bonus to 8.0 and a height cap of 150 feet [R8X], or as an R8A with inclusionary zoning. The potential adverse impact of this type of rezoning in an important area of Chinatown must be evaluated not only for the residents of that street and those surrounding the street but also for the precedent that rezoning of this density and height will set for future rezoning in other areas of Chinatown. We strongly recommend that the effects of rezoning Chrystie Street to such a high density and height be studied, with input from low-income tenants of Chinatown taken into account. (CTU)

Chinatown is the cultural, economic, and social center for thousands of Chinese immigrants from throughout New York City and beyond. We are highly concerned over the possible primary and secondary displacement of both low- and moderate-income tenants and of locally-oriented, small businesses; it is essential that this living and working community be preserved. The components of this cultural center are not necessarily embodied in buildings or streets but in the people who make it the vibrant neighborhood that it has been for decades

and is today. Therefore, it is critical that DCP fully study the potential benefits and adverse impacts of the rezoning on the preservation of the community. (CTU)

**Response:** The EIS will analyze a R7A/C6-3A Inclusionary Alternative. The Alternative is consistent with the overall goals of the proposal and introduces expanded areas of affordable housing opportunities along portions of Chrystie Street, which have been identified as an appropriate corridor for affordable housing opportunities. See also response to in Comment 1 above. As noted in the Draft Scope, the study area for land use and socioeconomic conditions analyses in the EIS include the areas within ¼-mile of the proposed rezoning area and address conditions expected in these areas in the year 2017.

**Comment 20:** Anti-harassment and anti-demolition provisions are absolutely critical given the hot real estate market in the Lower East Side and must be provided in the zoning text to protect the lower and moderate income residents and families in this community. (Gerson, Mendez, Glick, Kavanagh, CTU, EVCC, GOLES, 210Stanton, CSC, US. CityLore, BAN, LESCAZ, Adams)

Anti-harassment and anti-demolition provisions, as modeled in the Special Clinton District, would strengthen the protections for rent regulated tenants and protect the people that shaped the character of the community. These measures should be included in the final scope of work for the EIS and in the rezoning. (Kavanagh)

Anti-harassment set forth in the Special Clinton District and anti-demolition of sound residential buildings provisions should be provided for in the zoning text for the entire rezoning area, including special enforcement and oversight provisions to prevent harassment, displacement, and demolition for inclusionary zoning developments. (CB3)

A legal services fund for enforcement of anti-harassment and anti-demolition provisions and prevent illegal evictions should be created. [Part of CB3's 11-point plan.] (CB3, CSC, LESCAZ)

It will be critical to put in place and mitigate any displacement through anti-harassment and anti-demolitions provisions from the outset of the rezoning. Anti-harassment and anti-demolition provisions should be included in the rezoning of the East Village/Lower East Side. (15)

**Response:** These comments refer to the CB3 11-Point Resolution; see the response to Comment 1 above.

**Comment 21:** When tax abatements or government financing are used, there should an increase in the efficient use of energy, environmental, and human resources by requiring green buildings provisions. This should be analyzed in the EIS. [Part of CB3's 11-point plan.] (Gerson, Duane, CB3, LESEC, Pratt, LESCAZ)

Provision for green building sustainable development legislative and programmatic instruments should be included at the time of certification, or groundwork in EIS for a follow-up ULURP action. [Part of CB3's 11-point plan.] (Duane, CB3, LESEC, Pratt, LESCAZ)

It is crucial that issues such as the Urban Heat Island, as well as increased ozone, CO<sub>2</sub>, and other particulate matter are brought to the forefront of our urban planning agenda. Therefore, direct language concerning the potential adverse impacts rezoning in our community will have on community and city-wide climate change, as well as mitigation potentials within rezoning plans in the Scope of Work for the EIS. (GOLES)

Legislative and programmatic requirements implemented as part of the rezoning should acknowledge LEED requirements but should be defined by overall energy efficiency, pollution, open space needs and thermal heat island effect scorings. We suggest base line data, analysis tools and methodologies as presented by an energy modeling consortium including USEPA, Brookhaven National Laboratory, CUNY, GISS, NASA and Columbia University. (LESCAZ)

The EIS should include Green Alternatives and Mitigation measures such as: Green building design (going above and beyond LEED); Green roofs and other permeable surfaces; rainwater harvesting; energy efficiency (e.g. ne metering); community garden protection; increased permeable surfaces to off-set runoff; gray-water systems promoted in new construction and potential retrofits. (LESEC, LESCAZ)

The City should take the lead in carrying out green initiatives; the proposed rezoning will have environmental impacts on our neighborhood. (DeAngelis)

**Response:** These comments relate to the CB3 11-Point Resolution; see the response to Comment 1 above.

## **FRAMEWORK FOR ENVIRONMENTAL REVIEW**

**Comment 22:** I believe the definition of potential sites used to determine the reasonable worst-case development scenario (RWCDS) in the EIS should be reconsidered. The Draft Scope blithely states that tenement buildings are not included as potential sites because tenant protections prevent these buildings from being cleared. Although that is the intention of such protections, but every day in my office we get a call from a rent regulated tenant who is being forced out of his or her home either lawfully or unlawfully to make way for development. (Mendez)

We believe that the EIS needs to include small rent regulated buildings as soft sites, and there needs to be stronger tenant protections in the zoning text because of the proposed upzonings in the study area. We believe that the draft scope contains a faulty assumption about the tenant protections provided by rent

regulations. The draft scope states that “buildings with six or more residential units and built before 1974 are rent regulated and difficult to be legally demolished due to tenant relocation requirements.” (EVCC, CSC, US, LESCAZ)

Federally-subsidized housing should not be excluded from the RWCDs. Project-based Section 8 contracts are expiring and housing units are at risk of losing their affordability. (210Stanton, LESCAZ)

The community wants the EIS to include underdeveloped sites used as churches or houses of worship that are not designated landmarks. We believe that the development pressures in this community, the shifting demographics and the escalating property values will make houses of worship desirable development targets within the next ten years. (LESCAZ)

**Response:** As discussed in the Draft Scope, a number of uses were excluded from the RWCDs because they are unlikely to be redeveloped as a result of the proposed rezoning. With the exception of selected sites under ownership of the Roman Catholic Church, which in the past year has closed, or signaled its intentions to close, a number of churches, schools and/or accessory parking areas throughout the City, sites with houses of worship were considered unlikely to be developed. Furthermore, DCP applies standard development criteria as well as additional criteria that might be appropriate for a given site. Rent regulated dwelling units are afforded special protections against dramatic increases in rent, arbitrary evictions and service reductions. For this reason, there is no need to change the development scenario to include rent-stabilized or subsidized residential developments. There is no need to change the development scenario to include rent-stabilized or subsidized residential developments. Following *CEQR Technical Manual* guidelines, the Socioeconomic Conditions analysis in the EIS will consider the potential for significant adverse impacts due to direct and indirect residential displacement.

**Comment 23:** The EIS should provide projections over a 30-year period so that the community can better understand the long-term impacts of the rezoning “on our housing stock.” (LESCAZ)

**Response:** The proposed actions are subject to City Environmental Quality Review (CEQR). CEQR review requires the analysis of impacts from both the long- and short-term effects of proposed actions. For area wide rezonings not associated with a specific development, the foreseeable future is generally considered to be a 10-year build-out period. This is assumed to be the length of time over which developers would act on the change in zoning and the effects of the proposed actions would be felt. Therefore, the EIS will identify the amount, type, and location of development that is expected to occur by 2017 as a result of the proposed actions, as described in the Draft Scope.

**Comment 24:** Clarification is requested regarding the description on page 14 of the Draft Scope, which notes that 343 affordable units are anticipated in the Future-With-Action Scenario. How is this 26 percent total (of 1,322 total units) possible if the inclusionary mechanism requires 20 percent set-asides for affordable housing. (LESCAZ)

**Response:** The Inclusionary Housing program will apply to designated areas within the rezoning boundaries. The 343 affordable units represent approximately 20 percent of the total projected residential floor area, as calculated from these Inclusionary Housing program areas only. Comparing the number of incremental affordable units (343) to the incremental total units (1,322) is not a relevant comparison for the purposes of assessing the 20 percent threshold.

**Comment 25:** In order to help the community better understand the effects of the rezoning and analysis used in the EIS, DCP should create a model that should highlight the following characteristics for review by the public: Housing, Green Space, Projective Commercial Spaces, Impact on Schools, Traffic congestion and Parking provided, and Soft Sites. (210Stanton)

**Response:** Comment noted The various analyses for the EIS will be in accordance with the *CEQR Technical Manual* guidelines.

#### LAND USE, ZONING AND PUBLIC POLICY

**Comment 26:** The EIS should include a detailed description of the location and extent of current commercial and retail uses below Houston Street. This information should be used to develop appropriate use regulations to curb the proliferation of hotels and nightlife establishments. (Duane, CB3, LESCAZ)

**Response:** In accordance with the *CEQR Technical Manual*, existing conditions will be examined in the EIS for the year 2005/2006, and the EIS will include a detailed description of land use conditions in the rezoning area using current conditions as existing conditions. However, as described in the Final Scope, the EIS will also contain a review of land use conditions and trends proceeding the existing condition year, with particular focus on the years between 2000 and 2006. With respect to the proliferation of hotels and nightlife establishments, see the responses to Comment 14 above and Comment 30 below.

**Comment 27:** The “Sliver Law” [Z.R. 23-692, which limits building heights on narrow sites] should be implemented on the streets below Houston Street, because the proposal as currently designed puts existing buildings in jeopardy. (Gerson)

**Response:** Section 23-692 of the *Zoning Resolution* generally restricts new developments or enlargements to a maximum building height that does not exceed the width of the street in which the site is located. Because the streets below Houston Street

are generally narrow—50 feet wide in most cases—and because many of the sites in the area would be subject to this provision, DCP considers the resulting building height limit to be potentially restrictive in the context of the proposed density limits (4.0 maximum FAR for R7A districts).

**Comment 28:** The DCP proposal calls for a text change to extend the currently established regulations for qualifying uses in existing R7-2 district to those same uses in R8B districts, thereby allowing most non-conforming commercial establishments to return to mid-block areas even after discontinuance. This discontinuance provision has led to the rampant proliferation of bars on quiet residential streets. I would strongly recommend that before that text change is implemented, the EIS should evaluate whether this provision has been used disproportionately by bars and restaurants, or if it has accomplished what I consider to be its original purpose of encouraging a healthy mix of neighborhood retail uses. (Mendez)

**Response:** Comment noted.

**Comment 29:** The proposal includes excessive upzoning throughout the area, which should be scaled back or eliminated. The proposed densities and building heights, including those mapped for Second Avenue, First Avenue, Avenue A, Avenue B, Avenue C, Delancey Street, Chrystie Street and Houston Street are too much and will only contribute to the continued destruction of the neighborhood’s historic character and residential displacement. The existing 3.44 FAR should be preserved on these streets to counter ongoing development that is out of character and speeds up gentrification. (LESRRD, BAN).

To maintain the low-rise affordable character of the East Village the project should not include any upzoning. Upzoning in the East Village will “encourage more luxury housing and more upscale commercial establishments, displacing moderate- and low-income residents and commercial establishments. (CSEV)

The proposal should include a more reasonable zoning to R7B along Houston Street, Delancey Street, Chrystie Street and Avenue D, with an inclusionary housing bonus to a maximum 4 FAR (LESRRD).

**Response:** As noted in the Final Scope, the DEIS will disclose any significant, adverse impacts resulting from the proposed actions, identify mitigation measures for such impacts, and consider a reasonable range of alternatives to the proposed actions. Preserving the existing 3.44 FAR is contrary to the goals and objectives of the rezoning, which include mapping contextual districts to encourage development to reflect the established neighborhood character, while providing opportunities for the development of affordable housing in appropriate locations. Specifically, the proposed actions include changing existing R7-2 and C6-1 districts to a mix of R7A, R7B, R8A, R8B, C4-4A, C6-2A and C6-3A

districts. Therefore the Draft Scope does not contemplate zoning districts that maintain the existing zoning or that result in areas being down-zoned, with the exception of a small R7B district south of Tompkins Square Park.

## SOCIOECONOMIC CONDITIONS

**Comment 30:** The EIS should include and provide detailed information regarding the location and extent of current commercial and retail use below East Houston Street so that appropriate use regulations can be developed in accordance with areas that contain commercial establishment uses that provide living wages, but curbs the current proliferation of commercial hotels and nightlife establishments. (CB3)

The EIS should include and provide detailed information regarding the location and extent of current commercial and retail uses below Houston Street so that appropriate use regulations can be developed in accordance with areas that contain commercial establishment uses. (Duane, LESCAZ)

**Response:** The EIS will discuss commercial and retail uses below East Houston Street in Chapter 2, “Land Use, Zoning, and Public Policy,” and in the study area generally in Chapter 3, “Socioeconomic Conditions.” Although the proposed actions would not introduce use regulations to restrict the development of hotels and nightlife establishments, they would decrease the expected amount of retail space and hotel space on projected development sites by 13,520 square feet and 60,918 square feet, respectively, compared to the future without the proposed actions.

**Comment 31:** We are particularly concerned about the role that the rezoning might have on increasing the rate of gentrification in Chinatown through primary and secondary displacement of low-income tenants and small businesses from the community, and urge the Department of City of Planning to take these concerns strongly when defining the scope of the EIS and also in the final decisions on how the Lower East Side will be rezoned. (CTU)

**Response:** The socioeconomic chapter will assess the potential for the proposed actions to result in the direct or indirect displacement of area residents and businesses within a quarter-mile radius. Typically, the socioeconomic study area boundaries are similar to those of the land use study area (see *CEQR Technical Manual*, p. 3B-3.). The study area size also depends on project size and area characteristics. When the data to be used include geographic units such as census tracts or zip code areas, it may be appropriate to adjust the study area to make boundaries contiguous. A portion of Chinatown is located within the socioeconomic conditions study area (see Figure 8 of the Final Scope), and will be included in the study.

**Comment 32:** The EIS should assess the potential socioeconomic changes and impacts on our neighborhood character if 30 percent of all new housing created were affordable. (GOLES)

**Response:** Under the R7A/C6-3A with Inclusionary Alternative, the RWCDs estimates that approximately 29 percent of all new housing units constructed on projected development sites would be affordable. The EIS will qualitatively examine the socioeconomic effects of this alternative in Chapter 23, “Alternatives.”

**Comment 33:** The Lower East Side is currently a mixed-income community and therefore the effects of income segregation should be analyzed in the Socioeconomic Conditions section. (GOLES, LESCAZ)

**Response:** The proposed actions are designed to maintain a mixed-income community in the rezoning area by means of an Inclusionary Housing program text amendment. This program would apply in areas throughout the rezoning area to any districts zoned R8A and C6-2A along Houston Street, Avenue D, Delancey Street, Chrystie Street and portions of Pitt Street and Second Avenue. The proposed actions would result in affordable units on a number of projected development sites throughout these districts. As such, these units would not be concentrated in any one place. In addition, the combination of zoning and tax incentives strongly encourages the creation of affordable units and market-rate units on the same site.

**Comment 34:** In order to maximize the amount of affordable housing in the plan, Inclusionary Zoning (IZ) needs to be studied in greater depth. I recommend Inclusionary zoning be mapped more consistently to include, for example, Allen, Forsyth, Chrystie, and Essex Streets. (Gerson)

The EIS should study the community’s proposal for the use of Inclusionary Zoning throughout the rezoning area. The EIS should study the impact of Zone R7A base FAR 3.45 with 4.6 FAR inclusionary zoning for First and Second Avenues, Avenues A, C, and D, Forsythe, Essex, and Allen Streets. In addition, the EIS should provide sufficient data to fully analyze to number of lower income units that could be produced on all narrow streets if the areas were zone for R7B with inclusionary zoning. (GOLES)

In addition to assessing the impacts of Inclusionary Zoning, the EIS should also identify publicly owned or controlled sites available for construction of affordable housing. (GOLES)

Commit to using publicly-owned sites to create another 1,000 affordable units, expand and recreate the inclusionary to any commercial development. (LESCAZ)

We urge DCP to do an analysis of the number of mixed income housing units that could be developed per CB3’s inclusionary zoning proposal, which would



map R7A with a base FAR of 3.45 and with a 4.6 FAR inclusionary zoning for all wide streets (with a width of 75 feet or more), north and south of Houston Street, except for Houston Street, Delancey Street, and Chrystie Street, which can accommodate higher FAR. (EVCC, CSC, LESCAZ)

The community requests that the EIS provide sufficient data to fully analyze the number of lower income units that could be produced on all narrow streets north and south of Houston Street if the area(s) were zoned for R7B with inclusionary zoning, instead of R7A. (LESCAZ)

**Response:** The EIS will examine an R7A/C6-3A with Inclusionary Alternative, which is substantially similar to the proposal in CB3's 11-Point Resolution (see response to Comment 1). The R7A/C6-3A with Inclusionary Alternative would map R7A districts with inclusionary housing program areas along the wide avenues above Houston Street (Second Avenue, First Avenue, Avenue A, Avenue C) and C6-3A districts with inclusionary housing program areas along the west side of Chrystie Street. Like the community's proposal, the R7A district in this alternative would have a base residential FAR of 3.45 up to a maximum FAR of 4.6 by utilizing the inclusionary housing bonus and a community facility FAR of 4.0.

This alternative seeks to achieve the same overall goals and objectives of the proposed actions, while responding to concerns expressed by Manhattan CB3, elected officials and members of the public regarding the potential effects of new development that would continue to drive housing costs upward.

R7B zoning with inclusionary zoning is not currently proposed for all narrow streets north of Houston as part of the proposed actions or the alternatives. The purpose of this EIS is to analyze the potential environmental impacts of the proposed actions under consideration. Therefore, an analysis of the number of lower income units that could be produced with R7B zoning with inclusionary housing on narrow streets is outside the scope of this EIS.

**Comment 35:** The EIS should fully analyze the extent of direct and indirect residential displacement caused by the lack of housing affordability and tenant harassment that rezoning is likely to create in the neighborhood. (LESCAZ)

The EIS should include an analysis of displacement for the rezoning area. [Part of CB3's 11-point plan.] (CB3, EVCC, AAFE, US, LESCAZ, Epstein, Weiss, Gonzalez)

The ongoing displacement of residents and of artists within the community is a concern. (Radcliffe)

Secondary displacement of residents needs to be taken into consideration as part of the proposed rezoning. (Howard)

The rezoning plan needs to be able to meet the community's need for housing without displacing long-time area residents. (Rodriguez)

**Response:** The EIS will analyze the potential for the proposed actions to result in direct and indirect residential displacement in accordance with *CEQR Technical Manual* methodology. The assessment of indirect residential displacement assumes that the mechanisms for displacement are legal. Although tenant harassment is a concern in this area, it is an illegal mechanism for displacement and, therefore, it is outside the scope of this EIS. If a detailed analysis is required for indirect residential displacement, regulations that protect tenants from harassment will be identified and discussed.

**Comment 36:** DCP should use groups like University Settlement, Cooper Square Committee, and Good Old Lower East Side as sources of information for the EIS' study of Socioeconomic Conditions. (LESCAZ)

**Response:** The socioeconomic conditions analysis will be conducted in accordance with *CEQR Technical Manual* methodology and will present sufficient information to assess the potential impacts of the proposed rezoning on socioeconomic conditions in the rezoning area and surrounding study area. Data sources are anticipated to include the 2000 Census, with more updated information to be provided by the New York City Department of Finance, local and national real estate agencies, Dun & Bradstreet business profiles, and other sources, as appropriate.

**Comment 37:** The EIS should fully analyze the likely impact development will bring in constraining housing and business opportunities to low- to moderate-income people. DCP should consider the income segregation that is likely to be generated by the proposed concentration of affordable housing in one part of the neighborhood (Avenue D and Pitt Street). (LESCAZ)

We are concerned that DCP's proposed rezoning is promoting geographic segregation of low income housing production in the southern and eastern sections of the Lower East Side. The prospect that no new low income housing is likely to be built between 1st and 13th Streets and between the Bowery and Avenue C as a result of this rezoning is very disturbing. Developers should be encouraged to build affordable housing throughout our neighborhood. (CSC, LESCAZ)

The people of Pitt Street recognize that we need more affordable housing in our community. Many of my neighbors are doubled and tripled up. However, we ask that you distribute the housing throughout the Lower East Side and not just put it all in taller buildings next to public housing and on Delancey and East Houston Streets. (Rodriguez)

**Response:** The proposed actions are designed to expand housing opportunities for low- to moderate-income people by allowing for the development of 348 more affordable units compared to the future without the proposed actions. The

proposed actions would result in a 74,439-square-foot reduction in the total amount of commercial space compared to the future without the proposed actions. The EIS will assess the potential impacts of the decrease in commercial space.

The proposed actions do not propose a concentration of affordable housing along Avenue D or Pitt Street. The Inclusionary Housing program allows for the development of affordable units onsite, within the community district or up to a half mile from the project site in adjacent community districts. The districts providing for an Inclusionary Housing program bonus in the EV/LES proposal are broadly distributed throughout the rezoning area and allow for the development of affordable units in a nearly three square mile area in all of Community District 3 and portions of Community Districts 1, 2, 5 and 6. The combination of the Inclusionary Housing program bonus with tax incentives, such as 80/20, encourage the development of on-site affordable housing and further integrates affordable and market-rate housing.

Projected development sites fronting along Avenue D and Pitt Street are expected to be developed with 423 dwelling units, of which 85 would be affordable. These 85 affordable dwelling units represent approximately 25 percent of the total number of affordable units; the remaining 75 percent would be located throughout the rezoning area and not concentrated in any one location.

**Comment 38:** The EIS should include housing affordability as a distinctive neighborhood character of the Lower East Side that deserves considerations in the EIS. (LESCAZ)

Affordability for both residents and local businesses is critical and should be a consideration of the rezoning proposal. (Velazquez, Pratt)

**Response:** The EIS will analyze existing demographic characteristics such as: average median income, housing value, and contract rent, as well as the percentage of persons living below the poverty level using 1990 and 2000 Census data. Additionally, the total amount of NYCHA public housing (New York City Housing Authority) units will be assessed. As required by the *CEQR Technical Manual*, the EIS will address whether or not the proposed actions would introduce a substantial amount of a more costly type of housing compared with existing housing and that expected to be built in the study area in 2017. This discussion will include more recent (post-2000 Census) data acquired from local real estate resources.

**Comment 39:** The EIS should analyze the prospects for small, non-chain commercial establishments, and how they are likely to change through new development encouraged by rezoning. (LESCAZ)

**Response:** In accordance with *CEQR Technical Manual* methodologies, the EIS will examine the potential for the proposed actions to result in direct or indirect business displacement. The proposed actions would include a zoning text amendment to protect existing ground-floor commercial uses that currently exist as legal non-conforming uses in the existing zoning districts.

**Comment 40:** The community requests 30 percent affordable housing. [Part of CB3’s 11-point plan.] (Gerson, Mendez, Velazquez, Duane, CB3, LESCAZ, GOLES, 210Stanton, CityLore, Epstein, Gonzalez)

At least 30 percent of the floor area developed of the projected increase in built residential FAR will be for permanently affordable housing available to households at or below 80 percent of the area median income under a tiered system where lower income households will also be accommodated in fair proportion. (CB3)

LESCAZ and CB3 are calling for an upfront goal of 30 percent housing to be permanently affordable to local residents at low- to moderate-income level, which if the draft scope projection of development is accurate would yield about 1,100 units. (LESCAZ)

There is a great need for more housing and particularly for more affordable housing within the East Village and Lower East Side rezoning area; for this reason the City should commit to using publicly-owned sites to create 1,000 affordable units, to “expand and recreate the inclusionary [districts] to any commercial development, and extend anti-harassment provisions” over the area. Additionally, the City should set aside public land and public funds to assist in the creation of affordable housing. (LESCAZ)

If the development scenario will not result in this minimum production, the City should make available development or preservation sites to achieve this threshold. [Part of CB3’s 11-point plan.] (Gerson, Mendez, Duane, Velazquez, GOLES, 210Stanton, CityLore, LESCAZ, Epstein, Gonzalez)

The proposed rezoning should provide for a greater amount of and more geographically-distributed affordable housing throughout the neighborhood, particularly because this area has long been known as a neighborhood of integrated incomes. (Mendez, LESCAZ, CB3, GOLES, LESTM, 210Stanton, CSMHA, US, Rodriguez)

Inclusionary housing should be included on Allen, Forsyth, Chrystie and Essex Streets. (Gerson)

The EIS should provide ample data to analyze the number of lower income units so that we could maximize the amount of affordable housing in the rezoning. (Gerson, 210Stanton)

The community wants the EIS to address the impact that new development generated through rezoning is going to have in housing affordability in the Lower East Side. LESCAZ urges DCP to look at alternative inclusionary zoning options and analyze how much more new housing, both low income and market rate units, could be created. (LESCAZ)

According to the draft scope, DCP only calls for inclusionary housing to be mapped in 10 percent of the area and anticipates the development of a mere 343 units of affordable housing-only 9 percent of the units projected. The community plan calls for an upfront goal of 30 percent affordable housing. The community plan calls for the implementation of inclusionary housing on all streets or avenues of 75 foot width or more. That would more than double the area included. This alternative must be studied. (Mendez)

**Response:** The EIS will examine an R7A/C6-3A with Inclusionary Alternative, which is substantially similar to the proposal in CB3's 11-Point Resolution. The R7A/C6-3A with Inclusionary Alternative would map R7A districts with inclusionary housing program areas along the wide avenues above Houston Street (Second Avenue, First Avenue, Avenue A, Avenue C) and C6-3A districts with inclusionary housing program areas along the west side of Chrystie Street. Under the R7A/C6-3A with Inclusionary Alternative, the RWCDs estimates that approximately 29 percent of all new housing units constructed on projected development sites would be affordable. The inclusionary housing program requires that these new units remain affordable for the life of the development compensated with bonus floor area. The EIS will qualitatively examine the potential effects of this alternative in Chapter 23, "Alternatives." The EIS does discuss the ownership of all properties in the rezoning area and what sites, public or otherwise, are suitable for affordable housing outside of those identified in the RWCDs. In addition, as part of the proposed actions, HPD is proposing the disposition of a City-owned property located at 302 E. 2<sup>nd</sup> St. to facilitate the creation of 23 affordable units.

**Comment 41:** I am concerned that 80 percent of Area Median Income (AMI) as established by HUD (U.S. Department of Housing and Urban Development) is unacceptably high. Any rezoning in the Lower East Side needs to take the income levels of its residents into account. (Gerson)

Allow developers to combine the inclusionary zoning bonus with the City's affordable housing subsidy program, but require those who combine density bonus and subsidy to include more affordable units than the minimum that wither would require on its own. (LESCAZ)

**Response:** Under the proposed Inclusionary Housing program, developments providing affordable housing are eligible for a floor area bonus, within contextual height and bulk regulations tailored to these areas. The inclusionary housing program is a citywide program with a consistent set of rules easily administered by HPD.

The program is designed to maximize the ability to provide affordable housing for low, moderate, and middle income New Yorkers. The rules require that housing be affordable to households earning up to 80 percent of the area median income. Different affordability levels would be inconsistent with City policy.

In addition to the density bonus provided by inclusionary zoning, subsidy programs are typically used to foster the development of affordable housing. Many of these programs target families with incomes at 50 percent and 60 percent of AMI.

**Comment 42:** It is critical that DCP conduct a comprehensive assessment of the make-up and status of the current housing stock and residential base. The rezoning must take this current make up in account in order to ensure preservation of all current affordable housing and any new affordable housing creation must be accessible and tailored to current very low-, low- and moderate-income residents. (CTU)

Because housing is the number one priority of this community, which has and continues to suffer from dramatic displacement of its low and moderate income residents, we can not afford to undertake this rezoning effort without maximizing the opportunity to reinstate a sizeable number of the affordable housing units lost over the past eight years. The mixed income character of this community is at stake, and government intervention is critical to seeing that the heritage of the Lower East Side does not completely disappear. (Mendez)

**Response:** The EIS will analyze existing demographic and housing characteristics such as average median income, housing value and contract rent, and the percentage of persons living below the poverty level using 1990 and 2000 Census data. Additionally, the total amount of NYCHA (New York City Housing Authority) public housing units will be assessed. In accordance with the *CEQR Technical Manual* guidelines, the EIS will address whether or not the proposed actions would introduce a substantial amount of a more costly type of housing compared with existing housing and that expected to be built in the study area by 2017. This discussion will include more recent (post-2000 Census) data acquired from local real estate resources. The proposed actions are designed to maintain a mixed-income community in the rezoning area by means of an Inclusionary Housing program text amendment. This program would apply along the major transportation corridors throughout the rezoning area, establishing incentives for the creation and preservation of affordable housing in conjunction with new development.

**Comment 43:** By incorporating the CB3 “11-Point Plan” the City can have a more positive and more far-reaching impact with regard to the production of affordable housing as well as the preservation of existing rent-regulated housing. Additionally, creating larger areas for inclusionary housing incentives and integrating those

incentives across the entire rezoning area will more effectively promote the Mayor's goal of 165,000 affordable housing units. (CSC)

**Response:** This comment refers to the requests made in the CB3 11-Point Resolution. See the response to Comment 1.

**Comment 44:** The EIS should study "the implications of upzoning areas with culturally and economically diverse populations and rent stabilized buildings. (EVCC, LESCAZ)

**Response:** The EIS will analyze socioeconomic conditions in accordance with the *CEQR Technical Manual* guidelines.

**Comment 45:** The EIS should "fully analyze" the impact of development in terms of "constraining housing and business opportunities" for low- and moderate-income people. (LESCAZ)

**Response:** The EIS will analyze socioeconomic conditions in accordance with the *CEQR Technical Manual* guidelines.

**Comment 46:** In keeping with LESBID's goal of promoting commercial activity in the Lower East Side for a "Creative Economy", we recommend a strategy to attract and develop a consistent daytime working population to the area, for creative ways to fund public realm improvements (such as the median-maintenance fund along Allen Street described above), and for the fostering/retention of artisan- and custom-manufacturing activities as described by Use Group 11 uses. One of the ways these goals can be met is the use of C6 districts rather than C4 districts as currently proposed; we believe Use Group 11 (permitted in C6 but not C4 districts) is "important to encouraging the creative economy and supporting the work of existing businesses in this district" (LESBID, AMiller, MMiller, Levy)

**Response:** See the response to Comment 4 above.

**Comment 47:** Given the area's recent "tremendous growth," DCP should consider the effectiveness of zoning with incentives as offered by the Empire Zone program as a way to attract daytime businesses. (Levy)

**Response:** See the response to Comment 1 above.

**Comment 48:** Incentives for "large scale housing by the City" should include provisions for residential development that includes permanently affordable housing units, community facility development that is appropriately scaled to the neighborhood and commercial development that provides legitimate employment. (CB3)

**Response:** This comment substantially reflects the requests described in more detail in the CB3 11-Point Resolution. See the response to Comment 1.

### **COMMUNITY FACILITIES**

**Comment 49:** While this rezoning would prohibit community facility bonuses, provisions should be implemented for single long-standing facilities that will positively impact our community. (Gerson)

The zoning advantage (FAR) currently applicable to community facility uses should be addressed and should no longer be in effect. (Velazquez)

The proposed rezoning would make community facility development more difficult and more expensive, thereby stifling the development of these valuable resources. The draft scope fails to account for the adverse effect on community facilities caused by the reduced FAR and limited building envelope provided in the proposed rezoning. The EIS should analyze the net decrease of community facility space that would result from the proposed rezoning. If these impacts are not mitigated, the health and fabric of the Lower East Side will be irreparably damaged. (ArchdioceseNY)

**Response:** Under the current zoning, the maximum permitted FAR for community facilities is appreciably higher than that for residential uses, which disparity has resulted in the kind of out-of-character development that this rezoning proposal aims to preclude. In keeping with the goal of preserving the mid-rise character of the East Village and Lower East Side neighborhoods, the proposed rezoning would result in a decrease in the maximum FAR permitted for new community facility uses in the affected study area. However, the proposed FARs and zoning envelopes would continue to provide opportunities for expansion and growth of community facilities. The proposed zoning would not prohibit new community facilities from being constructed in the future. As discussed in the Draft Scope, the proposed actions would not result in a loss in community facility space in the rezoning area; community facilities such as public and private schools, houses of worship, libraries, and post offices, were excluded from the RWCDs because they are not expected to be redeveloped under the proposed actions.

### **OPEN SPACE**

**Comment 50:** Community gardens, as well as community-accessible green roofs, are not only refuges for community members, but are key in offsetting the urban heat island effect, absorbing CO<sub>2</sub>, and other particulate matter, and are directly correlated with the Mayor's Plan 2030 to increase communities' access to green space. DCP should consider extended support and protection for existing community gardens in CB3. (CSC, LESCAZ)



**Response:** As discussed in the Draft Scope, community gardens were excluded from the RWCDs because they are unlikely to be redeveloped as a result of the proposed rezoning.

**Comment 51:** The EIS should consider the use of green roofs with tenant access to balance demand on open space. DCP could develop requirements for green roof construction and maintenance in new buildings and creating incentives that would encourage their addition in existing buildings. (LESCAZ)

DCP should analyze the resulting demand for open space based on the resulting new developments and additions anticipated by the rezoning in the EIS. (LESCAZ)

**Response:** As discussed in the Draft Scope, an assessment of open space will be conducted pursuant to *CEQR Technical Manual* methodology. Generally, green roofs and related requirements could be addressed as part of PlaNYC 2030, a design for the sustainability of New York City introduced by the Mayor in 2007, and are outside the scope of the East Village/Lower East Side Rezoning EIS.

## SHADOWS

**Comment 52:** I fear that if developers are allowed to build to 120 feet on parts of Pitt Street this height would impose a permanent shadow on the public housing units on my street. (Rodriguez)

The proposed higher-density district threatens to bring negative effects of shadows. (Rodriguez)

The rezoning plan will create greater impacts regarding shadows. (DeAngelis)

**Response:** The shadows analysis will be conducted pursuant to *CEQR Technical Manual* methodology, which specifies that the analysis of shadows focus on publicly accessible open spaces, sunlight-dependent features of historic resources or historic landscapes, and sun-sensitive important natural features. Shadows on public open spaces including parks will be fully described in the EIS. However, buildings without identifiable sun-sensitive features (such as stained glass windows), streets, sidewalks and private backyards are not considered sun-sensitive resources or important natural features according to the *CEQR Technical Manual*.

## HISTORIC RESOURCES

**Comment 53:** Complete a landmark survey of the entire rezoning area. All historic resources and potential historic resources should be surveyed within the area to be rezoned, and within a study area 400 feet beyond the boundary of the area to be rezoned. It is not sufficient to examine only those historic resources on or

around “identified” development sites. Identification of development sites is highly speculative, and could be incomplete or erroneous; it has not been subject to any substantive public review, and many factors could cause it to become obsolete over time. [Part of CB3’s 11-point plan.] (Duane, CB3, LESRRD, GVSHP, SAC, LESCAZ)

The entire East Village should be carefully surveyed, as it is a virtual treasure trove of historic resources, with relatively few of those resources either currently landmarked or listed on the state or national registers of historic places. The East Village contains a vast array of religious edifices, institutional buildings of special historic significance to immigrants, workers, and various ethnic groups, as well as theaters and other cultural venues of considerable social significance from the 19th and 20th centuries. Resources such as these should be identified and documented as part of the environmental review, and should be analyzed not just in terms of danger of their demolition, but the possibility of additions and alterations as well. (GVSHP)

The community also asks the EIS to look at the overall historical context of buildings and neighborhood, not simply at the architecture of single buildings. While our neighborhood lacks the grand architecture that has traditionally been the subject of landmarked buildings and districts, it is second to none in the city or, indeed, the country in its historic, cultural, social, and artistic significance. It is as deserving of protection as the grand mansions and apartment houses of other parts of the city. (LESCAZ)

**Response:** In accordance with *CEQR Technical Manual* guidelines, the entire rezoning area and the area within 400 feet of the rezoning area will be surveyed to identify officially recognized architectural resources and potential architectural resources that appear to meet one or more of the criteria for listing on the National Register of Historic Places. The architectural resources survey will assess the array of building types listed in the comment and will consider the area’s architectural, political, social, and cultural history. The EIS will describe all identified architectural resources, both known and potential, and will assess the potential for the proposed actions to have adverse direct physical impacts and indirect visual and contextual impacts on those resources. Potential impacts from development on the projected and potential development sites and projected and potential enlargement sites will be assessed.

**Comment 54:** The East Village as a whole, with its remarkable history of immigration, social justice movements, and cultural vitality, should be reviewed for potential historic district designation, as well as for possible designation of individual landmarks. (EVCC, GVSHP, SAC, Baldock)

**Response:** In addition to identifying any individual potential architectural resources, the EIS will consider whether the study area contains any potential historic districts

that appear to meet one or more of the criteria for listing on the National Register of Historic Places.

**Comment 55:** The area to be rezoned is outstanding in its history and architecture, the site of settlements and Dutch farms dating back to the 17th and 18th centuries. Some of the historic resources potentially affected date from the early 19th and possible the late 18th centuries, including a number of Federal row houses that are not designated landmarks. (SAC)

**Response:** See the responses to Comments 53 and 54 above.

**Comment 56:** The Bowery, one of our oldest thoroughfares, lies within 400 feet of the western edge of the area rezoned and there are many individual landmarks and historic districts along the Bowery whose context will certainly be affected by the wave of new construction anticipated under this rezoning. The Bowery should be surveyed for eligible as well as designated historic resources, in consultation with SHPO, with special attention to 134, 135, 136, 140, and 206 Bowery, as well as 133, 148, 151, 171, 173, 212, 219-221, 222-224, and 241 Bowery. (SAC)

**Response:** As it lies within the 400-foot study area, the Bowery will be surveyed for officially recognized and potential architectural resources and the EIS will assess the proposed actions' potential impacts on any identified architectural resources located along the Bowery. The identification of potential architectural resources will be done in consultation with the New York City Landmarks Preservation Commission in accordance with guidelines in the *CEQR Technical Manual*.

**Comment 57:** In August 2006, the Lower East Side Preservation Coalition submitted a Request for Evaluation to the New York City Landmarks Preservation Commission for the Lower East Side Historic District; a major portion of the proposed Historic District is in the Rezoning area. Within the Lower East Side Historic District, scores of nineteenth and twentieth century properties convey the story of immigrant homes, health, entrepreneur-ship, labor, education, and recreational life in New York City. Should the neighborhood's unique streetscape be lost, New Yorkers, as well as national and international visitors to the neighborhood will lose all context for its rich cultural history. I ask the Landmarks Preservation Commission to speedily designate a Lower East Side Historic District as a permanent reminder of the importance of immigrants to the this City. (LESTM)

**Response:** Comment noted.

**Comment 58:** The scope document states that impacts on historic resources will be considered for “identified development sites.” This appears to include the projected and potential new construction sites, but not the *projected and potential enlargement* sites. Given that the scoping document’s map of projected and potential enlargement sites contains several hundred such sites, such a methodology overlooks potential damage that could be done to valuable historic buildings if an additional floor or two are added. Such enlargements could damage architecturally significant cornices, parapet walls, lintels and other unique elements. (CSC, CityLore, LESCAZ)

**Response:** The EIS will consider potential impacts on architectural resources from development on both the projected and potential development sites and on the projected and potential enlargement sites.

**Comment 59:** The scope document should expand its study for impacts on historic resources. In recent large scale rezonings, the area impacted by accelerated land values has been more generalized than the limited study area. Subsequently, attempts at the preservation of noteworthy historic buildings in the general area but not within the study area are weakened because the resources have not been adequately considered. For example, Canal Street and the Bowery, which are just outside the study area, may experience greater development pressure due to height limits imposed within the study area, and so it is important to analyze buildings along these historic corridors to determine whether some are eligible for landmarking in order to preserve them from development pressures moving from the study area to adjacent sites. (Epps/Berman/Reaven, CSC, CityLore, LESCAZ)

**Response:** In accordance with *CEQR Technical Manual* guidelines, the EIS architectural resources study area will include the entire rezoning area and the area within 400 feet of the study area. As the Bowery lies within the 400-foot study area, it will be surveyed for architectural resources as described above in the response to Comment 56, and the EIS will assess impacts on architectural resources located along the Bowery. Canal Street lies more than 800 feet from the most southerly portion of the rezoning area and will not be included in the historic resources analysis.

**Comment 60:** The existing physical landscape of the study area contains a richly layered, complex history, representing many periods of significance due to the waves of immigration to our community and the overlapping areas of ethnic settlement. It is critical that the EIS survey of historic resources be completed by qualified consultants, in other words, urban historians with knowledge of New York City history, and, preferably, the area in particular. In the under-studied and under-Landmarked LES, the consultant can not rely on existing surveys, designations, and eligibility listings from state and city preservation agencies. The consultant

needs to be able to identify eligible buildings when significance is not obvious from the architecture, but is relevant due to their cultural significance. (CSC, CityLore, LESCAZ)

“Adequate funding” should be allocated to such a survey. (CSC, LESCAZ)

**Response:** The EIS historic resources analysis will be conducted by consultants who meet professional qualification standards for history and archaeology used by the National Park Service. The historian(s) will have either “a graduate degree in history or closely related field; or a bachelor’s degree in history or closely related field plus one of the following: 1) at least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or 2) substantial contribution through research and publication to the body of scholarly knowledge in the field of history (*Secretary of the Interior’s Standards and Guidelines*).” The archaeology consultant will meet similar guidelines. In addition, the consultants will be knowledgeable in New York City history and will consider cultural significance when compiling the inventory of potential architectural resources and preparing the archaeological documentary study.

**Comment 61:** In order to adequately survey this historically rich area, the consultants should confer with organizations and individuals from the various geographical sections of CB3 and the various ethnic sub-communities who are knowledgeable about historic resources in the area. This is especially important in those instances when LPC or S/NR eligibility cannot be determined from visible architectural evidence, and when other forms of historical evidence must be considered. (CSC, LESCAZ)

**Response:** The identification of potential architectural resources will consider, in addition to visible architectural evidence, the cultural, social, and political history of the area and of individual properties. A broad range of sources will be consulted, including city and neighborhood histories and other secondary sources, archives like those at Avery Architectural Library at Columbia, and surveys by local community groups.

**Comment 62:** To ensure that the consultant’s work continues to be useful over the ten-year development period that the EIS is addressing, it is important that the consultant’s report include brief descriptions of the reason for Landmarks Preservation Commission designation or State/National Register listing or eligibility for either. (LESCAZ)

**Response:** The EIS will describe the significant historical and architectural features of the study area’s officially recognized architectural resources. For the identified potential architectural resources, the EIS will provide information necessary for

the Landmarks Preservation Commission to evaluate each resource's significance and eligibility for Landmark designation and/or National Register listing.

**Comment 63:** In furtherance of the 11 point plan submitted to DCP by CB3, DCP should conduct an expanded historic resource survey so that resources can be adequately identified, and alternatives and mitigations properly considered by expert agencies. (LESTM, GVSHP, CityLore, Howard)

**Response:** Regarding the survey of historic resources, see the responses to Comments 1 and 2 above. The EIS will assess the potential for impacts on historic resources from the alternatives and will identify practicable mitigation for any identified significant adverse impacts to historic resources from the proposed actions and from the analyzed alternatives.

**Comment 64:** The proposed R8B for the remainder of the side streets still holds the potential to allow some rooftop additions that would likely destroy the consistent streetscape which characterizes so much of the East Village, likely result in the removal of cornices from and the addition of ungainly penthouses to buildings, and possibly assist in harassment of current residents of existing buildings to which penthouses would be added. (GVSHP)

**Response:** The EIS will assess the potential for adverse impacts on architectural resources from enlargements on the projected and potential enlargement sites.

**Comment 65:** The community's proposal for East Houston Street is preferable to the current proposal for C6-2A and R8A with an inclusionary zoning bonus, which allows up to 7.2 FAR and heights of up to 120 feet. In terms of the historic built character of the area, this is too great a height and density, and the community's alternative of a base FAR of 4.5 with an inclusionary zoning bonus to 6, and a height cap of 100 feet, is much more in keeping with the neighborhood character. The community alternatives for zoning for narrow streets as well as Houston Street are also much more likely to keep existing historic structures intact. (GVSHP)

**Response:** The EIS will assess the potential for the proposed actions to have adverse contextual and visual impacts on architectural resources.

## **URBAN DESIGN AND VISUAL RESOURCES**

**Comment 66:** I am concerned about the potential uniformity of the street walls and setbacks, particularly on Houston and Delancey Streets. I strongly urge variations in heights and density so that it does not appear that my district has a wall around it. (Gerson)

**Response:** Although the proposed R8A and C6-2A districts along East Houston and Delancey Streets would be identical in terms of overall and streetwall height and maximum allowable FAR, the RWCDs does not anticipate new development on all properties along these wide streets. A large number of existing properties would remain in their current condition, which includes residential and commercial buildings of varying height and bulk. The EIS will include a thorough analysis of the potential effects of the proposed actions on urban design conditions.

**Comment 67:** We are troubled by the scale of the proposed buildings. They are out of context with the surrounding community. (LESRRD, GVSHP, BAN)

The area should retain the low-scale buildings. (BAN)

**Response:** The EIS will evaluate the potential impacts of the proposed actions on the urban design and visual resources of the surrounding area, including streetscape and building form. To most conservatively evaluate potential impacts, the analysis will assume the maximum heights of buildings on development sites permitted under the proposed rezoning. Additionally, as noted in Comment 66 above, the RWCDs does not anticipate new development on all properties or on all streets. Many existing properties would remain in their existing condition, including a mix of residential and commercial buildings of varying height and bulk.

## NEIGHBORHOOD CHARACTER

**Comment 68:** The prominent historical characteristics of the Lower East Side include: architectural context, scale and density, housing affordability for immigrants and low-income people, ethnic/racial diversity, and a mix of uses. The overall built character is notable for its uniformity in terms of overall scale, street wall continuity, and built density. The EIS should analyze these existing characteristics combined now, and how they are likely to change through the new development encouraged by rezoning. (EVCC, LESCAZ)

The “luxury condo and ‘hospitality’ industry” are rapidly and negatively shifting the character of the neighborhood, from a “residential, working-class” neighborhood to “a tourist destination” bringing higher costs of living and “giving landlords incentives to harass long-term rent-stabilized tenants”. (Adams)

**Response:** As stated in the Draft Scope, the EIS will describe the predominant factors that contribute to defining the character of the neighborhood and analyze the combined impacts of land use, urban design, visual resources, historic resources, socioeconomics, traffic, and noise as a result of the proposed actions.

**Comment 69:** One of the defining characteristics of our neighborhood is that it has been a working-class, diverse and multi-cultural community for decades; the

neighborhood reflects a heritage and tradition that must be protected by zoning. (CSEV, BAN, Epstein, Brassell, Weiss)

**Response:** As noted in the response to Comment 68 above, the neighborhood character assessment in the EIS will use analysis procedures and impact criteria in the *CEQR Technical Manual*. An evaluation of potential changes in population will be considered in the assessment of socioeconomic conditions as they relate to neighborhood character.

**Comment 70:** The EIS should include an assessment of impacts on neighborhood character and community identity from the destabilization and/or demolition of buildings that provide historic context and continuity to the neighborhood, and the construction of new buildings that will be occupied by new and/or different uses. (EVCC)

**Response:** The EIS will include an assessment of impacts on historic resources and context in the assessment of neighborhood character. The assessment will also analyze the proposed actions' effects on urban design and land use as they relate to neighborhood character.

## **INFRASTRUCTURE**

**Comment 71:** The rezoning proposal increased allowable residential density. The resulting new development will increase demands for water supply and the water run-off overloading city sewer system. The EIS should include mitigation measures for such impacts through the implementation of high performance green building techniques, including water run-off systems. (LESCAZ)

The rezoning plan will create greater demands on the infrastructure, including waste management systems; mitigating measures need to be included in the proposal. (DeAngelis)

I urge you to seriously consider the effect of increased density on our already overburdened services. (Adams)

**Response:** As stated in the Draft Scope, the proposed actions would result in 1,345 dwelling units on 205 sites spread throughout the rezoning area. The EIS will contain an infrastructure analysis to determine the potential for this new development to affect the City's infrastructure, including its water supply and sewage and stormwater systems. The infrastructure analysis will include an assessment of the existing water distribution system and the existing sewer systems serving the rezoning area and will be undertaken in coordination with DEP regarding water and sewer system capacity and infrastructure issues in the area. If significant impacts are identified, mitigation measures will be developed and coordinated with DEP.



## ENERGY

**Comment 72:** In the context of climate change and its impacts with regard to citywide and community planning, implementation and monitoring, the EIS should include the following as part of its analysis: “adequate climate-related ‘baselines’; diverse incentive programs; time-bound targets for mitigation efforts, implementation and enforcement; a mix of community-based and citywide monitoring and evaluation procedures.” The Scope of Work should include direct language concerning the impacts on our community of climate change and mitigation potentials within the rezoning plan. The work should address the issues of the Urban Heat Island, increase ozone, CO<sub>2</sub> and particulate matter, elevated health risks for asthma, respiratory illness, heat stroke and other quality-of-life issues. (LESEC)

**Response:** Comment noted. The EIS analyses will be conducted in accordance with the methodology as specified in the *CEQR Technical Manual*, which does not include evaluation of climate change. The EIS will, however, include an analysis of the potential for certain air quality impacts as a result of the proposed actions.

**Comment 73:** Energy impacts represent an area in the environmental review that should be upgraded. New developments should employ the best available technologies with regard to green building techniques. (LESCAZ)

**Response:** Comment noted. In regards to employing green building techniques, see response to Comment 1.

## TRANSPORTATION

**Comment 74:** Traffic congestion is already a serious problem in the neighborhood, particularly at night. Our transit system, for example the Second Avenue (F line) subway station, is already overburdened. DCP should consider the impacts of the proposed actions’ increase in density on existing services. (Adams)

**Response:** As stated in the Draft Scope, the proposed actions would result in 1,345 dwelling units on 205 sites spread throughout the rezoning area. The EIS will contain an analysis of potential transit impacts as a result of this new development.

**Comment 75:** Please have the consultant justify the exclusion of Saturday peak hour traffic analysis. (DOT)

**Response:** Saturday peak hour background trips are fewer than weekday peak hour background trips; Saturday peak hour generated trips do not include office trips. A Saturday peak hour traffic analysis is not required for the proposed rezoning,

which is projected to yield an increase in residential units and a decrease in office space. These uses typically result in peak trip generation during the weekday commuter peak hours when background traffic levels are usually the highest, which is evident in and around the area of the proposed rezoning, where Saturday background traffic conditions are generally more favorable than during weekday commuter peak periods. Therefore, the weekday peak hours that will be studied in the EIS will result in a more conservative traffic analysis.

**Comment 76:** The scope of work described trip destination/assignment method which aggregates total vehicular peak hour trips for the projected development sites within up to 10 “zones”, assigns total trips to a centroid within each zone, and accumulates trips from each zone at intersections in the area on page 31. Please have the consultant provide a detailed explanation how these zones were created as well as a detailed map for these zones. (DOT)

**Response:** The approach described above was developed because the proposed rezoning area encompasses a large number of development sites, many of which would have a small to modest number of dwelling units, and each of which would have fewer than the *CEQR Technical Manual* screening threshold of 240 dwelling units for Manhattan, south of 60th Street. Eight zones were selected for trip distribution/assignment purposes. The boundaries of these zones lie on major north-south and east-west travel corridors in the area to ensure trips within each of the zones would be “collected” and assigned to key intersections within and around the rezoning area. The DEIS will include a figure illustrating the traffic study area and these zones.

**Comment 77:** Please provide preliminary travel demand assumptions (trip generation, distribution and assignments) for each of the weekday analysis peak hours. The preliminary planning assumptions will help define a traffic study area as well as identify study intersections to be included in traffic analysis. DOT would make the final determination of the study area and intersections based on the review of the preliminary travel demand assumptions. (DOT)

**Response:** Since the issuance of the EAS and the Draft Scope, a detailed transportation screening analysis was prepared for the proposed actions. Based on the transportation planning factors presented in this screening analysis, the proposed actions would generate more than 50 peak hour vehicle trips, the *CEQR Technical Manual* threshold warranting trip assignments be conducted to determine whether there would be 50 peak hour vehicle trips through any given intersection. The trip assignment results showed that although the proposed actions would generate more than 50 peak hour vehicle trips during all peak hours, there would not be 50 vehicle trips at any individual intersection in any peak hour. Based on the trip assignment results, it was determined that a

detailed traffic analysis would not be required per the *CEQR Technical Manual* and no intersections were selected for further evaluation.

**Comment 78:** Please have the consultant include the vehicular and pedestrian safety impact assessment (quantitative accident analysis) at high accident locations based on the review of the latest three-year accident data. (DOT)

**Response:** Since a detailed traffic analysis was screened out (see response to Comment 77), a vehicular and pedestrian safety impact assessment is not warranted pursuant to *CEQR Technical Manual* guidelines.

**Comment 79:** Please have the consultant include traffic and parking analysis in the Task 20 (construction). (DOT)

**Response:** As stated in the response to Comment 76 above, the proposed rezoning area encompasses a great number of relatively small to modest development sites. The construction of these sites would yield minimal construction activities that would be spread over a large rezoning area during the foreseeable future. The analysis reflects a Build Year of 2017. Similar to the conclusions made for operational traffic, construction traffic and parking analyses are not warranted.

**Comment 80:** The Scope of Work on Page 33 states, “We do not expect that the *CEQR Technical Manual* threshold of 200 peak hour pedestrian trips would be exceeded at any pedestrian circulation elements that would warrant a detailed analysis,” Please have the consultant provide pedestrian trip generation, distribution, and assignment to verify the above statement. (DOT)

**Response:** As noted previously, a detailed transportation screening analysis was prepared for the proposed actions subsequent to the publication of the Draft Scope. It projected transit trips allotments to various subways and bus routes, and the locations with the highest incremental pedestrian trips were identified. The results of the latter verified that the pedestrian analysis threshold set forth in the *CEQR Technical Manual* would not be exceeded; therefore, a detailed pedestrian analysis is not warranted.

**Comment 81:** Please have the consultant include details of the projected truck routes and operations from/to each of the proposed zones. (DOT)

**Response:** Truck trips will be assigned to New York City Department of Transportation (DOT) designated truck routes. Truck routes in the proposed rezoning area would include: First Avenue, Second Avenue, East Houston Street, Allen Street, Chrystie Street, Delancey Street, and Grand Street.

**Comment 82:** The EIS should study the specific impact that the proposed R8A will have on Avenue D and the transportation of this already underserved street. (GOLES, LESCAZ)

**Response:** Since the issuance of the EAS and the Draft Scope, a detailed transportation screening analysis was prepared for the proposed actions. Based on the transportation planning factors presented in the detailed screening analysis, the proposed actions would generate more than 200 peak hour trips, the *CEQR Technical Manual* threshold warranting further study of transit and pedestrians. Although the proposed actions would generate more than 200 peak hour transit trips (subway and bus) during all peak hours, they would be dispersed among numerous subway stations and bus routes. Therefore, the proposed actions would not generate enough subway, bus, or pedestrian trips to warrant the need for a detailed transit or pedestrian analysis.

## **AIR QUALITY**

**Comment 83:** Presently, the rezoning area is proximate to heavy pollution emission sources. The EIS should study the implementation of high performance green building techniques as an important mitigation measure, such as implementation of programs and incentives for pollution reduction for building heating systems. (LESCAZ)

The rezoning plan will: increase the amount of trapped and polluted air in the neighborhood; and increase neighborhood traffic; mitigating measures need to be included in the proposal. (DeAngelis)

**Response:** As discussed in the Draft Scope, the potential for air quality impacts from mobile (vehicular traffic) and stationary sources, including boiler emissions, will be assessed in the EIS following the procedures outlined in the *CEQR Technical Manual*. If significant impacts are identified, mitigation measures will be developed in coordination with DEP. Regarding green building techniques, this was also raised in the CB3 11-Point Resolution; see response to Comment 1.

## **MITIGATION**

**Comment 84:** The EIS should consider the following mitigation provisions that, if implemented, could mitigate adverse impacts of development generated by the proposed rezoning: 1) mitigate for adverse socioeconomic impacts including harassment of tenants and demolition of sound buildings by providing anti-harassment provisions and restrictions on demolition; 2) mitigate for adverse loss of historical resources of the neighborhood with the development of a thorough study of historic resources; and 3) mitigate for adverse environmental impacts including open space, infrastructure, energy, and air pollution by

implementing high performance green building techniques. For energy impacts and mitigation, such measures may include energy efficiency standards and incentives for construction; net metering implementation; efficiency programs for existing buildings; and green roofs with tenant access. (LESPMHA, EVCC, LESCAZ)

**Response:** As discussed in the Draft Scope, if significant impacts are identified in the EIS, mitigation measures will be developed and coordinated with the responsible City/state agencies, as necessary. Some of the components of the comment are also found in the CB3 11-Point Resolution; see response to Comment 1.

## ALTERNATIVES

**Comment 85:** The scope of the EIS must include the full evaluation of all alternatives necessary to maximize the goals of preservation contextual design and affordable housing without displacement, according to the balance struck by the community. (Mendez, LESCAZ)

The EIS should consider an alternative scenario: 1) to preserve neighborhood scale and character, by including a new inclusionary housing district (base 4.5 FAR, with bonus to 6.0 and a 100-foot height limit) on Houston and Delancey Streets, in accordance with Point 6 of the CB3 11-Point Plan; 2) for planning increased inclusionary housing districts in the rezoning area, by including an R8X or R8A inclusionary district on Chrystie Street, in accordance with Point 7 of the CB3 11-Point Plan; and 3) for maintaining neighborhood affordability and character, by providing for 30 percent affordability requirements, in accordance with Point #2 of the CB3 11-Point Plan. (LESCAZ)

**Response:** In addition to the proposed rezoning, the EIS will examine an R7A/C6-3A with Inclusionary Alternative, which is substantially similar to the proposal in CB3's 11-Point Resolution and would include expanded opportunities for the development of affordable housing. See also response to Comment 1.

**Comment 86:** We are submitting an alternate plan to be included in the DEIS. The plan's principles are as follows: 1) preserve the character of the East Village/Lower East Side; 2) do not upzone this community; 3) no inclusionary housing; 4) include the Bowery in this rezoning; and 5) rezone the area south of Houston from commercial to residential. (CSEV)

**Response:** As discussed in the Draft Scope, the EIS will examine a number of alternatives to the proposed actions, including: No Action Alternative, which assumes no area-wide rezoning or any elements of the other proposed actions, i.e., text amendments, mapping actions, etc., but includes as-of-right development from individual projects proposed by others in the proposed rezoning area; No Impact Alternative; Lesser Density Alternative; and R7A/C6-3A with Inclusionary Alternative, which would allow expanded opportunities for the development of

affordable housing. The alternative described in this comment would not meet the objectives of the proposed actions, one of which is the creation of incentives for affordable housing.

**D. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

**ELECTED OFFICIALS**

1. Honorable Nydia M. Velazquez, U.S. House of Representatives, 12th District, oral comments and written submission dated August 13, 2008 (Velazquez)
2. Honorable Sheldon Silver, Member of Assembly, 64th District, represented by Zach Bommer, written submission dated August 13, 2008 (Silver)
3. Honorable Rosie Mendez, New York City Council, 2nd District, oral comments and written submission dated August 13, 2008 (Mendez)
4. Honorable Thomas K. Duane, New York State Senate, 29th District, represented by Romeo Ymalay, written submission dated August 13, 2008 (Duane)
5. Honorable Alan J. Gerson, New York City Council, 1st District, oral comments and written submission dated August 13, 2008 (Gerson)
6. Honorable Scott Stringer, Manhattan Borough President, oral comments dated August 13, 2008 (Stringer)
7. Honorable Martin Connor, New York State Senate, 25th District, represented by Marty Algaze, written submission dated August 13, 2008 (Connor)
8. Anthony Feliciano, District Leader, 74th Assembly District, oral comments and written submission dated August 13, 2008 (Feliciano)
9. Honorable Deborah J. Glick, Member of Assembly, 66th District, written submission dated August 26, 2008 (Glick)

**COMMUNITY BOARDS**

10. Manhattan Community Board 3, Dominic Pisciotta, Chair, oral comments; Susan Stetzer, District Manager, oral comments and written submission dated August 13, 2008; David McWater, Task Force Committee Chair, oral comments; Rocky Chin, oral comments and written submission dated August 13, 2008; Eden Lipson, oral comments; Vaylateena Jones, oral comments and undated written submission; Thomas Parker, oral comments; David Silversmith, oral comments; Herman F. Hewitt, oral comments; Paul Bartlett, oral comments; John Fout, oral comments and written submission dated August 13, 2008; Carolyn Ratcliffe, oral comments; and John K. Leo, undated written submission (CB3)
11. Manhattan Community Board 2, Edward Ma, oral comments and written submission dated August 13, 2008 (CB2)

**ORGANIZATIONS**

12. Cooper Square Committee, Steve Herrick, Executive Director, oral comments and written submission dated August 13, 2008; Joyce Ravitz, Co-Vice-Chairperson, oral comments and written submission dated August 13, 2008; Georgina Christ, Board Member, written submission dated August 13, 2008; Jasmine Garcia, Board Member, oral comments and written submission dated August 13, 2008; Lois Slessinger, Board Member, oral comments and written submission dated August 13, 2008; and Lucille Carrasquero, Chairperson, oral comments and written submission dated August 13, 2008 (CSC)
13. Cooper Square Mutual Housing Association, Bartolomeu Dias, written submission dated August 13, 2008; and Valerio Orselli, Executive Director, oral comments and written submission dated August 13, 2008 (CSMHA)
14. Village Independent Democrats, Katharine B. Wolpe, President, written submission dated August 13, 2008 (VID)
15. City Lore, Marci Reaven, Managing Director, oral comments and written submission dated August 13, 2008 (CityLore)
16. Greenwich Village Society for Historic Preservation, Andrew Berman, Executive Director, oral comments and written submission dated August 13, 2008 (GVSHHP)
17. East Village Community Coalition, Katherine Spaulding, Managing Director, oral comments and written submission dated August 13, 2008; and Aaron Sosnick, oral comments (EVCC)
18. Bowery Alliance of Neighbors, Jean Standish, oral comments and written submission dated August 13, 2008; David Mulkins, Co-Founder, oral comments, and written submission dated August 13, 2008; Gertrude Foote, oral comments and written submission dated August 13, 2008; Phyllis Banek, oral comments and written submission dated August 13, 2008; Anna L. Sawaryn, Chair, oral comments and written submission dated August 13, 2008; Michele Campo, oral comments and written submission dated August 13, 2008; and Sally Young, oral comments and written submission dated August 13, 2008 (BAN)
19. Cooper Square Housing Development Fund Corporation, Patricia Kushner, Building Manager, written submission dated August 13, 2008 (CSHDFC)
20. Lower East Side Residents for Responsible Development, Rob Hollander, oral comments and written statement dated August 13, 2008 (LESRRD)
21. Coalition to Protect Chinatown/LES, Josephine Lee, oral comments and written submission dated August 7, 2008; open letter to Manhattan Borough President Scott Stringer dated August 7, 2008; Malcolm Lam, oral comments and written submission dated August 13, 2008; Lindsay Schubiner, oral comments and written submission dated August 13, 2008; Norma Ramirez, oral comments; and Susan Howard, oral comments (CPCLES)
22. Lower East Side People's Mutual Housing Association, Mary Spink, oral comments (LESPMHA)
23. Good Old Lower East Side, Inc., Damaris Reyes, oral comments; Maizie Torres, oral comments; and Marie Christopher, oral comments (GOLES)

## **East Village/Lower East Side Rezoning EIS**

---

24. Asian Americas for Equality, Christopher Kui, Executive Director, oral comments and written submissions dated August 13, 2008 and August 25, 2008; and Thomas Yu, oral comments (AAFE)
25. Lower East Side Tenement Museum, Renee Epps, oral comments (Epps)
26. Lower East Side Business Improvement District, Roberto Ragone, Executive Director, oral comments and written submission dated August 25, 2008; Mark Miller, President, oral comments; Erica Harrison, Vice President, undated written submission; Sion Misrahi, Board Member, undated written submission; Michelle Slocum, Board Member, undated written submission (LESBID)
27. Asian American Legal Defense and Education Fund, Stanley Mark, Senior Staff Attorney, oral comments and written submission dated August 13, 2008; and Margaret Fung, oral comments (AALDEF)
28. Chinese Staff and Workers Association, Ming Ho, oral comments; and Sky Wong, oral comments (CSWA)
29. New York Mission, William R. Jones, oral comments (Jones)
30. Judson Church, Jeff Mansfield, oral comments (Mansfield)
31. Public Housing Residents of the Lower East Side, Lisa Burriss, oral comments and written submission dated August 13, 2008 (PHRLES)
32. Lower East Side Coalition for Accountable Zoning, Angel R. Seda, oral comments (LESCAZ)
33. Civic Center Residents Coalition, written submission dated August 24, 2008 (CCRC)
34. Hunter College Center for Community Planning and Development, written submission submitted on behalf of Coalition to Protect Chinatown and the Lower East Side dated August 11, 2008 and August 22, 2008 (Hunter)

## **INTERESTED PUBLIC**

35. Thomas Birchard, proprietor, Veselka Restaurant, undated written submission (Birchard)
36. Mitchell Grubler, resident, written submission dated August 13, 2008 (Grubler)
37. Yolanda Hernandez, resident, oral comments (Hernandez)
38. Carmela Huang, resident, oral comments (Huang)
39. Yu Dan Wong, resident, oral comments (YDWong)
40. Madeleine Jackson, resident, oral comments (Jackson)
41. Frank Guglielmo, resident, oral comments and written submission dated August 18, 2008 (Guglielmo)
42. Ed Lewis, resident, oral comments (Lewis)
43. Steven Wong, resident, oral comments (SWong)
44. Jim Maisel, resident, oral comments (Maisel)
45. Robert Black, oral comments (Black)



46. Elizabeth Adam, oral comments and written submission dated August 13, 2008 (Adam)
47. Laure Tavers, written submission dated May 28, 2008 (Tavers)
48. Danielle Pessis, written submission dated August 14, 2008 (Pessis)
49. Hunter LeCompte, written submission dated August 14, 2008 (LeCompte)
50. Eve Stuart, written submission dated August 15, 2008 (Stuart)
51. L. Dixon, email dated August 19, 2008 (Dixon)
52. Jean Standish, written submission dated August 21, 2008 (Standish)
53. Marvin B. Mitzner, Blank Rome LLP (representing Magnum Real Estate Group), written submission dated August 25, 2008 (Mitzner)
54. Bob Levy, Harris Levy, Inc., written submission dated August 25, 2008 (Levy)
55. Rahmat Loyhayem, Majestic, written submission dated August 22, 2008 (Loyhayem)
56. Marilyn Garber, Bridge Gallery, undated written submission (Garber)
57. Rhonda Kave, Roni-Sue's Chocolates, written submission dated August 15, 2008 (Kave)
58. Arlene Miller, Ja-Mil Discount Uniforms, undated written submission (AMiller)
59. Jeffrey Ruhalter, Jeffrey's Meats, undated written submission (Ruhalter)
60. Bonnie Weinstein, Bonnie's, written submission dated August 22, 2008 (Weinstein)
61. Nina Werner, Valley, written submission dated August 22, 2008 (Werner)
62. Hans Kerremans, Tropical Salon, oral comments (Kerremans)
63. Avi and Sheila Freedman Saks, Shearl Realty, written comments dated August 22, 2008 (Saks)

**FORM LETTER**

64. LESBID form letter to CPC, various Lower East Side merchants, residents, and property owners, dated August 5, 2008 (LESBID Form)

**E. RESPONSE TO COMMENTS**

**PROJECT REVIEW PROCESS AND PUBLIC PARTICIPATION**

**Comment 1:** The DEIS for the East Village/Lower East Side Rezoning falls short of the requirements set forth in the CEQR regulations (Section 6-09 of the Executive Order No. 91) and does not provide the level of detail appropriate for a rezoning of this scale. (AALDEF, Mansfield)

**Response:** The New York City Department of City Planning (DCP) prepared the DEIS in accordance with all City Environmental Quality Review (CEQR) requirements.

## **East Village/Lower East Side Rezoning EIS**

---

**Comment 2:** At each stage of the process, planners must consider all interested parties, including small business owners and minority populations. The City needs to work with existing stakeholders to ensure a fair and just decision making process. The process should be inclusive and meet the language needs of the diverse community. (Velazquez)

It is regretful to say that there seems to have been not much direct communication between City Planning and Chinatown. (CB2, CSWA, SWong, YDWong)

This plan was created without the participation of most of the CB3 community. (CPCLES, Tavers)

We propose and support a new plan for the entire Community Board 3 that provides low-income housing and is based on community participation and community needs. (CPCLES)

The proposed plan should be accountable to the community. (CPCLES)

**Response:** The EIS process involves extensive public participation, including scoping. The Final Scope of Work, the Draft Environmental Impact Statement, and Final Environmental Impact Statement reflect community input, and include alternatives which respond to community concerns.

The FEIS has been updated to note that the proposed rezoning and associated actions are the result of three years of engaged dialogue with the Community Board, residents, local elected officials and civic organizations. The proposed actions are intended to realize two of this community's most pressing needs: preserving the established neighborhood scale and character and providing incentives for affordable housing.

**Comment 3:** The East Village/Lower East Side Rezoning process was conducted in a fair and open manner, and developed through a democratic process substantiated by over three years of numerous town hall and other public meetings. (CB3, GOLES, AAFE)

**Response:** Comment noted.

**Comment 4:** A full day, including an evening session for working residents, should be devoted to the public hearing on the East Village/Lower East Side Rezoning DEIS. (Stringer, LESRRD)

**Response:** The City Planning Commission (CPC) held a public hearing on the proposed project pursuant to the requirements of CEQR. That hearing was held on August 13, 2008. All attendees present were allowed to comment on the DEIS. Persons who could not testify on August 13, 2008 were permitted to submit written testimony to CPC on or before August 25, 2008. All comments received at the

hearing or during the comment period ending August 25, 2008 were considered in the preparation of the Final Environmental Impact Statement (FEIS).

**Comment 5:** I arrived at Vanderbilt Hall at 8:00 a.m. in order to be one of the first speakers and was not called to speak until 12:00 noon. Allowing people to be registered in advance is not fair to the public, especially to those who have to go to work, and gives the impression that the hearing is not a democratic process. I realize, of course, that the speaking position was dependent on whether I was speaking in support of the proposal or against, and that public officials were allowed to speak first. No one should receive preferential treatment, except public officials.

**Response:** The CPC conducted the hearing in a fair and impartial manner in accordance with the City's rules governing the practice and procedure of the CPC. Speakers indicated their position on the sign-in cards so that speakers could be scheduled in a balanced pro/con sequence. As noted by the commenter the only preferential treatment that CPC should provide is to elected officials, which is what in fact occurred. Allowing elected officials to speak first is a long-standing CPC policy, and was announced at the start of the hearing.

## **PROJECT DESCRIPTION, PURPOSE AND NEED**

### *DEFINITION OF REZONING AREA/DEVELOPMENT SITES*

**Comment 6:** A separate planning process should be undertaken for the Bowery and Chinatown. (Glick, CSMHA, Maisel, Jackson)

City and elected officials should devote resources to a full [separate] Chinatown rezoning process. (AAFE, Jones)

Chinatown should be protected but the current East Village/Lower East Side rezoning plan should not be delayed. (CB3, Dixon)

**Response:** Comment noted. In the event that DCP undertakes a zoning or planning study for the Bowery, Chinatown or any other adjacent area, that study would be implemented using the same general methodology and planning principles as applied in the East Village/Lower East Side rezoning and would similarly respond to feedback from the community.

**Comment 7:** The Bowery should be included in this rezoning. (CB2, BAN, Adam, Birchard, Guglielmo)

The Special Little Italy District should be extended to the east side of the Bowery to ensure contextual development on the Bowery. (BAN)

The scope of the proposed rezoning plan should be expanded to include the Bowery, the entire Chinatown community, and the entire Lower East Side community. (CPCLES, Adam)

The East Village/Lower East Side rezoning plan should include and protect the entire Community Board 3, including the areas not included in this plan such as Third and Fourth Avenues, the Bowery, and Chinatown. (Connor, CSC, CB2, CityLore, BAN, CSMHA, Birchard, Grubler, Tavers, Standish)

The Third to Fourth Avenue corridors and the Bowery should be included in the rezoning. (Pessis, LeCompte, Stuart, Dixon)

**Response:** The rezoning area encompasses the majority of CB3 that still exhibit the historic mid-rise character of the East Village and the Lower East Side. Areas redeveloped as high-density housing complexes—including Village View Housing and other high-density tower-in-the-park residential developments—or slated as such (the vacant Seward Park area south of Delancey Street) are not candidates for rezoning as they do not have the low- to mid-rise streetwall character that the proposed actions are meant to protect. Similarly, the area between Third and Fourth Avenues at and below East 13th Street is one that does not exhibit the consistent low- to mid-rise streetwall character widely established within the project rezoning boundaries. Additionally that area has different land use patterns and a more varied character resulting from its irregularly-shaped blocks and proximity to wide, busy streets. Therefore, these areas have not been included in the proposed rezoning. An evaluation of these areas in an alternative to the proposed actions is not warranted; as such a plan would not meet the goals and objectives of the rezoning.

With regard to Chinatown and the boundaries along the southern edge of the rezoning area—which were agreed upon by a number of the public stakeholders prior to the publication of the Draft Scope—existing zoning districts to the south including C6-1G and C6-2G districts signify relatively recent Commission actions that do not merit review at this time and that are not wholly consistent with the primary goals of the current proposal. The EIS therefore does contemplate expansion of the boundaries into that area.

Should the City undertake a future zoning or planning study for the Bowery, Chinatown or any other adjacent area, such study would be implemented using the same general methodology and planning principles as applied in the East Village/Lower East Side rezoning and would similarly consider feedback and stated needs as put forth by the community through general consensus.

**Comment 8:** DCP should conduct further investigation to determine the relevance of including Chrystie Street south of Delancey Street in the East Village/Lower East Side Rezoning proposal, and perhaps recommend that this part be excluded from this rezoning proposal and considered as part of a future rezoning proposal for Chinatown. (AAFE)

**Response:** The proposed rezoning and associated actions are the result of three years of dialogue with the Community Board, residents, local elected officials and civic

organizations. The proposed actions are intended to realize two of this community's most pressing needs: preserving the established neighborhood scale and character and providing incentives for affordable housing. One of the requests articulated in the CB 11-Point Resolution (see Comment 1 in the Comments/Responses section relating to the Draft Scope of Work) was a contextual district on Chrystie Street with "a base FAR of 6.0 with an IZ bonus to 8.0 and a maximum height of 150 feet (R8X) or as a R8A with IZ as proposed by DCP." DCP's modified proposal, as described in the modified applications submitted on July 3, 2008, takes this request into account, along with the analysis in this EIS under the R7A/C6-3A Inclusionary Alternative. The proposed C6-3A building envelope provides substantially similar requirements as those requested by the CB3 and establishes incentives for affordable housing in additional areas through the City's Inclusionary Housing program.

*FRAMEWORK FOR ENVIRONMENTAL REVIEW*

**Comment 9:** The DEIS states that tenement buildings are not included as potential sites because tenant protections prevent these buildings from being cleared. Although that is the intention such protections, every day in my office we get a call from a rent regulated tenant who is being forced out of his or her home either lawfully or unlawfully to make way for development. (Mendez)

**Response:** When formulating the projected and potential development sites for the reasonable worst-case development scenario (RWCDS), DCP applied standard development criteria as well as additional criteria that might be appropriate for a given site. Rent regulated dwelling units are afforded special protections against dramatic increases in rent, arbitrary evictions and service reductions. For this reason, there is no need to change the development scenario to include rent-stabilized or subsidized residential developments. Following *CEQR Technical Manual* guidelines, the Socioeconomic Conditions analysis considered the potential for significant adverse impacts due to direct and indirect residential displacement. This analysis concluded that the proposed actions would not result in any significant adverse socioeconomic impacts.

**Comment 10:** DCP should perform an environmental impact study and take measures to mitigate the negative impact already experienced by our community due to all of the excessive development on the Bowery. (BAN)

**Response:** A description of existing conditions and an analysis of potential impacts resulting from the proposed actions were included in the DEIS.

## **East Village/Lower East Side Rezoning EIS**

---

**Comment 11:** The DEIS failed to investigate the single most important determinant in evaluating the proposed rezoning: the availability of air rights throughout the rezoning area. (LESRRD)

**Response:** As discussed in the DEIS, DCP applied standard development criteria as well as additional criteria that might be appropriate for a given site. The potential for the transfer of air rights to develop tall out-of-scale buildings would be minimized in the future with the proposed actions due to the contextual zoning provisions, which include height limits that preclude the development of taller buildings on merged zoning lots.

### *POTENTIAL EFFECTS ON ADJACENT AREAS*

**Comment 12:** Adjacent neighborhoods have similar concerns regarding over-development and displacement and the desire to maintain the integrity of their neighborhoods. The City should address these concerns as soon as possible. (Velaquez, Stringer)

The proposed rezoning sets height caps that restrict development in the East Village but will shift development pressure to Chinatown and other Lower East Side areas left unprotected by the plan. (CPCLES)

The rezoning plan protects mostly the East Village while excluding most of Chinatown and the Lower East Side. Chinatown and the Lower East Side are in as much danger of over-development as the East Village. (LESRRD, CPCLES)

**Response:** As noted in the FEIS, the proposed actions are expected to result in substantial additional residential development in the rezoning area, over and above that which is expected in the future without the action. This additional development will be channeled to appropriate locations and will include a beneficial affordable housing component. The impacts of the additional development are analyzed in the FEIS. It is incorrect to state that the rezoning area is being “protected” at the expense of any other area.

### *PURPOSE AND NEED*

**Comment 13:** The East Village desperately needs a rezoning to help protect its scale, character, and sense of place. (GVSHP, CB3, Pessis, LeCompte, Stuart)

Over-development is destroying the very things that make our city unique and desirable. (Adam)

**Response:** One of the primary of the proposed actions is to preclude out of character development through mapping contextual zoning districts that better reflect existing conditions.

**Comment 14:** We need to preserve the neighborhood’s character while providing more opportunities for affordable housing. (LESCAZ)

**Response:** The proposed actions are an attempt to realize two of this community’s most pressing needs: preserving the established neighborhood scale and character and providing incentives for affordable housing.

*ZONING ACTIONS*

**Comment 15:** We support a maximum building height of 75 to 80 feet on streets and narrow avenues and 120 feet on the wider avenues designated for Inclusionary Zoning. (CSMHA)

We support a lower FAR in the areas designed for Inclusionary Zoning so that developers are not rewarded with greater bulk and density as-of-right. (CSMHA)

**Response:** The proposed rezoning and associated actions are the result of three years of engaged dialogue with the Community Board, residents, local elected officials and civic organizations. The proposed actions are an attempt to realize two of this community’s most pressing needs—preserving the established neighborhood scale and character and providing incentives for affordable housing—and DCP has worked carefully to balance these two goals based on existing built conditions, land use patterns and recent development trends.

**Comment 16:** We believe the higher-density commercial district should be eliminated entirely from Second Avenue and this avenue should be treated the same as other avenues in the East Village. (GVSHP)

The maximum building heights on East Houston Street should be lowered and the maximum development on lower Second Avenue should be same as all major avenues in the East Village. (Pessis, LeCompte, Stuart)

**Response:** The rezoning area east of Essex Street is predominantly residential with a substantial amount of community facility space and commercial uses—mostly in the form of street-level retail, along East Houston, Clinton, and Delancey Streets. The proposed actions are intended to promote future land uses at densities appropriate to the existing land uses and built character of the area.

**Comment 17:** Permanent affordable housing should be included but 145-foot maximum building heights per the C6-3A zoning amendment are too tall. (Dixon)

**Response:** The comment made here refers to modified elements of the proposal described for Chrystie Street under the R7A/C6-3A Inclusionary Alternative. This Alternative is consistent with the overall goals of the proposal and introduces expanded areas of affordable housing opportunities along portions of Chrystie Street, which had been identified as an appropriate corridor for affordable housing opportunities. The Inclusionary Alternative, where it would apply on Chrystie Street, would maintain contextual building envelope requirements

using available zoning district designations that closely match parameters described by the Community Board 3 11-Point Resolution. Establishing an inclusionary zoning district with more restrictive building form regulations would potentially decrease the amount of affordable housing generated by the proposed actions. Therefore, the FEIS maintains the R7A/C6-3A Inclusionary Alternative.

**Comment 18:** The inclusionary zones along Delancey and East Houston Streets, Avenue D, and lower Second Avenue should have a 100-foot height limit instead of 120 feet. (CSC)

A lower base FAR in the inclusionary R8A and C6-2A zones should be included so that developers aren't rewarded with greater bulk and density by building as of right with now low income housing included. DCP should amend the zoning text to lower the as of right 5.4 FAR in these zones to 4.5 and the inclusionary FAR should be 6.0 instead of 7.2. (CSC)

**Response:** To accommodate these requests would require the approval of one or more citywide zoning text amendments, the implications of which would require citywide analysis. The proposed actions include components that are similar in scale, if slightly higher than the requested framework(s), while at the same time introducing incentives to encourage the development of permanent affordable housing. The regulations of the proposed R8A district for the cited streets closely matches the requested parameters, while providing greater opportunities for affordable housing and remaining consistent with the proposal's goals and objectives. Therefore, the FEIS does not include the suggested zoning refinement.

**Comment 19:** The area south of East Houston Street, which has been inundated with bars and clubs, should be rezoned from commercial to residential. (BAN)

**Response:** One of the main goals of the proposed rezoning is to protect the low- to mid-rise streetwall character established throughout much of the neighborhood from out-of-scale development and the proposed rezoning would map contextual districts at densities appropriate to the existing land uses and built character of the area. As such, the rationale for the cited area prioritizes the establishment of contextual building requirements over any change in land use requirements. The proposed actions' continuation of the general use framework outlined by the existing zoning is appropriate given the established patterns and history of the area, and is additionally supported by the area's accessibility via mass transit. The EIS contains an analysis of existing uses as well as potential impacts as a result of the new development estimated to occur as a result of the proposed actions.



**Comment 20:** The current rezoning plan reduces the allowable FAR on side streets to 3 FAR on three blocks; we believe that many more side streets warrant this lower FAR. (GVSHP)

The plan provides inadequate protections for two-, three-, four-, and five-story buildings. (EVCC)

**Response:** The proposed actions include changing existing R7-2 districts to R7B districts along three adjacent midblocks south of Tompkins Square Park; this is the only component of the proposal that reduces the allowable residential FAR in the affected area. Consistent with the goal of mapping contextual districts in areas to more closely match the existing built character, this R7B district is complemented by new R8B districts in the remainder of the midblocks north of Houston Street. In the proposed R7B district, the number of substantially deep rear yards is higher than elsewhere within the rezoning area boundaries, resulting in reduced densities in this area. Given the existing built conditions and upon consideration of established community feedback requesting more widespread R7B districts, the proposed R7B district is appropriate for this area, and the proposed R8B district is appropriate for the remainder of the midblocks. Densities corresponding to the R7B and R8B districts are generally correlated with the respective height limits of those districts.

**Comment 21:** I only support the height restrictions and disagree with all other aspects of the plan. (Lewis)

**Response:** Comment noted.

**Comment 22:** The current C6-1 areas south of Houston Street need to maintain a commercial FAR of 6.0. (LESBID, Saks)

**Response:** The commenters' proposal does not meet the goals and objectives of the proposed actions. Consistent with the objectives of the proposed actions, the approach to the existing C6-1 area below Houston Street is to use available zoning mechanisms to encourage growth along the certain wide streets, in conjunction with an affordable housing incentive program, and establish contextual building controls consistent with the built character in the interior and along the side streets.

**Comment 23:** As an alternative to the current rezoning proposal, DCP could proceed with the C4-4A rezoning of the C6-1 areas south of East Houston Street from Forsyth to Pitt Street without the Inclusionary Zoning upzonings and delay the rezoning of the East Village until some protection is in place for Chinatown and the Bowery. (LESRRD)

**Response:** With regard to Chinatown and the Bowery and any adjacent areas near the south and southwestern boundaries of the rezoning area-which boundaries had been

agreed upon over three years prior to the publication of the Draft Scope-the existing zoning districts to the south, including C6-1G and C6-2G districts, signify relatively recent Commission actions that do not merit review at this time and that are not wholly consistent with the primary goals of the current proposal. The FEIS therefore does not contemplate expansion of the boundaries into that area. With regard to the Bowery, these areas do not generally exhibit the same, consistent low- to mid-rise streetwall character widely established within the project rezoning boundaries. These areas additionally have different land use patterns and more varied character resulting from their irregularly-shaped blocks and proximity to wide, busy streets.

In the event that the City undertake a future zoning or planning study for the Bowery, Chinatown or any other adjacent area, such study would be implemented using the same general methodology and planning principles as applied in the East Village/Lower East Side rezoning and would similarly consider feedback and stated needs as put forth by the community through general consensus.

**Comment 24:** The proposed rezoning should include affordable inclusionary zoning provisions on all of the wide avenues north and south of East Houston Street. (Feliciano, GOLES, PHRLES)

**Response:** The FEIS will examine an R7A/C6-3A with Inclusionary Alternative, which maps R7A districts with inclusionary housing program areas along the wide avenues above Houston Street (Second Avenue, First Avenue, Avenue A, Avenue C) and C6-3A districts with inclusionary housing program areas along the west side of Chrystie Street. Under the R7A/C6-3A with Inclusionary Alternative, the RWCDS estimates that approximately 29 percent of all new housing units constructed on projected development sites would be affordable. The FEIS will qualitatively examine the potential effects of this alternative in Chapter 23, "Alternatives."

With regard to the commenters' request for similar consideration on wide avenues south of East Houston Street, the proposed actions do not generally intend to change allowable uses. As such, the proposed actions intend to maintain the existing commercial character of these areas south of East Houston Street, by contextually rezoning existing C6-1 districts to C4-4A districts and C6-2A districts along the wide streets. Further, the establishment of floor area bonus mechanisms for residential uses in these areas would be inconsistent with that rationale.

**Comment 25:** We are very pleased to note DCP has modified the proposed rezoning to include inclusionary zoning provisions on all wide avenues north and south of East Houston Street; affordable housing should be mixed into all sections of our community and not just its periphery. (BAN)

**Response:** Comment noted.

**Comment 26:** The proposed zoning text change would create a commercial overlay over the entire East Village community, further eroding the residential character of this community and its “quality of life.” The text change should be deleted from this application. (BAN)

DCP should discontinue its support for the text change protecting existing non-conforming commercial uses. (CB3)

**Response:** The R7A/C6-3A with Inclusionary Alternative has been revised in the FEIS to reflect the removal of the cited text amendment from the rezoning proposal. The existing zoning text with regard to non-conforming uses will remain unchanged; areas proposed to be re-mapped as R8B districts through this proposal will thus be subject to the general standard of two years for discontinuance.

**Comment 27:** The proposed rezoning will allow a greater as-of-right FAR, encouraging out-of-scale development. With the Inclusionary Zoning “A” application amendments, the East Village/Lower East Side rezoning will add 53 percent more projected development over what would be developed under current zoning. (LESRRD)

**Response:** As noted in the DEIS, the proposed actions are intended to preclude out-of-scale development allowed under existing zoning controls, based on established neighborhood context. Development resulting from the proposed actions would be compatible with the bulk and scale of existing development.

With respect to the comment that the “A” application would allow for 53 percent more development, the commenter correctly infers that the proposed actions do not--and are not intended to--place lower limits on allowable floor area, with the exception of a small R7B district south of Tompkins Square Park. Because the commenter does not provide calculations for the cited 53 percent, it is assumed that this number is derived from comparing the total floor area under the future with-action scenario, as described in the RWCDs, to the total floor area described by existing conditions. A more meaningful comparison could be drawn between the total floor area under the future with-action scenario and the future no-action scenario, since the RWCDs is based on a ten-year forecast, as well as reasonable (but not guaranteed) development assumptions. In these terms, the future with-action scenario estimates a 229% increase over the existing condition floor area, while the future no-action scenario estimates a 194% increase over the existing condition floor area. In the context of the overall size of the rezoning area, and the proposed increases in density analyzed together, such a comparison may provide a more significant summary of the study.

Although the proposed rezoning would allow for more residential growth throughout much of the rezoning area, the proposed rezoning would, consistent with one of the proposal's principal goals, limit maximum building heights as a means to prevent out-of-scale non-contextual development.

**Comment 28:** CB3 has the highest number of nightlife noise complaints in the city. We are a victim of the city not enforcing zoning regulations for many years—we now have destination nightlife on the ground floor of many residential mid-block buildings. It is imperative that legally grandfathered non-eating/drinking establishments be prohibited from being converted to eating/drinking establishments. (CB3)

The City Planning Commission should include revisions to the zoning to prevent the spread of bars and clubs which create serious quality of life problems to others in the community. (Silver, Feliciano, EVCC, PHRLES, BAN)

**Response:** The DEIS contains a detailed description of the location and concentration of commercial and retail uses throughout the rezoning area and surrounding study area. Although the proposed actions would not introduce use regulations to restrict the development of nightlife establishments, they would decrease the expected amount of retail space on projected development sites by 13,520 square feet compared to the future without the proposed actions. The New York State Liquor Authority (SLA) is responsible for properly issuing liquor licenses and ensuring that those licensed establishments comply with the State's Alcoholic Beverage Control Law. According to its website, the SLA attempts "to work cooperatively with local law enforcement, government officials, community groups, and local leaders to ensure public participation in the licensing and enforcement process."<sup>1</sup> Due to the significant regulatory authority delegated to the SLA by State law, the appropriate avenue for addressing nightlife issues in the Lower East Side would be for community groups and elected officials to work with that agency.

**Comment 29:** We strongly believe that the Lower East Side has historically, and continues to be, a magnet for creativity and entrepreneurship. The current use groups (e.g., Use Group 11 for light manufacturing) and potential to allow for as much commercial density as possible (the current 6.0 Floor Area Ratio) should be maintained. (LESBID Form, Weinstein, Werner)

In the area south of Houston Street, the Floor Area Ratio should not be reduced from 6.0 FAR to 4.0 FAR. We must engage in long-term planning and allow for mid-density commercial buildings. (LESBID Form)

---

<sup>1</sup> New York State Liquor Authority website. Available at: <http://www.abc.state.ny.us/history>. Accessed on August 25, 2008.

While we support the residential upzoning, we are concerned that the proposed C4-4A district, which equates residential and commercial FARs and removes Use Group 11 for light manufacturing, would result in greater residential development and potentially phase out the commercial character of the Lower East Side south of Houston Street. (LESBID)

The City should let the ground floor be used for commercial purposes east of Essex Street in the residential areas to keep and expand the mix of businesses and residents and increase the foot traffic in the area. (LESBID, Loyhayem)

The City needs to preserve zoning usage categories that underscore the creative image of the Lower East Side along with a broad array of commercial activities. (LESBID)

**Response:** These comments are substantially similar to LESBID comments made on the Draft Scope of Work (Comment 4, Section C of this Chapter). The zoning parameters as outlined in the comment are not consistent with the proposed actions' stated goals and objectives.

**Comment 30:** The rezoning needs to include zoning regulations which will preserve Orchard Street, treat Allen Street as a wide street where targeted growth is appropriate, and use the new development to provide an Allen Street "boulevard" funding mechanism for the revitalization and maintenance of pedestrian malls. (LESBID Form, Loyhayem, Kave, AMiller, Weinstein, Werner, Saks)

**Response:** These comments are substantially similar to LESBID comments made on the Draft Scope of Work (Comment 4, Section C of this Chapter). Accommodating this request to maintain the existing zoning framework regulations with regard to permitted height and density on Allen Street would be inconsistent with the goals and objectives of the proposed actions. The properties within the cited areas would continue to be included in the rezoning, and the existing C6-1 district would be re-mapped to a mix of C4-4A and C6-2A districts. Requiring developers to contribute to a maintenance fund for the Allen Street mall through zoning would not further the goals and objectives of this rezoning proposal.

**Comment 31:** [We] support LESBID's rezoning position to preserve the commercial character of the Lower East Side. (AAFE, Levy, Loyhayem, Garber, Kave, AMiller, Ruhalter, Weinstein, Werner, Saks, Herremans)

**Response:** Comment noted. See also response to Comments 22 and 23 above.

**Comment 32:** The proposed rezoning should allow for taller buildings and more commercial density on wide streets near subway stations. (LESBID, Loyhayem)

**Response:** This comment is substantially similar to LESBID comments made on the Draft Scope of Work (Comment 4, Section C of this Chapter). The suggested

approach would be inconsistent with the proposed actions stated goals and objectives. See also response to Comments 22 and 23 above.

**Comment 33:** There is no legitimate planning rationale for reducing the residential FAR for the midblock area between Avenues A and B from East 4th to East 7th Streets while increasing the residential FAR in the remainder of the East Village [rezoning area]. The proposed R7B rezoning for this small area is arbitrary and does not further the stated goal of the providing modest opportunities for residential growth. This area should not be treated differently from other midblock areas in the East Village rezoning area—which are to be rezoned to R8B—since they share the same neighborhood context. The proposed R7B designation would be harmful to tenants in this area since it will prevent necessary upgrades to existing buildings. (Mitzner)

**Response:** The proposed zoning map amendments include changing existing R7-2 districts to R7B districts along three adjacent midblocks south of Tompkins Square Park, which is the only component of the proposed action that reduces the allowable residential FAR. Consistent with the project’s stated goal of mapping contextual districts to more closely match existing built character, the R7B area is complemented by proposed R8B districts in the remainder of the midblocks north of Houston Street. In the proposed R7B area, the number of substantially deep rear yards is higher than elsewhere within the rezoning area, resulting in reduced densities. Given the existing built conditions and upon consideration of community feedback requesting more widespread R7B districts, this area alone would be appropriately mapped as a R7B district, and the remainder of the midblocks would be appropriately mapped as R8B districts.

*ADDITIONAL PROVISIONS*

**Comment 34:** Special oversight and enforcement protections against tenant harassment and demolition of [structurally] sound residential buildings should be included in the in the proposed rezoning. (Velazquez, Silver, Mendez, Duane, Glick, Gerson, Conner, Feliciano, CSC, CSMHA, VID, LESPMHA, EVCC, PHRLES, AAFE, Stringer)

A legal services fund for enforcement of anti-harassment and anti-demolition provisions and prevent illegal evictions should be created. (37, 38, 44) (Mendez, Silver, Stringer, Gerson, Connor, Feliciano, VID, CB3, CSC, PHRLES, CSMHA)

DCP and HPD should work together to institute anti-harassment and anti-demolition protections in this rezoning. (CB3)

At the very least, the protective provisions included in the Clinton Special District should be added to this plan. The demolition of existing buildings containing residential uses should be prohibited in a manner similar to the

requirements of that special district. Also, this plan should include a provision that a certificate of no harassment must be submitted before a permit is secured for any building alteration, enlargement, or new construction. (Mendez, Duane, CSC)

**Response:** Harassment of tenants is illegal. Local Law 7 of 2008, adopted by the City Council in March 2008, allows tenants who are being harassed by their landlords to seek injunctive relief and civil penalties from their landlord in Housing Court. Possible additional methods of preventing tenant harassment are outside of the scope of the East Village/Lower East Side Rezoning and this EIS.

One of the fundamental goals of the proposed project, as agreed upon by a broad base of community participation, is the encouragement of additional housing, and specifically the promotion of affordable housing through application of the Inclusionary Housing program. Regulations that discourage the partial or complete demolition of existing buildings would be contrary to these established goals and could have adverse consequences for future housing production.

In areas where protection of the existing scale and built character is a primary goal, rather than promotion of new housing, the proposed actions would discourage demolition of existing buildings through the mapping of contextual zoning districts.

This EIS does not identify any impacts as a result of the proposed actions for which an anti-demolition provision would be appropriate mitigation.

**Comment 35:** The proposed rezoning should include a commitment to energy efficiency and building requirements that give developers incentives to bring more green building development to the Lower East Side. (Feliciano, LESPMHA, GOLES, PHRLES, AAFE, VID)

The Lower East Side rezoning plan must also include a provision for energy efficient and green building requirements, when government financing and tax abatements are used. (CSMHA, VID)

**Response:** Sustainable building measures are addressed as part of a PlaNYC 2030, a design for the sustainability of New York City introduced by the Mayor in 2007. The proposed actions foster the Mayor's sustainable planning goals by promoting the preservation of neighborhoods with special character while also providing opportunities for modest growth and affordable housing along wide corridors well-served by mass transit.

**Comment 36:** The proposed plan will limit needed commercial development within the Lower East Side. C6-2 and C6-2A commercial districts should be provided on wide streets to preserve Use Group 11.

We need to attract and develop a consistent daytime working population to the area. We need to create and develop more artisan- and custom-manufacturing jobs within the neighborhood. Preserving Use Group 11 will help to do that. (LESBID)

**Response:** These comments recommend an upzoning to C6-2, where there are no limitations on height, which is contrary to the proposal's stated rationale. The current proposal for the cited areas is to change the existing C6-1 zoning district to a mix of C4-4A and C6-2A districts. Through mapping contextual zoning districts with building height limits, the proposal seeks to reduce the out-of-scale development that has occurred under the existing zoning. Additionally, raising the residential density in selected areas to the extent stated in the above comment, absent any incentives for affordable housing, would be inconsistent with the project's goals. Areas being proposed for rezoning to C4-4A would continue to allow commercial uses, with the only difference being that under the proposal Use Groups 7 and 11 would no longer be permitted as-of-right. Light manufacturing uses and others listed in those categories are not common in the area; such existing uses would be permitted to remain and would not be affected by the rezoning.

**Comment 37:** The plan should be amended to give bonuses to existing community facilities. The proposed actions would remove valuable air rights from these facilities. (Jones)

**Response:** In keeping with the goal of preserving the mid-rise character of the East Village and Lower East Side neighborhoods, the proposed rezoning would result in a decrease in the maximum FAR permitted for new community facility uses in the affected study area. The proposed rezoning would not affect existing community facilities and would not prohibit new community facilities from being constructed in the future. The commenter's proposal to provide such bonuses would be inconsistent with the goals and objectives of the proposed plan since a FAR bonus would increase the overall FAR in the area whereas the proposed plan is a contextual rezoning to maintain the existing height and density.

## **SOCIOECONOMIC CONDITIONS**

### *AFFORDABLE HOUSING*

**Comment 38:** The proposed rezoning should include a commitment by the City to make sure that at least 30 percent of the new residential development is permanently affordable. (Velazquez, Duane, Feliciano, Glick, CB3, CSC, VID, CSMHA, PHRLES, AAFE, Epps)

**Response:** The analysis of socioeconomic conditions is undertaken to determine whether the proposed actions would introduce a population that could have a substantial effect on the residential housing market. The analysis determined that the



proposed actions would not increase the population at a scale that could affect socioeconomic trends, nor would the population added by the proposed actions have socioeconomic characteristics substantially different than the existing population. As discussed in “Project Description,” new housing units would accommodate a population much like the existing population at a market value similar to that of the existing housing stock. The proposed actions would introduce a mix of affordable and market-rate housing, including approximately 1,083 market-rate units (accounting for dwelling units on projected development sites and projected enlargement sites) and 348 affordable units (25.2 percent) resulting from the inclusionary housing amendments and the HPD-sponsored project on the site proposed for disposition, UDAAP designation, and project approval (Projected Development Site 167). The affordable units would likely rent at prices comparable to or below most existing rents in the study areas. Market-rate units would likely sell at the high end of the market and would be more costly than most of the existing housing stock. However, the new market-rate residential units would have a comparable price-point to many recently built market-rate residential units in the study area, as well as new developments that are planned to be in place by 2017.

**Comment 39:** The rezoning will cause a net loss of affordable housing. The affordable housing brought into the neighborhood by the Inclusionary Zoning also brings 80 percent market-rate housing and as-of-right FAR increases which reduce the percentage of affordable housing relative to overall projected development to about 10 percent. (LESRRD)

**Response:** The FEIS, consistent with the methodologies of the *CEQR Technical Manual*, compares the future with the action, in which affordable housing would be developed through the Inclusionary Housing Program, to the future without the actions, in which this affordable housing would not be developed. Based on Inclusionary Housing incentives incorporated into the proposed rezoning, the proposed actions are expected to result in an increase of 348 affordable housing units when compared to conditions in the future without the proposed actions.

**Comment 40:** The incentives as part of the rezoning plan would provide affordable housing that is not affordable to the majority of low-income residents in the community. (Glick, Tavers, Black)

Inclusionary Zoning encourages the displacement of current residents and commercial establishments, this “new affordable housing” is not affordable to displaced residents, and the total number of affordable units provided does not accommodate the needs of the community. (BAN)

The DEIS does not address whether the majority of residents currently living the area earn enough money to qualify for the “affordable” housing units provided under the inclusionary housing benefit. (Hunter)

**Response:** The socioeconomic analysis followed *CEQR Technical Manual* methodologies. The requested study is outside the scope of a CEQR analysis. The Inclusionary Housing Program makes use of public subsidies which in many cases enable the new affordable housing produced to be affordable to households below the maximum income thresholds for the program. In addition, the Inclusionary Housing Program includes a preservation option in which existing housing is made permanently affordable and existing tenants remain in place. In its report on the proposed 125<sup>th</sup> Street Plan in March 2008, the City Planning Commission noted testimony by Housing Preservation and Development Commissioner Shaun Donovan that “since the revision of the IHP in 2005, about 65 percent of the units developed through the program have been for households earning less than 60 percent of AMI, which is \$29,760 for an individual and \$42,540 for a family of four”( N 080100(A) ZRM, p. 56).

**Comment 41:** The proposed plan only calls for inclusionary zoning to be mapped in approximately 20 percent of the affected area and anticipates the development of a mere 456 units of affordable housing. We fall over 1,000 units short of the community’s goal. I believe that the City of New York must make up for the shortfall of affordable units by building them on city owned land. Although, such opportunities are not abundant in this area, I believe that there are several sites where creative thinking about underutilized and vacant land coupled with bold leadership would go far to meeting the community’s demand. (Mendez, Gerson, CSC)

**Response:** Projected and potential development sites were identified by using standard Department of City Planning methodology. As described in Chapter 1, “Project Description”, the following general criteria were used to identify development sites 1) sites in areas where a change in Floor Area Ratio (FAR) or change in use is proposed; 2) sites that are built to less than 50 percent of the proposed FAR; 3) undeveloped lots greater than 10,000 square feet; and 4) sites with non-residential uses in locations where residential uses will be newly allowed. In addition to these general criteria, more specific criteria were used to identify projected development sites. Vacant lots were included as one of the specific factors used to determine appropriate projected development sites.

**Comment 42:** Income integration has characterized this neighborhood for decades, and the diversity of the community is one of the features that actually attract people here in the first place. I would like to see modifications made to either the zoning requirement or the 421a legislation that would mandate a higher percentage of affordable housing when utilizing both incentives. (Mendez)

**Response:** The City of New York demonstrates its commitment to affordable housing through an aggressive, proven and voluntary program that encourages affordable housing production through incentives for developments that can also

be combined with a range of subsidies and additional tax incentives. Because affordable housing was identified as a leading priority by the community, inclusionary housing would be located in appropriate areas as part of the proposal. As with rezonings of similar size and scale, a range of city agencies is committed to working together to achieve the greatest levels of affordable housing possible. Attaining specific housing target goals beyond what is forecast in this EIS using the Inclusionary Housing Program would require programs whose implementation is beyond the scope of the proposed actions.

**Comment 43:** While Inclusionary Zoning requires that the housing be for households earning a maximum of 80 percent of the area median income, we would like to see a requirement that some of it be guaranteed for households earning 30 percent, 40 percent, or 50 percent of median income. (Connor, CSCS)

**Response:** Under the proposed Inclusionary Housing program, developments providing affordable housing are eligible for a floor area bonus, within contextual height and bulk regulations tailored to these areas. The inclusionary housing program is a citywide program with a consistent set of rules easily administered by HPD. The program is designed to maximize the ability to provide affordable housing for low income New Yorkers. The rules require that housing be affordable to households earning up to 80 percent of the area median income. Lower required affordability levels would be inconsistent with City policy.

In addition to the density bonus provided by inclusionary zoning as proposed under the Affordable Housing Alternative, subsidy programs are typically used to foster the development of affordable housing. Many of these programs target families with incomes at 50 percent and 60 percent of AMI.

**Comment 44:** Inclusionary zoning doesn't require that affordable housing will be built. We need a plan that provides actually affordable units. This plan will guarantee the creation of affordable housing. (Huang)

The DEIS does not address the voluntary nature and unpredictable outcome of the inclusionary zoning, and fails to disclose potential impacts throughout Community District 3. (Hunter)

**Response:** The DEIS analyzes a reasonable worst-case development scenario (RWCDs), which identifies both projected and potential development sites that, for EIS analysis purposes, are assumed to be developed under the proposed actions. The City of New York has established a voluntary inclusionary housing program to spur the provision of affordable housing while addressing a strong overall need for housing production to support a population that continues to grow. Recent modifications to the 421-a tax abatement program, which encourage on-site affordable housing in the subject area, created an additional incentive to ensure the broadest possible participation in the program. The Inclusionary Housing Program, as revised in 2005 to make public subsidies available to developers

while requiring more affordable housing to be developed or preserved to obtain increased floor area, has been successful in several communities and HPD believes that it can be similarly successful in the proposed rezoning area.

*RACIAL COMPOSITION*

**Comment 45:** The DEIS is deficient because it does not fully account for the neighborhood’s racial composition. The ¼-mile study area is not sufficient. A full ½-mile study area would give a fuller picture of the plan’s impact on neighboring communities. (AALDEF, Mansfield)

The DEIS does not address the disparate impacts to Asian, Hispanic, Black and low-income residents. The DEIS does not disclose the discriminatory impacts of the project which disproportionately protects areas that are predominantly white and higher-income, to the exclusion of areas that are most heavily populated with low-income, to the exclusion of areas that are most heavily populated with low-income residents and people of color. (Hunter)

**Response:** The analysis of socioeconomic conditions follows the methodology outlined in the *CEQR Technical Manual* and the Final Scope of Work in considering demographic factors appropriate for analysis. As noted in the FEIS, the proposed actions are expected to result in substantial additional residential development in the rezoning area, over and above that which is expected in the future without the actions. This additional development will be channeled to appropriate locations and will include a beneficial affordable housing component. The impacts of the additional development are analyzed in the FEIS.

It is incorrect to state that the rezoning area is being “protected” at the expense of any other area. The FEIS evaluated the effects of the proposed action on the population within a ¼ mile study area. A study area of this size was used as it better reflects the boundaries of the greater East Village / Lower East Side area and captures the overwhelming majority – nearly 69 percent – of residents who reside in a ½ mile radius area. The ¼ mile study area is representative of the composition of race and ethnicity of the population in the ½ mile study area. The following table shows that the percentage of Black, Asian and Hispanic residents in the ¼ mile study area is nearly identical to the percentages in the ½ mile radius area when analyzed at the block group level.

**Race / Hispanic Origin of Population in Block Groups captured within the 1/2 Mile Radius and 1/4 Mile Study Areas**

---

		Race/Hispanic Origin of Population in 1/2 Mile Radius Area		Race/Hispanic Origin of Population within 1/4 Mile Study Area		% of 1/4 Mile in 1/2 Mile
		#	%	#	%	
Total		244478	100.0	166862	100.0	68.3
	White alone	124790	51.0	80068	48.0	64.2
	Black or African American alone	16385	6.7	12104	7.3	73.9
	American Indian and Alaska Native alone	859	0.4	772	0.5	89.9
	Asian alone	71029	29.1	48650	29.2	68.5
	Native Hawaiian and Other Pacific Islander alone	60	0.0	40	0.0	66.7
	Some other race alone	22310	9.1	18551	11.1	83.2
	Two or more races	9045	3.7	6677	4.0	73.8
Hispanic or Latino		46909	19.2	37615	22.5	80.2

Source: 2000 Census, SF3

*DISPLACEMENT*

**Comment 46:** The low-rise affordable character of the East Village/Lower East Side will be destroyed if this area is upzoned, which would encourage more luxury housing and more upscale commercial establishments, displacing moderate- and low-income residents and commercial establishments. (BAN)

The DEIS fails to accurately portray the wide-scale involuntary displacement of residents and businesses. (CPCLES)

The proposed rezoning will raise rents and displace small businesses, working families, and residents. (Tavers, Jackson, Guglielmo)

**Response:** The analysis of indirect residential and business displacement is discussed in Chapter 3, “Socioeconomic Conditions,” and follows the methodology outlined in the *CEQR Technical Manual* and the Final Scope of Work.

**Comment 47:** We should not allow for the cultural displacement of small businesses. They have roots in the community and they deserve to remain. The City must commit to providing low-interest loans and grants to small businesses adjusting to stay competitive. We can and should use the power of government to protect and support those who make the neighborhood the special place that it is. (Velazquez)

CPC should consider provisions to retain and assist local businesses. (Silver)

It is very important to preserve the historic, smaller scale structures and local businesses that make this neighborhood so charming. This is an immigrant community of diverse culture and income strata. Throughout the years many artists, musicians, and writers have come through my restaurant. This community needs to be acknowledged and preserved, their history is important; their contributions should be a part of New York City history. Instead business owners and residents are being systematically displaced and forced out. (Birchard)

**Response:** One of the goals of the proposed actions is to preserve the low- to mid-rise character of the rezoning area. As indicted in the Socioeconomic Conditions analysis for the FEIS, the proposed actions would not result in significant adverse impacts with respect to residential or business displacement.

**Comment 48:** The DEIS lacks a detailed assessment of indirect residential displacement due to rising housing costs, both inside and outside of the proposed zoning area. (Hunter)

**Response:** The analysis of indirect residential displacement due to increased rents in Chapter 3, "Socioeconomic Conditions," follows the methodology outlined in the *CEQR Technical Manual* and the Final Scope of Work.

**Comment 49:** The DEIS minimizes the effects of business displacement on neighborhood conditions, and the effects of the rezoning on the ability of existing businesses to successfully relocate. (Hunter)

**Response:** The analyses of direct and indirect business displacement in Chapter 3, "Socioeconomic Conditions," follow the guidelines of the *CEQR Technical Manual* and the Draft and Final Scope of Work.

As detailed in those analyses, the 10 businesses that could be directly displaced do not define or contribute substantially to a defining element of neighborhood character. These businesses conduct a variety of business activities including retail, banking, food service, and real estate sales. Although the potentially displaced firms each contribute to the city's economy and therefore have economic value, the products and services they provide are widely available in the area and the city. These firms' locational needs could be accommodated in the area and in other commercial districts, which are widely mapped throughout the city, and the products and services provided by these companies would still be available to consumers as many other existing businesses would remain and firms providing similar products and services would still be available in the surrounding area.

**Comment 50:** Public housing is not necessarily protected from impacts of the rezoning. (Hunter).

**Response:** Public housing is rent-regulated. Residents who leave rent-regulated housing do so voluntarily, and therefore, they are not the subject of CEQR displacement analyses, which is defined as indirect, *involuntary* displacement. The analysis of indirect residential displacement focuses on those tenants who may be involuntarily displaced from their unregulated rental units because they cannot afford rent increases (Tenants of owner-occupied housing and rent-regulated housing are afforded protection from changes in market forces that can lead to increases in rent.)

**Comment 51:** The DEIS incorrectly assumes that buildings with 6 or more residential units built before 1974 will be automatically protected by rent stabilization regulations. (Hunter)

**Response:** The socioeconomic conditions analysis in the DEIS does not make this assumption; however, such an assumption would be in keeping with the methodology set forth in the *CEQR Technical Manual* (Chapter 3B).

**Comment 52:** The DEIS avoidance of a detailed displacement study is based only on the threshold criterion of total population change, and ignores other critically important parameters such as household size, affordability, and the availability of residential units that can accommodate larger working families. It also fails to link these household characteristics to demographic characteristics, and fails to acknowledge the diversity in household types that we observed by examining different subareas. (Hunter)

There are important socioeconomic differences between the subareas comprising the primary and secondary study areas—especially north and south of East Houston Street—that warrant a more detailed analysis of the potential for displacement. (Hunter)

**Response:** The analysis of indirect residential displacement in Chapter 3, “Socioeconomic Conditions,” follows the methodology outlined in the *CEQR Technical Manual* and the Final Scope of Work. The conclusion that a detailed analysis was not necessary was based on a combination of factors that included, but was not limited to, the estimated net increase in population due to the proposed actions. As described in the chapter, the proposed actions would increase the primary study area population by less than two percent, and new units would accommodate a population much like the existing population at a market value similar to that of the existing housing stock. The preliminary analysis also considered whether the proposed actions would directly displace uses or properties that have had a “blighting” effect on property values in the area, directly displace enough of one or more components of the population to alter

the socioeconomic composition of the study area, introduce a substantial amount of a more costly type of housing, introduce a critical mass of non-residential uses such that the surrounding area becomes more attractive as a residential neighborhood complex, or introduce a land use that could offset positive trends in the study areas, impede efforts to attract investments to the area, or create a climate for disinvestment.

**Comment 53:** The rezoning would accelerate the trend of hotel construction and other out-of-scale development in the areas immediately surrounding the primary study area to the south, in Chinatown and the Lower East Side. The proposed rezoning is intended to decrease the allowable development of commercial hotel buildings within the primary study area. New hotels along the Bowery and other parts of the secondary study area are raising land values and displacing businesses in Chinatown and the Lower East Side. By limiting this type of development in one area, the rezoning shifts the burden of out-of-scale development beyond the primary study area and fails to adequately regulate this development. The DEIS does not address this subject in its analysis of indirect business displacement. (Hunter)

**Response:** The analysis of indirect business displacement was conducted according to the methodology prescribed in the *CEQR Technical Manual* and the Final Scope of Work. As described in that analysis, although the proposed actions would decrease allowable commercial development within the primary study area, they would not result in any significant adverse impacts due to indirect business displacement. The preliminary analysis concluded that the proposed actions would not introduce a substantial new economic activity, nor would they alter or accelerate existing economic patterns within the study area--two of the primary factors that can lead to indirect business displacement. The ¼-mile study area includes portions of Chinatown and the Lower East Side. For portions of Chinatown and the Lower East Side that are outside of the ¼-mile study area, other market forces are likely to play a larger role than the proposed rezoning in shaping development trends in the future with and without the proposed actions. The Manhattan hotel market is boroughwide. Manhattan has about 65,000 hotel rooms, of a total of 80,000 in the city as a whole. According to an article in the *New York Sun* (Michael Stoler, "City's Hospitality Industry Inspires Cautious Optimism," January 31, 2008), the city had at that time 8,500 hotel rooms in construction, 1,500 rooms in final planning, 7,500 rooms in planning, and 3,800 rooms in pre-planning. Whether the developments in planning are built in the future would be determined by market conditions. Large areas of Manhattan south of 60<sup>th</sup> Street are zoned for new hotel construction, and the effects of the change in projected development, in which two small hotels would not be developed in the future with the proposed actions, may influence investment decisions by hotel developers throughout a broad area, thus making measurable indirect displacement effects on any specific community unlikely.



*SOCIOECONOMIC STUDY AREA*

**Comment 54:** The DEIS fails to disclose the full impacts of the rezoning on populations living outside of the rezoned area. By limiting the secondary study area to a ¼ mile, the DEIS draws inaccurate conclusions about existing trends and development pressures throughout the area. (Hunter)

The City should have expanded the secondary study area to at least one-half mile beyond the plan's boundaries, because the 100-block rezoning proposal, with 180 projected development sites and 25 more enlargement sites, will have significant impacts upon a much wider geographical area. (AALDEF)

**Response:** A study area is defined as the area most likely to be affected by the proposed actions. Following the guidelines of the *CEQR Technical Manual*, the socioeconomic study areas mirror those used in the assessment of land use, zoning, and public policy. Beyond the ¼-mile study area, other market forces are likely to play a larger role in shaping development trends in the future with and without the proposed actions. The *CEQR Technical Manual* states: “Generally, if the proposed action would increase the population in the study area by less than 5 percent, it would not be large enough to affect socioeconomic trends significantly”. The proposed action would increase the population in the FEIS study area by 1.7 percent, failing to reach the 5 percent threshold. Given this standard, increasing the size and thus the existing population of the study area, as the commenter proposes, would not change the FEIS’ conclusion that “the proposed action would not increase the population at a scale that could affect socioeconomic trends.”

**Comment 55:** The study areas should not have been analyzed as a whole but rather by subarea, as was done (though inadequately) in the neighborhood character chapter. (Hunter)

**Response:** The analyses in Chapter 3, “Socioeconomic Conditions,” follow the methodology outlined in the *CEQR Technical Manual* and the Final Scope of work. The population increment as a result of the proposed action is not concentrated in one portion of the rezoning area, and thus the conclusions in the preliminary assessment would not change if smaller areas were considered.

**Comment 56:** Since affordable housing units and potential development sites may be located within ½-mile of the proposed rezoning and throughout all of Manhattan Community District 3, those areas should be included in the secondary study area. (Hunter)

**Response:** The RWCDs assumed that all affordable housing units would be located on projected development sites within the rezoning area and the study area was defined to encompass the area most likely to be affected by the proposed actions and RWCDs. The combination of the Inclusionary Housing program bonus and

tax incentives, encourage the development of on-site affordable housing to further integrate affordable and market-rate housing, and this conservative assumption represents a reasonable worst case scenario for analysis purposes. Beyond the ¼-mile study area, other market forces are likely to play a larger role in shaping development trends in the future with and without the proposed actions. Furthermore, the purpose of this EIS is to examine the potential effects of the proposed actions and the RWCDs. An analysis of affordable housing units that could be developed within a ½-mile of the rezoning area or within Manhattan Community District 3 is beyond the scope of this EIS.

**Comment 57:** There is a significant methodological problem related to the socioeconomic study area boundaries used in the DEIS: the primary and secondary study areas are not analyzed at the same geographic resolution. The primary study area (the area of the proposed zoning) is not contiguous with census boundaries and thus many of the affected census tracts do not fall entirely within the rezoning boundaries. In order to better approximate the boundary of the rezoning, the socioeconomic analysis included 41 block groups, which are smaller than census tracts. The secondary study area also should have been analyzed at the block group level, but instead the socioeconomic analysis used data from 15 census tracts that best approximate ¼-mile buffer around the proposed rezoning. Thus, much of the socioeconomic analysis was conducted at the census tract level, even though more detailed information is available for the 83 block groups that lie within the secondary study area. By using broader geographic units of analysis, the DEIS excludes seven census block groups, or 37 Census blocks, from its analysis. This not only excludes a significant number of people living within the secondary study area, but also compromises the validity of the analysis. Furthermore, by examining variables such as household income, household size, and rents using data at the census tract level, the study area is made to appear to be far more homogeneous than it is. These differences can lead to erroneous conclusions about the diversity of population characteristics and the range of income levels within a study area. (Hunter)

By not examining the full range and distribution of income, race, housing characteristics, and other socioeconomic factors, the DEIS makes the study area appear to be more homogeneous than it really is, thus minimizing the disparate impacts on low-income residents and people of color. (AALDEF)

**Response:** The primary study area was delineated based on Census block groups because a boundary defined by block groups can more closely mirror the boundaries of the rezoning area than a boundary defined by tracts. The use of Census tracts rather than block groups to define the secondary study area is appropriate, as the secondary study area is based on a ¼-mile buffer, rather than a closely-defined rezoning area. Defining the secondary study area using block groups would not have resulted in more detailed demographic information, as the Census data available for block groups is the same as Census data available for tracts.

The analysis of socioeconomic conditions follows the methodology outlined in the *CEQR Technical Manual* and the Final Scope of Work in considering demographic factors appropriate for analysis. The analysis presented a variety of demographic and socioeconomic data to characterize the study area, including total population, households, average household size, median household income, median contract rent, housing occupancy and tenure, median home value, and percent of population below poverty level. A detailed analysis of indirect residential displacement would provide data on household income and rents at the census tract level. However, the preliminary analysis of indirect residential displacement did not find the potential for significant adverse impacts within the ¼-mile study area. Therefore, a detailed analysis of indirect residential displacement was not warranted.

*OTHER*

**Comment 58:** Calculations in the DEIS are based on data averaged over the entire 111-block rezoning area, even though more detailed information is available at the Census block group level. The projected change in population under the RWCDS is based on the incremental difference in residential dwelling units constructed under the Build scenario, multiplied by the average household size for the entire rezoning area. It is possible to get a much more accurate estimation of population change by multiplying the number of residential units by the average household size of the census block group in which those units are located. (Hunter)

**Response:** New housing units do not always have the same household size as existing housing units located in their immediate vicinity. New buildings may accommodate smaller or larger units than existing buildings, and new units may be marketed towards a different demographic (e.g., single householders versus young families) than existing units in the immediate vicinity. The population estimates presented in the socioeconomic chapter are based on the average household size for the entire study area, which is more likely to reflect broader demographic and housing patterns in the study area than household sizes for individual block groups.

**HISTORIC RESOURCES**

**Comment 59:** The East Village and the Lower East Side have a rich diverse history that should be respected and preserved. (BAN)

Over-development is threatening the historic character of this community. (BAN)

**Response:** In addition to identifying any individual potential architectural resources, the DEIS considered whether the study area contains any potential historic districts that appear to meet one or more of the criteria for listing on the National

Register of Historic Places. As concluded in the FEIS, the proposed actions would result in unmitigated and unavoidable adverse impacts on up to 45 architectural resources that could be removed or altered for potential development or potential enlargements. In addition, the proposed actions could result in unmitigated and unavoidable adverse contextual and visual impacts on six architectural resources. Because future private development on these sites would occur as-of-right under the proposed rezoning, there are no mechanisms for developing and implementing mitigation measures.

## **NEIGHBORHOOD CHARACTER**

**Comment 60:** The DEIS claims that potential damage to historic resources will be insignificant because of oversight by the New York City Department of Buildings (DOB). The DEIS fails to disclose the recent dramatic failures of DOB which led to several crane collapses, construction site deaths, and the resignation of the DOB commissioner. The practice of self-certification of architects and engineers is being called into question. Thus, the DEIS understates the worst-case scenario with regard to historic resources, underestimating potential impacts on neighborhood character. (Hunter)

**Response:** Evaluating DOB general performance and oversight of responsibilities is beyond the scope of CEQR. As discussed in Chapter 7, “Historic Resources,” following the DOB controls that govern the protection of any adjacent properties from construction activities would provide some protection for architectural resources that are located within 90 feet of proposed construction activities. In addition, implementation of the monitoring program required by DOB *TPPN #10/88* for New York City Landmarks, properties within New York City Historic Districts, and National Register-properties would avoid significant adverse construction-related impacts—as defined by CEQR—on such types of adjacent resources.

**Comment 61:** According to local elected officials and Community Board 3, one of the most frequent complaints by residents over the last decade has been noise from the many new bars, cafes and entertainment facilities that have opened up in the neighborhood. These facilities serve a largely younger population who fill the streets at all times of night and day and create noise problems. This trend is changing the neighborhood character. The rezoning is likely to continue this trend as more residential units are converted and the older residents and population groups move out, and as older businesses are replaced by nighttime establishments. Even though the rezoning may not directly lead to massive new construction, the continuing apartment conversions, which the rezoning will not ameliorate but in fact abet, are bound to have a much deeper and long-term impact on neighborhood character. (Hunter)

**Response:** The EIS concludes that the proposed actions would not result in significant adverse impacts to neighborhood character. The FEIS contains a description of the existing land uses and neighborhood character in the rezoning area, identifying this area—especially the Lower East Side—as a popular late night destination due to the sheer number of bars and small night clubs in the area. Although the proposed actions would not introduce use regulations to restrict the development of nightlife establishments, the proposed actions are expected to result in a decrease in the overall amount of retail space on projected development sites by 13,520 square feet when compared to the future without the proposed actions. The New York State Liquor Authority (SLA) is responsible for properly issuing liquor licenses and ensuring that those licensed establishments comply with the State’s Alcoholic Beverage Control Law. According to its website, the SLA attempts “to work cooperatively with local law enforcement, government officials, community groups, and local leaders to ensure public participation in the licensing and enforcement process.”<sup>1</sup>

A discussion of indirect business displacement is included in Chapter 3, “Socioeconomic Conditions.” Although certain commercial uses are vulnerable to indirect displacement if they cater to populations that are declining within the study area, the proposed actions would not result in significant adverse impacts due to indirect business displacement.

#### **AIR QUALITY/CONSTRUCTION**

**Comment 62:** Constant construction is creating hazardous conditions on the streets for ambulatory seniors and respiratory problems for everyone. (Adam)

**Response:** A discussion of air quality, including effects of construction, is included in the EIS following the procedures outlined in the *CEQR Technical Manual*.

#### **TRAFFIC AND PARKING**

**Comment 63:** The DEIS fails to disclose traffic impacts beyond 1/4 mile of the study area, excluding an area that has tremendous impact on Lower East Side traffic patterns if not all of lower Manhattan. The DOT proposed narrowing of the Bowery, hyper development, and the future influx in population from new housing will have a major impact on Chinatown traffic. All of the Lower East Side and lower Manhattan will be crippled if Chinatown suffers gridlock in a domino effect. (CCRC)

**Response:** As discussed in the DEIS, a detailed transportation screening analysis was prepared for the proposed actions. Based on the transportation planning factors

---

<sup>1</sup> New York State Liquor Authority website. Available at: <http://www.abc.state.ny.us/history>. Accessed on August 25, 2008.

and the vehicular trip assignments conducted for the screening analysis, the proposed actions would not generate more than 50 peak hour vehicle trips through any given intersection, the *CEQR Technical Manual* threshold warranting a detailed traffic study and an expanded study area beyond a ¼-mile radius. Based on the trip assignment results, it was determined that the proposed actions would not result in traffic impacts. In regards to “DOT proposed narrowing of the Bowery,” DCP consulted with the City’s Department of Transportation (DOT) and found that DOT has no current proposal for narrowing the Bowery. However, DOT is proposing the reconstruction of the Astor Place/Cooper Square and its proposed reconstruction project area would intersect with the Bowery.

**Comment 64:** The Bowery suffers from traffic congestion and it will only get worse unless the Bowery, the areas east of Bowery, Lower East Side, East Village, and Chinatown are rezoned to the same zoning that currently exists west of the Bowery. (Guglielmo)

**Response:** Comment noted. See response to Comment 56. The proposed action would not significantly worsen existing traffic conditions.

## **TRANSIT AND PEDESTRIANS**

**Comment 65:** Under the rezoning these two major thoroughfares [East Houston and Delancey Streets] and some of the blocks surrounding them would have major new residential and commercial development. Congestion and pedestrian safety on these streets is already a major problem, and sidewalk overcrowding is a major problem on some blocks. The DEIS fails to discuss the potential impacts of the rezoning on pedestrian safety. (Hunter)

**Response:** As provided in the detailed transportation screening analysis included in Appendix E of the DEIS, projected transit trips were allocated to various subways and bus routes, and locations with the highest incremental pedestrian trips were identified. The results of the latter verified that the pedestrian analysis threshold set forth in the *CEQR Technical Manual* would not be exceeded; therefore, a detailed analysis is not warranted. And, since a detailed traffic analysis was screened out, a vehicular and pedestrian safety impact assessment is not warranted pursuant to *CEQR Technical Manual* guidelines.

## **OTHER COMMENTS**

**Comment 66:** Immediate legislation should be drafted to ensure “as-of-right” development does not continue (on the Bowery) without developers drafting Environmental Impact Statements. (BAN)

**Response:** Comment noted. This is beyond the scope of the proposed actions.