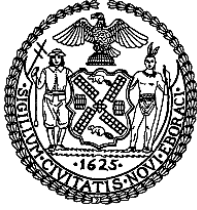


CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR



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LOWELL D. KERN
Chair

JESSE R. BODINE
District Manager

December 28, 2020

Marisa Lago, Chair
NYC Department of City Planning
120 Broadway
New York, NY 10271

Edith Hsu-Chen
Director, Manhattan Borough Planning Office
Department of City Planning
120 Broadway, 30th Fl.
New York, NY 10271

Re: Zoning for Coastal Flood Resiliency

Dear Chair Lago and Ms. Hsu-Chen,

On November 16, 2020, the Manhattan Community Board 4 (MCB4) Chelsea Land Use (CLU) Committee discussed the Department of City Planning's (DCP) proposed "Zoning for Coastal Flood Resiliency" (ZCFR) after a presentation by DCP staff. The ZCFR was discussed further at MCB4's Clinton/Hell's Kitchen Land Use Committee and the Executive Committee. Subsequent to those discussions the CLU Committee met on December 21, 2020 to review additional information specifically relevant to Community District 4. The CLU Committee voted unanimously in support of the intent of the Zoning Text Amendment with the condition that certain requirements are met which are detailed below.¹

CB4 supports proposed flood resiliency measures so long as provisions are included in the text amendment to respect our neighborhoods. Property owners should be able to protect themselves from damaging flood waters in ways that keep their insurance costs down and preserve their investments while also caring for our streetscape and neighborhood characteristics. CB4's concerns are rooted in the need to preserve the unique qualities of properties in our Historic Districts, to ensure protections codified in our Special Zoning Districts are respected, and to prevent new developments from using ZCFR regulations that add height or bulk.

¹ The public comment period for this application closes before MCB4's regularly scheduled Full Board Meeting. Therefore, this letter is being submitted by the date listed above and is subject to ratification at the January 6th Full Board meeting.

ZCFR PROPOSAL BACKGROUND

ZCFR would make permanent existing temporary zoning rules that were adopted on an emergency basis following Hurricane Sandy. These emergency regulations became widely applicable soon after the storm but posed conflicts with the Zoning Resolution which led to the 2013 Flood Text. The Flood Text provided zoning flexibility for buildings in the flood zone so that resiliency construction requirements could be more easily met. ZCFR builds upon the expiring 2013 Flood Text to provide flexibility and design options to help those living and working in the floodplain. The proposal would make permanent zoning provisions that were adopted on a temporary basis in 2013.

Important to note is that the proposed flexibility and design options introduced in ZCFR would:

- Make permanent already existing 2013 Flood Text flexibilities in the Zoning Resolution and enhance them based upon community engagement and lessons learned since Hurricane Sandy;
- Expand the applicability of these allowances to the 0.2% annual chance floodplain area (currently, these only apply to the 1% annual chance floodplain area);
- Provide optional rules to allow building owners the design flexibility sometimes needed to meet the NYC Building Code Appendix G requirements (either proactively or because it is required);
- Allow buildings to advance resiliency improvements incrementally.

COMMUNITY BOARD 4 STIPULATIONS

Historic Districts

The floodplain identified within the parameters of this text amendment include a high percent of the most critical historic districts within CD4, notably the entirety of the West Chelsea Historic District, and large portions of the Chelsea Historic District and the Gansevoort Market Historic District. The proposed text amendment includes language stipulating that the new regulations would not override the regulations of the Landmark Preservation Commission for buildings within Historic Districts. However, CB4 has often promoted further protections than provided by LPC, including the attempts to stop the transfer of sub-grade floor area to rear yards. This Zoning Text Amendment opens the door for such a transfer.

Therefore, CB4 recommends that the Zoning Text Amendment include language **requiring Special Permit approval from the City Planning Commission for any alterations for flood resiliency measures to buildings within Historic Districts.**

Special Zoning Districts

CD4 has a unique Special Zoning District in West Chelsea, the Special West Chelsea District (SWCD) that was painstakingly negotiated to allow landowners to transfer development rights within the District while implementing specific criteria on bulk and height in order to protect and promote the High Line. CD4 is also home to Hudson Yards within the Special Hudson Yards District which similarly negotiated a great deal of specific allowances and limitations to ensure a new development area that integrates with the neighborhood. Any developer planning to build within the floodplain should be aware that the property is within a flood zone. The City should not offer bonuses on building bulk and heights to such developers to the detriment of our special areas. The fact that the ZCFR regulations would supersede any regulations negotiated within Special Districts would violate years of negotiations and compromises. The ability of a developer to utilize flood

resiliency measures to increase bulk and height of buildings is counter to the intent of our special districts.

Therefore, CB4 recommends that the Zoning Text Amendment includes language **requiring Special Permit approval from the City Planning Commission for any new developments that utilize flood resiliency measures within Special Districts.**

Streetscape

CB4 has consistently fought to protect our streetscape to ensure vibrant, well lit, and airy sidewalks in our commercial districts. If a new development utilizes flood resiliency measures to raise the height of a building beyond what is currently allowed, or to move mechanicals to floors immediately above sidewalk level to “mechanical voids,” or to install parking garages at street level to qualify for wet-floodproofing, our sidewalk life will be diminished as we know it. The quality of life and movement of the pedestrians in our commercial districts essential to our environment. Any developer proposing to build new construction in areas affected by this zoning text amendment is most likely aware of the fact that the property is within a floodplain. The community shouldn’t suffer because a developer wants to take advantage of zoning regulations in order to build higher floors which are at a premium revenue level.

Therefore, CB4 recommends that the Zoning Text Amendment includes language that states:

- **any new buildings within the floodplain on primary commercial streets require dry floodproofing without any zoning amendments or changes;**
- **any new buildings within the floodplain outside primary commercial streets require dry floodproofing or wet floodproofing without any zoning amendments or changes;**
- **any new buildings continue to measure building height from the curb level rather than the reference plane;**
- **any existing buildings within commercial districts limit reference plane to equal the Flood Resistant Construction Elevation;**
- **and, any existing buildings along primary streets in commercial districts limit height increases due to exempted ground floor area related to dry-floodproofing or wet-floodproofing to one floor above the existing building.**

Funding Sources

There is undoubtedly a cost associated with existing property owners implementing flood resiliency measures. This is most notable in our historic areas where homeowners would experience great expense to preserve and protect our treasured historic homes against rising floodwaters in the upcoming decades. There is tremendous value for the City to ensure these homes remain an important part of our community as the lifeblood for vibrant residential neighborhoods in Manhattan. The value added of protecting small homes should be shared by the City with property owners.

Therefore, CB4 recommends that the Zoning Text Amendment include language that states that **DCP work with other relevant agencies to create or identify funding streams or tax incentives for small property owners seeking to comply with floodproofing measures.**

New York City Housing Authority (NYCHA)

There are two NYCHA developments (Fulton and Elliot Houses) within CD4 that partially fall within the identified floodplain. There is a long history of challenges moving forward with any development issues within these campuses. Creating separate rules and regulations for one portion of the development, but not in portions outside the floodplain, would add undue complications to an already cumbersome process.

Therefore, CB4 recommends that the Zoning Text Amendment includes language that states that **any NYCHA development seeking to implement flood resiliency measures to any building within the floodplain apply the same measures to all buildings within the same campus, even if those additional buildings are outside the floodplain.**

Community Board 4 is cognizant of the fact that implementing a City-wide Zoning Text Amendment faces challenges to address very unique--and often disparate--viewpoints of our great city with all its varied neighborhoods. We are framing our stipulations and proposed requirements in such a way that would adhere to the spirit of an important need for our residents across the City to protect their homes and investments while addressing our specific concerns. We urge DCP to include and implement our nine requirements in the final version of the Zoning Text Amendment.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Betty Mackintosh
Co-Chair
Chelsea Land Use



Paul Devlin
Co-Chair
Chelsea Land Use

CC: Hon. Corey Johnson, Speaker of the City Council
Hon. Gale A. Brewer, Manhattan Borough President
Sarah Carroll, Chair, Landmarks Preservation Commission
Gregory P. Russ, Chair and CEO, NYCHA
Historic District Council