



**IN THE MATTER OF** an application submitted by NYC Department of City Planning pursuant to Section 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 1a, 1b, 1c, and 1d:

1. eliminating a Special Natural Area District (NA-2) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th Street, Independence Avenue, West 240th Street, the centerline of the former West 240th Street and its westerly centerline prolongation, Douglass Avenue, West 235th Street, Independence Avenue, West 232nd Street, Henry Hudson Parkway, West 231st Street, Independence Avenue, the westerly centerline prolongation of West 230th Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231st Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations; and
2. establishing a Special Natural Resources District (SNRD) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th Street, Independence Avenue, West 240th Street, the centerline of the former West 240th Street and its westerly centerline prolongation, Douglass Avenue, West 235th Street, Independence Avenue, West 232nd Street, Henry Hudson Parkway, West 231st Street, Independence Avenue, the westerly centerline

prolongation of West 230th Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231st Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations;

Borough of the Bronx, Community District 8, as shown on a diagram (for illustrative purposes only) dated May 6, 2019.

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This application for a zoning map amendment (C 190403 ZMX) was filed by the New York City Department of City Planning (DCP) on May 6, 2019, in conjunction with related actions, to establish the Special Natural Resources District (“SNRD”), coterminous with the existing Special Natural Areas District (“SNAD”, NA-2) (Article X, Chapter 5), to update the special district regulations, Borough of the Bronx, Community District 8 and Staten Island, Community Districts 1, 2, and 3.

On June 10, 2019, DCP withdrew the related zoning map amendment (C 190429 ZMR) pertaining to Staten Island based on feedback from the public review process.

On July 29, 2019, pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure (ULURP) rules, DCP filed an application (N 190430(A) ZRY) to amend the proposed zoning text to reflect the applicability of the regulations only to Community District 8 in the Bronx. The amended application also included a substantive change in response to public comment asking that subdivisions resulting in four or more zoning lots be required to seek a City Planning Commission (CPC) authorization as a Plan Review Site. The amended application supersedes the initial application (N 190430 ZRY), which was withdrawn on September 6, 2019. This report reflects the amended application.

## **RELATED ACTIONS**

In addition to the zoning map amendment (C 190403 ZMX) that is the subject of this report, implementation of the land use actions associated with the proposal also requires action by the

City Planning Commission on the following application, which is being considered concurrently with this application:

**N 190430(A) ZRY**                      Zoning text amendments, as modified.

## **BACKGROUND**

DCP is proposing a map amendment and text amendment to the Zoning Resolution to establish the SNRD in portions of Community District 8 coterminous with the existing SNAD (NA-2). Since the establishment of the SNAD over 40 years ago, the DCP's understanding of the natural environment and the science behind it has evolved. Over this time, DCP has established important best practices to guide development while preserving natural resources. The proposed special district regulations would provide a clear and consistent framework for natural resource preservation that balances development and ecological goals, codifies best practices, and streamlines regulations to reflect a holistic approach to natural resource protection with clear development standards that will result in better and more predictable outcomes.

### *History and Existing Conditions*

New York City's first SNAD was established in 1974 to balance the level of development with the preservation of natural features such as aquatic, biologic, botanic, geologic, and topographic features. The SNAD was initially mapped in more than 3,900 acres in Staten Island. In 1975, the SNAD was extended to the communities of Riverdale, Spuyten Duyvil, and Fieldston in the Bronx (Community District 8) and mapped as NA-2 to include approximately 900 acres of area with ecological and geological significance. Later, the SNAD was expanded to include Shore Acres in Staten Island (Community District 1) and Fort Totten Park in Queens (Community District 7).

The 1975 SNAD regulations required any site alterations on vacant lots and lots over 40,000 sf receive approval from the CPC. Lots under 40,000 square feet were reviewed only when the lot did not contain an existing development, the lot was regulated by an existing restrictive declaration or notice of restriction, or was subdivided after the 1974 SNAD regulations were enacted.

In 2005, the SNAD regulations were updated to include certain recommendations of the Staten Island SNAD Task Force and the Bronx Community Board 8 197-a plan (*CB 8 2000: A River to Reservoir Preservation Strategy*, adopted Fall 2003) to strengthen the preservation of significant natural features, including steep slopes, trees, and plantings. The size threshold for lots subject to the SNAD was reduced from 40,000 square feet to 10,000 square feet. The 2005 SNAD regulations required CPC approvals for developments, enlargements, or site alterations that impact any natural features, including any topography, on all lots greater than 10,000 square feet in size. In addition to natural feature modifications, applicants can request CPC modifications to bulk, parking, grading, and private road regulations of the underlying district to help minimize disturbance to natural features. A special permit for modifying use regulations was also available with limited scope of applicability.

The SNAD (NA-2) largely contains steep slopes, rock outcrops, and mature trees. The southwestern foot of the ridge includes marshes, and the shoreline of the Hudson River contains aquatic habitat that supports marine life. The SNAD (NA-2) is mapped primarily in low-density residential zoning districts characterized by detached single-family homes and community facilities on large parcels such as senior care, educational and religious institutions, parkland and open space. Within the SNAD (NA-2), there are approximately 1,003 lots, 83 percent of which contain one or two-family homes. An additional 12 percent of the area covered by SNAD (NA-2) is classified as institutional use, and five percent is classified as multifamily residential use.

### *Planning Framework*

Under existing SNAD regulations, natural features such as trees, aquatic and natural topography, including steep slopes and rock outcrops, are protected. Other features, including vegetation and areas surrounding aquatic features, do not have clear and consistent protections. Moreover, protections isolate individual natural features without regard to the larger ecological context across adjacent lots, and without requiring a higher level of protection for lots adjacent to ecological areas of regional importance. The existing regulations allow modification of natural features by CPC review independent of the size of the site or development, while providing little guidance regarding the relative value of natural features, how to prioritize protection, and how much encroachment to authorize.

The SNRD proposal was drafted in conjunction with two Special District Update working groups, one each in the Bronx and Staten Island, consisting of local representatives from community boards, civic associations, professionals, elected representatives, and other community stakeholders. Additionally, DCP engaged with the Community Board 8 working group to ensure familiarity and understanding of the framework and proposal. DCP has worked with these stakeholders since 2015 and, in addition, has coordinated with key city and state agencies, including the Department of Buildings (DOB), Department of Parks and Recreation (DPR), Department of Environmental Protection (DEP), Department of Transportation (DOT), and State Department of Environmental Conservation (DEC).

DCP and the Special District Update working groups developed the following principles to guide the proposal:

- Strengthen and rationalize natural resource preservation;
- Create a homeowner-friendly regulatory environment with robust as-of-right regulations for the development of homes on small lots that protect significant natural features;
- Protect and enhance the natural resources and neighborhood character of the districts, with greater predictability of development outcomes;
- Strengthen and clarify regulations so that review by the CPC focuses on sites that have a greater impact on natural resources and the public realm.

Based on the above principles, the SNRD proposal establishes a holistic ecological strategy based on a hierarchy of protection for natural resources. The special district area contains “core habitat,” which are large natural areas on public lands, that are vital to the City’s wildlife. These core habitat areas provide unique recreational opportunities and perform a wide range of functions, including storm-water absorption, flood mitigation, air and water filtration, and temperature regulation, all of which are critical for maintaining the region’s ecosystems. As such, the primary objective of the update is to protect and interconnect these core habitat areas, that will be protected in perpetuity, by regulating the surrounding private land.

With the use of technology and data available from Light Detection and Ranging (LiDAR) technology, DCP, with the assistance of other City agencies, identified other areas of ecological importance on private land, such as forests and wetlands, which form connective ecological corridors that are vital to wildlife and maintaining the area's ecology. As such, the second objective of the update is to preserve portions of these habitat areas on private land. Based on ecological science, habitats need a size threshold of 10,000 square feet or more in order to be self-sustaining, support a diverse species of plant, insect, and animal species, and provide critical connectivity.

The third objective of the proposal is to enhance protections across the entire district, considering neighborhood character and potential future development, that will achieve consistent and improved environmental outcomes. Gardens, trees, and permeability on individual properties can significantly impact the ecosystem of the surrounding area. Preservation of unique geologic features, such as rock outcrops and steep slopes, also defines and enhances the neighborhood character. To achieve this third objective, the SNRD proposal creates regulations to protect these features that apply throughout the special district area.

Based on this hierarchy of natural resources and objectives, the SNRD update creates two types of ecological areas. "Base Protection Areas," are mapped across the entire district to ensure an enhanced level of protection through requiring trees, planting and permeability for all properties. To further prioritize the protection of the core habitats in large public lands, areas adjacent to and within 100 feet of the core habitats are designated as "Resource Adjacent Areas." Resource Adjacent Areas have stricter regulations regarding permitted disturbances, planting, and permeability. Areas around aquatic resources, such as wetlands regulated by DEC, have enhanced protections similar to Resource Adjacent Areas to enable the protection of these critical habitats through planting buffers and reduced disturbance.

Within any of these ecological areas, sites that would require discretionary approval are classified as "Plan Review Sites." Plan Review Sites include all properties larger than one acre and certain smaller sensitive sites with:

- four or more buildings, or eight dwelling units in Resource Adjacent Areas and areas adjacent to aquatic resources, because the new as-of-right regulations may not predict

every outcome that best achieves the goals of balancing development and preservation;

- developments with private roads, as these sites are more likely to affect the natural resources, public realm and neighborhood character;
- new buildings or subdivisions in a historic district to align and coordinate review with Landmarks Preservation Commission (LPC) such that both goals of historic and natural resource preservation are met;
- modification of rock outcroppings greater than 400 square feet; and
- subdivisions resulting in four or more zoning lots that did not exist on May 6, 2019.

All properties smaller than one acre that do not fall into one of the above categories would be able to apply for approval by filing directly with DOB, subject to meeting the SNRD regulations established by the proposed actions.

One distinction between sites larger and smaller sites is that larger sites present opportunities for design choices that could result in significantly different outcomes. Through years of reviewing applications, DCP has found that discretionary review does not result in substantially different outcomes on small sites because these properties do not present the same range of design options. Therefore, the SNRD proposal would shift review to larger and more sensitive sites where discretion can result in improved ecological outcomes.

In summary, the SNRD proposal would:

- Establish clear requirements for trees, ground planting, and permeability based on the best practices from over the past 40 years (Base Protection Areas);
- Establish additional protections for trees, ground planting, and permeability for properties adjacent to habitat areas on public lands to protect and enhance the most ecologically-sensitive resources (Resource Adjacent Areas) and areas adjacent to aquatic resources;
- Require preservation of portions of existing habitat (10,000 square feet or greater) on properties of an acre or more, while providing options to cluster development to maintain overall development potential;
- Allow for multi-phase long-term planning for properties of an acre or more, to provide

- opportunities for holistic environmental review and public feedback; and
- Establish appropriate review processes based on the size of property, proximity to sensitive areas, and effects on neighborhood character and the public realm.

### **Existing and Proposed Special District Regulations**

The following sections compare the current SNAD (NA-2) and proposed SNRD zoning relating to the overall framework, goals, and specific regulations.

#### Tree Regulations

##### *Existing SNAD (NA-2)*

The SNAD (NA-2) requires either a minimum number of trees based on the requirement of one tree per 1,000 square feet of lot area, or at least 51 percent of existing tree credits originally on site, whichever is greater. These requirements apply to all construction, enlargement, or site alteration on a property. Discretionary authorization by the CPC is required to remove any tree of six-inch caliper or greater if it is beyond 15 feet of the proposed building footprint, and is also outside of any proposed driveways, private roads, or required parking space. The authorization is also required if any portion of the critical root zone is disturbed and such trees are not counted toward credit. Today, newly planted trees must be a minimum of three inches in caliper to count for tree credit. Combined, the current tree planting requirements and CPC review can create a burden for property owners attempting to make small improvements, and do not encourage protection of old growth trees.

##### *Proposed SNRD*

The goal of the proposed tree planting regulations is to encourage preservation of old growth trees and provide flexibility for the siting of buildings on the zoning lot. New regulations would establish requirements for a minimum number of trees and tree credits based on the lot area and type of development. The requirements would apply to new development, such as new or enlarged buildings and new hard surfaces (including driveways), as well as to removal of trees with a caliper greater than six inches.

Properties in lower-density residential districts would have to achieve higher tree credit totals than properties in higher-density residential districts, as specified below:

- For residential uses, one tree would be required for every 1,000 square feet of lot area. In addition, for R1 and R2 zoning districts, three tree credits would be required for every 750 square feet of lot area; for R4 and R6 zoning districts, two tree credits would be required for every 750 square feet of lot area.
- For community facility uses, one tree would be required for every 2,000 square feet of lot area and 1.5 tree credits would be required for every 750 square feet of lot area.

To encourage the preservation of existing trees, those within 15 feet of the rear lot line would be required to be preserved, except where existing buildings, structures or required parking would preclude it. Old growth trees, native trees, and groupings of trees, which have greater ecological importance, would receive higher value in order to encourage their retention. Newly-planted trees would be allowed at one- or two-inch caliper in order ensure the newly planted trees have a better chance of survival. In the proposed regulations, small portions of critical root zones that extend beyond the structural root zone could be minimally disturbed, while still counting the tree for credit. There would be a front yard tree requirement to maintain and enhance the neighborhood character. Invasive species would not be counted for credit.

### Biodiversity Regulations

#### *Existing SNAD (NA-2)*

Today, no ground cover vegetation may be removed beyond 15 feet of the proposed building footprint, driveways, private roads and required accessory parking spaces, unless it receives approval from the CPC. Ground cover, shrubs, small trees, and large trees must be planted to replace any vegetation that is removed or any topsoil that is disturbed, each on a basis proportionate to the size of the area disturbed.

#### *Proposed SNRD*

Ground-level plants and understory vegetation play a critical role in the long-term health of the larger ecosystem. As such, the proposed regulations for ground-level plants and shrubs would apply for new construction, enlargements or site alterations that meet certain criteria, including

enlargements resulting in a 20 percent increase in floor area or an increase of hard surface area of 400 square feet or greater. Resource Adjacent Areas and areas adjacent to aquatic resources would have higher planting requirements, resulting in 12 to 15 percent of the lot being planted, to help enhance the protection of core habitat and support higher levels of biodiversity across the network of natural areas.

Lower-density residential zoning districts (R1 and R2) in the Base Protection Area would have a moderate planting requirement resulting in approximately eight to 10 percent of the lot being planted, not including lawn. All other developments in the Base Protection Area, such as community facility uses or residential in R4 and R6 residential zoning districts would have a planting requirement, generally resulting in approximately five percent of the lot being planted. Existing properties that are not making any changes to their lot are required to maintain up to five percent of existing planted areas in a Base Protection Area and up to 15 percent of existing planted areas in a Resource Adjacent Area.

### Topographic and Geologic Resources

#### *Existing SNAD (NA-2)*

Slopes and natural topography are regulated in SNAD (NA-2) by prohibiting the disturbance of the natural features beyond 15 feet of proposed development. Retaining walls have no height limits under existing regulations, which can result in additional cut and fill, poor drainage, and a negative effect to the streetscape and neighborhood character. Rock outcrops or erratic boulders cannot be removed without CPC review. However, property owners can apply for a CPC authorization to disturb or relocate these natural features, and the standards for approving or denying these authorizations are not well defined and can create unpredictable outcomes.

#### *Proposed SNRD*

Similar to the goals of existing regulations, the proposed regulations for topographic and geologic resources aim to limit disturbance of steep slopes and reduce hillside erosion, landslides, and excessive stormwater runoff associated with development, while preserving neighborhood character.

The proposed regulations encourage siting new development and additions on the flattest portion of a site by allowing a larger footprint on those areas and a smaller footprint when impacting a steep slope. For example, siting a building or other amenity on a slope of 85 percent or greater would limit lot coverage to 12.5 percent, whereas locating development on a portion of the site with slopes of 10 to 24 percent would allow a lot coverage of 25 percent.

To preserve neighborhood character and support slope stability, the proposed regulations would limit retaining walls to a maximum of six feet in height within the 10 feet of the front portion of a lot, or up to a maximum of eight feet beyond that. If higher retaining walls are required, they would have to be provided in a stepped manner following the site gradation with planting material in between to maintain the topography and character of the neighborhood.

The proposed regulations would provide robust and predictable protections for rock outcrops and erratic boulders, as these natural features are an important component of the geology and character of these communities. As proposed, rock outcrops in the front yard may not be disturbed, except to provide access to the property via a driveway, private road, or walkway, with restrictions on width. Beyond the required front yard, as well as in the rear yard, no more than 50 percent of rock outcrops could be disturbed, and no more than 400 square feet of area of rock outcrops could be disturbed without an authorization from the CPC. Erratic boulders could be relocated, if necessary, to the front portion of the lot.

### Aquatic Resources

#### *Existing SNAD (NA-2)*

Disturbance of aquatic resources is not allowed in SNAD (NA-2) without CPC review. However, the current regulations do not protect land immediately adjacent to aquatic resources, which are integral to the long-term health of these natural features. Property owners can apply for an authorization from the CPC to modify these natural features, and the standards for approving or denying these authorizations are not well defined. All construction within areas regulated by DEC or the United States Army Corps of Engineers (Army Corps) are subject to DEC or Army Corps approval and are reviewed on a site-by-site basis.

### *Proposed SNRD*

The proposed regulations would strengthen the preservation of aquatic resources by creating specific regulations related to planted areas along the delineated wetland, and limitations to lot coverage and hard surfaces within 100 feet of freshwater wetlands. Such boundaries would be delineated by a field assessment. These regulations would apply for all sites that are currently subject to DEC freshwater wetland regulations as well as to sites greater than one acre that contain non-DEC freshwater wetlands. All construction within DEC or Army Corps regulated areas would continue to be subject to those agencies' approvals.

Within the 100-foot adjacent area of a freshwater wetland, the proposed regulations would require a planted area of 60 feet from DEC wetlands or 30 feet from other wetland boundaries. Developments would be required to provide a planted area of up to 30 or 60 feet on their lot, depending on the type of wetland and location of the wetland in relation to the property (i.e. if the 60 feet of required planted area from the DEC wetland overlaps with only 40 feet of the lot, only that 40 foot portion of the lot would require the planted area). This proposal is based on best practices and coordination with DEC, DPR and DEP on how best to ensure the survival of the wetland, allowing a transition zone between paved surfaces and the resource.

Development on zoning lots or portions of zoning lots within the 100-foot wetland adjacent area would be limited to a lot coverage of 15 percent, and a maximum hard surface area of 45 percent. When creating new lots, wetlands and required planted buffer areas would be excluded from minimum lot area calculations to balance development potential and wetland preservation, except when 10 percent or less of the new lot contains wetlands and buffer areas. An open area would be required between residences and the planted buffer area, with 20-feet at the rear and 5-feet at the side in order to minimize encroachment on sensitive areas.

For all existing zoning lots with aquatic features, if avoidance of the wetlands or planted buffer areas is not feasible, the proposed zoning regulations would specify a maximum amount of disturbance to these areas that would allow a feasible development, such as establishing a permitted minimum building size or reduced yards.

## Habitat Preservation

### *Existing SNAD (NA-2)*

Today, there are no specific regulations or thresholds to preserve existing habitat other than ‘areas of no disturbance’ in SNAD, which are established in relation to the proposed development. This results in inconsistent development outcomes that are based on prioritizing development potential. Each site (and the value of the natural resources within) is evaluated without considering the interconnectivity of natural resources and the outcome is based on a great deal of negotiation with DCP and review by CPC.

### *Proposed SNRD*

The proposed regulations acknowledge the importance of large habitat areas on private properties and the opportunities for ecological connectivity to core habitats on public land. Properties larger than one acre with existing habitat would be required to preserve habitat for up to 25 and 35 percent of the lot for residential and community facility uses respectively, when such habitat is 10,000 square feet or greater. When development is located near a habitat this size, the habitat is more likely to survive and maintain a higher level of ecological quality than smaller pockets of habitat. These valuable features may include a large grouping of old-growth and native trees, and vegetation, wetlands, and other aquatic features.

To facilitate implementation, data collected through LiDAR and other resources has been utilized to identify potential locations of habitat areas and these identified areas will be made public through an online map that will be created through the Department of City Planning’s rulemaking process. This screening tool will flag properties that would require a site assessment to identify significant habitat areas and delineate the portions to be set aside for preservation in perpetuity. For residential development, preservation requirements could be reduced by five percent to encourage recreational amenities to serve the needs of the residents of four or more dwelling units on the property. To create the site assessment protocol, DCP would promulgate further rules that would specify how the habitat preservation area assessment would be performed and established.

## Controls during construction

### *Existing SNAD (NA-2)*

The current SNAD regulations ensure adequate controls are in place during construction to minimize impacts on natural features, such as trees and steep slopes. On Tier II sites, no construction equipment can be operated beyond 15 feet of the building footprint, except for the construction of driveways and private roads. Construction fences must be erected around all areas of no disturbance.

### *Proposed SNRD*

In addition to New York State erosion and sedimentation control regulations, an overall set of regulations similar to those that currently exist in the SNAD would apply to preserve natural features during the construction process.

## Bulk Regulations

### Lot Coverage

#### *Existing SNAD (NA-2)*

In SNAD, the maximum lot coverage is regulated by the average percent slope and the applicable zoning district and it is further reduced when the steep slope or steep slope buffer is being modified (a maximum lot coverage of 12.5 percent in R1 and R2 residential zoning districts). A CPC authorization may permit a larger lot coverage in some instances.

#### *Proposed SNRD*

Based on best practices established over the past 40 years and the study of existing buildings in various districts, the proposed regulations introduce the concept of maximum lot coverage for residential uses in R1 (25%) and R2 residential zoning districts (30%). The proposed lot coverage regulations would provide predictable and clear outcomes for future development and would further limit lot coverage beyond the base amounts (ranging from 12.5% to 30%) based on a lot's adjacency to important ecological features, such as core habitats, aquatic resource or steep slopes. All buildings, including accessory buildings such as garages, would be considered lot coverage. If

the proposed lot coverage would result in a very small house, minimum permitted footprints (ranging from 700 – 1,200 square feet) are proposed as an exception to guarantee a minimum amount of development.

Plan Review Sites containing community facilities (such as schools, medical facilities, or houses of worship) with a required habitat preservation area would be subject to a maximum lot coverage of 25 percent. Community facility uses located in Base Protection Area with no habitat preservation requirements would be permitted a lot coverage of 35 percent.

For R4 and R6 residential zoning districts, underlying regulations would continue to apply.

#### Hard Surface Area

##### *Existing SNAD (NA-2)*

Existing regulations do not explicitly limit hard surface area. With CPC review, hard surface areas are decided on a case by case basis.

##### *Proposed SNRD*

The goal of the proposed regulations is to facilitate permeability by limiting the amount of hard surface area in order to maintain appropriate natural ground water levels that contribute to the health of the area's forests and wetlands. Proposed regulations for hard surface area would include all buildings and other structures, driveways, pathways, pools, and other paved surfaces including pervious pavers. Proposed regulations aim to codify these best practices and apply them to all areas based on natural features on site, intensity of use and zoning district (ranging from 40-75%). For residences in R1 and R2 residential zoning districts, the amount of hard surface area would be proportional to the amount of permitted lot coverage—the sites with the most restricted lot coverage would also have the most restricted amount of hard surface area (for example, when building is restricted to 12.5% lot coverage, then the maximum hard surface allowed would be 40%). For residences in R4 and R6 residential zoning districts and community facility uses in all districts, the maximum hard surface area would be 75%.

### Clustering of development to preserve natural features

#### *Existing SNAD (NA-2)*

Today the CPC is able to modify any yards to preserve natural features by authorization, but no clear standards exist regarding how much to modify these regulations.

#### *Proposed SNRD*

The proposed regulations would allow specific and limited as-of-right modification of yard regulations for all sites with aquatic features or habitat preservation requirements to offset these requirements and maintain the development potential of the site. Front yards could be modified up to five feet, depending on the applicable zoning district, and rear yards could be reduced from 30 feet to 20 feet. Both yard reductions could not be used for the same site. A yard of at least 20 feet at the rear and five feet on the side of a building would be required between the boundaries of such preserved habitat and any development.

### Height and Setback Regulations

#### *Existing SNAD (NA-2)*

In SNAD, height and setback requirements are regulated by underlying residential zoning regulations. CPC may authorize the modification of height and setback regulations if the modification will preserve significant natural features. Steep slopes can sometimes result in a building that complies with height limits but appears to be extremely tall from the rear or the side due to a change in topography.

#### *Proposed SNRD*

Underlying height and setback regulations would continue to apply. The proposed regulations would allow for an additional five feet in the height of buildings in R1 and R2 residential zoning districts on highly constrained sites with lot coverage of 20 percent or less, on lots that include sites in Resource Adjacent Areas, sites with aquatic resources, or steep slopes. This would allow the floor area to be redistributed vertically with the goal of limiting development within sensitive natural areas. In Resource Adjacent Areas, areas within 100 feet of aquatic resources, and qualifying lots (where additional height is permitted under the proposal) any side of the building

that rises more than 31 feet from ground level to roof would be required to break up that façade by building projections, such as bay windows or recesses into the outer wall.

### Open Areas

#### *Existing SNAD (NA-2)*

In SNAD, open spaces are regulated by underlying zoning regulations.

#### *Proposed SNRD*

The proposed regulations would require an open area of at least 20 feet at the rear of any residence adjacent to a wetland buffer surrounding a DEC wetland or any other wetland or habitat preservation area on sites of one acre or more. A five-foot open area would be required between the sides of any building and either of these features.

For Plan Review Sites containing community facilities, such as schools, colleges, or universities, an open area consisting of 15 percent of the lot would be required for active or passive recreational amenities. This open area would not be permitted to overlap with any required habitat preservation area or any required biodiversity planting area.

### Parking and Curb Cut Regulations

#### *Existing SNAD (NA-2)*

On Tier II sites, there are regulations regarding driveways, private roads, curb cuts, and underlying parking regulations. Any modification to these regulations to protect natural features requires an authorization from the CPC.

#### *Proposed SNRD*

In the proposed regulations, for lots within Resource Adjacent Areas, lots with steep slopes, or lots with DEC wetlands, the curb cut and parking location regulations would be modified to allow parking to be located in the front yard and parallel to the street in order to minimize disturbance to steep slopes and other natural features.

Under the proposed regulations, the CPC would review parking circulation and vehicular access and egress for Plan Review Sites.

### SNRD Proposed CPC Review

#### Certifications

- Certifications for future subdivisions for any non-Plan Review Sites would be eliminated, whereas future subdivision for Plan Review Sites would require CPC authorization.
- Certifications for restorations would be eliminated.
- Two new certifications would be created as part of the proposed actions. One would certify that a development on a Plan Review Site complies with a previously-approved plan for the long-term development of a large site. The other would certify that, on a Plan Review Site located within an area of potential habitat as shown on a map maintained by the DCP, trees proposed for removal are not in an area that would be considered natural habitat.

#### Authorizations

- All Plan Review Sites would be required to apply for a general authorization by the CPC for any proposed development, enlargement, site alteration, or subdivision, except for minor modifications within 15 feet of a building on sites of one acre or more. Permission to proceed, if granted, would be based on the extent that the project meets the findings established under the proposed regulations, including that the most significant natural features of the site have been preserved, when feasible; that any required habitat preservation area connect to other off-site habitats, where feasible; and that vehicular and pedestrian circulation on the site be well designed and integrated with the surrounding road network. The authorization would allow the modification of regulations for private roads, parking areas, trees, other planting requirements, aquatic resources, topography, retaining walls, and site planning requirements to preserve natural features and result in a site plan that best meets the goals of the SNRD.
- Plan Review Sites would have the option to seek an authorization from the CPC for a long-term development plan, which would establish areas on a site where future development could be approved. If CPC approves the plan, development within the parameters of the plan could be constructed subject to a certification or renewal authorization, depending on

the extent to which surrounding characteristics have not changed.

- Bulk regulations for Plan Review Sites containing community facilities and for residential sites containing required habitat preservation areas could be modified by CPC authorization to protect natural features in conjunction with the general authorization. Use regulations could also be modified for residential sites containing required habitat preservation areas to permit two single-family residences to share a party wall in R2 residential zoning districts.
- An authorization to permit a natural area to be dedicated to the public and permit the adjacent Plan Review Site to be treated as if it included the natural area could be permitted by the CPC. This would be based on a special permit that achieves the same effect in the existing SNAD regulations.

#### Special Permits

- A special permit would be required for modifying the boundaries of a previously-established habitat preservation area due to unforeseen circumstances. Such modification would only be allowed if a replacement or enhancing of the existing preserved habitat were provided.

#### **Proposed Actions**

DCP proposes a zoning map and zoning text amendment to support implementation of the above planning framework, which seeks to provide clear and consistent guidelines to better preserve natural features. The proposed actions are the outcome of a four-year collaborative effort involving multiple city and state agencies (including DOB, DPR, DEP, DOT, and DEC), local working groups, stakeholders, and members of the community. The proposed actions have been thoughtfully crafted based on over 40 years of best practices and are intended to facilitate a development pattern that meets the long-term community vision by streamlining and clarifying the review process.

The proposed actions would establish the SNRD in Community District 8 in the Bronx, and strengthen the approach to natural resource preservation.

### Zoning Map Amendment

A zoning map amendment to convert SNAD (NA-2) in the Bronx to SNRD. The proposed zoning would be coterminous with the existing SNAD NA-2 boundary. The proposed zoning would facilitate the type and scale of development currently allowed by the underlying zoning district, and regulations pertaining to natural resource preservation may be modified by the SNRD to address the goals of the special district.

### Zoning Text Amendment

A zoning text amendment would establish the SNRD in Section 143-00 in Article XIV, Chapter 3 – SNRD, and modify Article X, Chapter 5 to remove NA-2 applicability from the existing SNAD. The zoning text amendment would incorporate the regulations noted in the proposed SNRD zoning regulations, as previously described.

## **ENVIRONMENTAL REVIEW**

The original application (C 190403 ZMX), in conjunction with the related application (C 190429 ZMR and N 190430 ZRY), and modified application (N 190430(A) ZRY), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP083Y.

It was determined that this application, in conjunction with the applications for the related actions (the “Proposed Actions”) may have a significant effect on the environment, and that an Environmental Impact Statement would be required. A Positive Declaration was issued on November 9, 2018, and distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on November 9, 2018. A public scoping meeting was held on the Draft Scope of Work in Staten Island on December 10, 2018 and in the Bronx on December 13, 2018. A Final Scope of Work, reflecting the comments made during the scoping, was issued on May 3, 2019.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on May 3, 2019. Following the issuance of the DEIS, DCP filed an amended zoning text amendment (N 190430(A) ZRY) that addressed issues raised during the public review process. The amended zoning text amendment modifies the geographic applicability of the proposed action to exclude Staten Island and affect the existing NA-2 in the Bronx, Community District 8. The amended zoning text amendment was analyzed as the A-Text Application in Technical Memorandum 001 issued on July 29, 2019. This Technical Memorandum concluded that these modifications would not alter the analyses and conclusions of the DEIS.

Pursuant to SEQRA regulations and CEQR procedures, a joint public hearing was held on the DEIS on August 14, 2019 and extended until August 28, 2019, in conjunction with the public hearing on the related application (N 190430 ZRY) and modified application (N 190430(A) ZRY). The amended application supersedes the initial application (N 190430 ZRY), which was withdrawn on September 6, 2019. A Final Environmental Impact Statement (FEIS) reflecting the modified application and comments made during the public hearing was completed and a Notice of Completion for the FEIS was issued on September 13, 2019.

The original application as analyzed in the DEIS identified potential significant adverse impacts with respect to historical and cultural resources (archaeology) and hazardous material. The FEIS, which analyzed the modified application (N 190430(A) ZRY), concludes that the modified application would result in the same or similar significant adverse impacts identified for the original application. In addition, the FEIS analyzed an alternative to the Proposed Actions reflecting the CPC's modifications discussed herein as the Potential CPC Modifications Alternative in Chapter 22, "Alternatives" of the FEIS. Compared to the Proposed Actions, the Potential CPC Modifications Alternative would not reduce the potential significant adverse impacts identified under the proposed action's prototypical analysis.

The Proposed Actions and the Potential CPC Modifications Alternative as analyzed in the FEIS identified significant adverse impacts related to historic and cultural resources and hazardous material.

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

### **UNIFORM LAND USE REVIEW**

This application (C 190403 ZMX), in conjunction with the related action (C 190429 ZMR), was certified as complete by DCP on May 6, 2019, and was duly referred to Bronx Community Board 8, Staten Island Community Boards 1, 2, and 3, the Bronx Borough President, and Staten Island Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the original related application for a zoning text amendment (N 190430 ZRY) which was referred for information and review in accordance with the procedures for non-ULURP matters.

On July 29, 2019, the modified application for a zoning text amendment (N 190430(A) ZRY) was referred for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Bronx Community Board 8 held a public hearing on this application (C 190403 ZMX) on June 3, 2019 and on June 27, 2019, by a vote of 37 in favor, zero opposed, and zero abstention, adopted a resolution that “No Intelligible or valid ULURP Certification [was] received”. The full recommendation is attached to this report.

### **Borough President Recommendation**

This application (C 190403 ZMX) was considered by the Bronx Borough President, who held a public hearing on July 11, 2019, and on July 29, 2019, issued a recommendation disapproving the application. The full recommendation is attached to this report.

### **City Planning Commission Public Hearing**

On July 31, 2019 (Calendar No. S1), the Commission scheduled August 14, 2019 for a public hearing on this application (C 190403 ZMX), in conjunction with the public hearing on the related applications (N 190430 ZRY and N 190430(A) ZRY). The public hearing was duly held on August 14, 2019 (Calendar No. 67) and was held open by the Chair of the City Planning Commission

through August 28, 2019 (Calendar No. 20). There were six speakers in favor and seven in opposition.

The Council Member that represents the 11<sup>th</sup> District noted concerns with the current version of the text. Specifically, he highlighted concerns with DOB acting as the arbiter on small lots and expressed a lack of confidence in DOB's ability to enforce the regulations, wanting the community to play a role, and helping the community to be better educated on the proposed regulations. The Council Member also noted support for several aspects of the proposal. Specifically, he noted that there is a need for change to the current SNAD text and that he approves of the holistic approach, fighting invasive species, supplementing protections for old growth trees, and incorporating large site plans. He also noted that he is concerned that current regulations pose a heavy burden on homeowners.

Speakers in favor included a representative from DPR, a representative of the Natural Areas Conservancy and SNRD working group member, the Bronx DOB Commissioner, an environmental/land use attorney who is also a SNRD working group member, and two residents of the community, one of whom was in the SNRD working group.

A DPR representative spoke about the importance of protecting natural resources and noted that the proposal would incorporate a number of additional natural feature protections that are not found in the current SNAD regulations.

A Natural Areas Conservancy ecologist and SNRD working group member noted their support for the stronger, clearer, and more predictable regulations that balance preservation with development.

The Bronx DOB Commissioner and member of the SNRD working group expressed support for the proposal, noting that it would create a framework that would better allow for enforcement of the regulations.

An environmental and land use attorney and member of the SNRD working group expressed support for the proposal, highlighting that it would provide better open space preservation and

provide better subdivision controls and creates better regulations for small lots. The speaker expressed concerns regarding DOB enforcement and tax lot subdivisions.

A SNAD resident, who is an architect and member of the SNRD working group, expressed support for the proposal due to the current SNAD regulations being time consuming for small property owners. He noted that costs for the SNAD process can be higher than the costs associated with the actual construction work. The testimony included recommendations to the proposal that would further limit the size of minor enlargements permitted on plan review sites on an as-of-right basis, and that would use the special inspections process already established in the building code for enforcement purposes.

A SNAD resident noted the time and costs associated with the process, and stated that the proposal would simplify the process for small homeowners.

Speakers in opposition included a representative of Riverdale Nature Preservancy and member of the SNRD working group, a representative of the Bronx Council for Environmental Quality, a representative of Friends of Spuyten Duyvil, a homeowner, a representative of Community Board 8, and two non-residents.

A SNAD resident and chair of Riverdale Nature Preservancy and member of the SNRD working group expressed concerns that the proposal fails to provide clear direction on implementation and enforcement. She also noted that all lots larger than 10,000 square feet should require CPC and community review to assure compliance with the 197-a plan and that subdivision into multiple lots should be included in the review process.

A representative of the Bronx Council for Environmental Quality stated that the DEIS was fatally flawed, noting several reasons including the omission of current levels of imperviousness and not having a baseline of existing conditions against which to compare the proposal.

A representative of Friends of Spuyten Duyvil presented concerns that the proposal was written for Staten Island and there is not enough written for all the community facility uses in the Bronx, while noting that the proposal should not skip Community Board review.

A SNAD resident expressed opposition to the proposal, citing concerns that the Bronx proposal was an afterthought and wanted to make sure that any changes would not adversely impact the community. She also expressed that the Community Board should retain oversight.

A representative from Community Board 8 stated that they did not have a legal text to review and that the representative's statements were focused exclusively on the process rather than the substance of the proposal. They also stated that DCP should start the process over from the beginning.

A member of the Riverdale community believed that the proposal was pro-development and had concerns with DOB enforcement.

A Queens resident stated that he wanted to ensure that any jobs created would be union jobs.

The Commission received a great deal of written testimony, which included testimony both in support of and in opposition to the proposal. A large portion of written testimony opposed to the proposal came from two letter writing campaigns. The first letter writing campaign contained a large number of comments about wanting the current proposal to be withdrawn and wanting to "save SNAD". A large amount of this testimony was from community residents that live outside of the SNAD. The second letter writing campaign consisted of supporters of the Bronx Council for Environmental Quality group, which expressed opposition to the proposal primarily due to an alleged lack of public participation, and a perception that the proposal favored institutions over homeowners, did not reduce negative impacts on significant natural resources, subverted protections, and lacked enforcement.

There was no other testimony, and the hearing was closed.

## **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

This application (C 190403 ZMX) was received by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 *et seq.*) The designated WRP number is 19-013.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that the proposed zoning map amendment (C 190403 ZMX), in conjunction with the application for the related action (N 190430(A) ZRY, as modified), is appropriate.

The Commission believes that SNAD has successfully contributed to preserving natural features within the Bronx SNAD NA-2 for over 40 years. The SNAD regulations have helped guide hundreds of developments and maintained the densely-forested neighborhoods of Riverdale, Fieldston and Spuyten Duyvil, preserved rock outcrops and old growth trees, and balanced preservation with development in a way that exemplifies the character of the community. However, the Commission acknowledges that the current SNAD should be updated based on current science. The current SNAD regulations follow a “one-size-fits-all” approach, treating small and large sites and projects the same, regardless of their impact on natural features and without regard to the larger ecological context. Building a new deck at a single-family home must go through the same discretionary process as a large institution constructing a new building on a lot with water features and wooded areas. This creates a burden for small homeowners seeking to make modest changes to their properties. The current SNAD text requires all projects to request waivers from the underlying zoning regulations but does not set clear limits on the extent of waivers, resulting in unpredictable development outcomes.

The Commission is pleased that the preservation goals of the existing SNAD will be incorporated into SNRD in order to ensure that the special district continues to protect natural features while balancing preservation and development. The Commission believes that the process for achieving these goals should be modified through the proposed actions to reflect modern ecological science and best practices.

The Commission believes that the proposed planning framework would facilitate the goals identified with the Bronx SNRD working group, strengthen and rationalize natural resource preservation, create a homeowner-friendly regulatory environment with robust as-of-right regulations for the development of homes on small lots that protect significant natural features, protect and enhance the natural resources and neighborhood character of the special district with greater predictability of development outcomes, and strengthen and clarify regulations so that discretionary review focuses on sites that have a greater impact on natural resources and the public realm.

The Commission understands the importance of distinguishing between small sites and sites larger than one acre. The Commission believes that it is appropriate to retain discretionary review for large sites where site plan and design variation can result in different environmental outcomes. The Commission acknowledges that large sites over one acre constitute approximately 50% of the area within the special district, and can have a greater impact on the area's ecology and the character of the public realm. The Commission notes that sites larger than one acre with existing habitat will be required to maintain a habitat preservation area, in perpetuity. The Commission acknowledges that sound ecological science necessitates a habitat area of at least 10,000 square feet to achieve and sustain diverse plant, insect, and animal species, as highlighted by DPR during public testimony. The Commission acknowledges that discretionary review under existing SNAD regulations has not led to significantly altered proposals on small sites and that the proposed regulations are sufficiently strict to balance development and natural features for improved environmental outcomes on sites smaller than one acre.

The Commission notes that when the 2005 SNAD text was updated from the 1975 SNAD text, it was in response to recommendations from the Staten Island Special Natural Area District Task

Force and the Bronx Community Board 8's 197-a plan efforts that sought to strengthen the preservation of significant natural features such as steep slopes, trees, and plantings. The Commission notes that the Bronx Community Board 8's 197-a plan sought to expand the applicability of the SNAD regulations to smaller lots, as stated in the 197-a plan: "the size threshold that determines applicability of the SNAD-2 regulations, even within the SNAD-2 area, needs to be lowered or eliminated" to provide additional protections for more lots within the special district. The Commission notes that the 2005 text update reduced the review threshold from 40,000 square-foot lots to 10,000 square-foot lots and largely exempted lots under 10,000 square feet from adhering to regulations.

The Commission finds that the current proposal meets and expands upon the 197-a plan by requiring that all sites in the SNRD, regardless of size, meet special district requirements to preserve or enhance natural features. The Commission believes that by setting limits on development, enlargements, and site alterations for all sites, the SNRD regulations will provide a reasonable balance between preservation and development and further the goals of the 197-a plan.

The Commission believes that the current regulatory process is a burden to small homeowners, often resulting in inferior environmental outcomes and less predictable development options that take longer and cost more. The Commission believes that the regulations of SNRD will simplify the approval process for most property owners of sites of less than one acre by allowing them to demonstrate compliance with the regulations directly to DOB, at the same time that they achieve improved environmental outcomes and provide clearer, more-defined options for development for owners, neighbors, and the community.

The Commission believes that the SNRD proposal adequately balances preservation and development by setting stricter limits on development options. The proposal limits lot coverage and governs hard surface areas. By codifying and adopting best practices, the SNRD proposal will allow modest accessory improvements such as decks, patios, and swimming pools by demonstrating adherence to the SNRD requirements rather than through discretionary approval. The Commission believes that by incorporating steep slope impacts into lot coverage and hard surface limits, it will better preserve areas of steep slope.

The Commission believes that the SNRD proposal provides stronger tree planting and preservation requirements. The proposal improves upon the tree credit process by providing more credit for larger “old growth” trees to encourage preservation, requires front yard tree plantings, preserves trees in the rear yard, does not give credit for invasive species, and establishes a more comprehensive critical root zone system by incorporating structural root zones.

The Commission believes that the proposed biodiversity planting requirements will better match the existing character of the SNAD NA-2 community and improve environmental outcomes throughout the special district by connecting habitat areas. The Commission notes that the quantifiable planting requirement can be met in a variety of ways (including planted gardens, wildlife gardens, and green roofs), allowing the requirement to be easily understood and met by homeowners.

The Commission believes that the proposed SNRD regulations limit encroachment on rock outcroppings and provide clearer guidelines for the relocation of erratic boulders. The Commission recognizes that exceeding these limits may be required on certain sites, especially in Fieldston where existing homes were built on rock outcroppings. Accordingly, the Commission believes it appropriate that the SNRD proposal makes an approval to impact rock outcroppings available through discretionary review, only if the proposal meets certain findings.

The Commission believes that it is appropriate to require planted buffers around aquatic features to ensure their health and preservation. The Commission also believes that when subdividing zoning lots with aquatic features, the minimum lot area should not include the aquatic feature and the planted buffer to provide adequate lot area for appropriate development. The Commission agrees with the SNRD proposal that allows existing properties to have minimal encroachment on aquatic features in order to build a feasible development with the specific parameters contained in the SNRD proposal. The Commission acknowledges that development around all DEC wetlands must adhere to DEC’s requirements.

The Commission believes that sites larger than one acre (or sites defined as sensitive sites) should

go through a discretionary “Plan Review Site” process in order to ensure that natural features are properly identified and protected. The Commission acknowledges that the SNAD NA-2 area includes significant institutional campuses that will be subject to plan review regulations. The Commission understands that the granting of an authorization for such sites will be based on findings that the most significant natural features of the site have been preserved; that any required habitat preservation area is arranged to connect to other off-site habitats, where feasible; that vehicular and pedestrian circulation on the site is well designed and integrated with the surrounding road network; and that the proposal will result in good overall design for the neighborhood.

The Commission believes that the proposed new development plan option will allow for a better and more holistic approach to site planning and review of large sites. The Commission acknowledges that the current regulations do not incentivize long-term site planning and can result in piecemeal development and erosion of natural features. The Commission believes that the proposed new development plan option is appropriate and will provide large institutions and owners of other large sites with the option to propose a multi-phased development plan without having to seek multiple discretionary reviews. The Commission believes that this new discretionary approval will create an opportunity for both the community and the Commission to assess current plans within the context of long-term development options. The Commission further acknowledges that large institutions and owners of other large sites will benefit from a development plan by completing a single environmental review upon the establishment of the development plan and then following a streamlined process in the future via the renewal approval. The Commission believes that the certification and renewal authorization will be important steps in verifying that the work done pursuant to the development plan is within the original scope and that the proposal remains consistent with the neighboring area.

The Commission acknowledges that the current SNAD regulations do not sufficiently regulate zoning lot subdivisions and that its purview is currently limited in reviewing such applications. The Commission recognizes concerns raised in public testimony regarding subdivisions. The Commission believes that the proposed SNRD regulations will significantly improve the ability of the Commission to provide substantive guidance on zoning lot subdivision applications. Though

outside of the scope of this application, the Commission heard testimony regarding tax lot subdivisions and notes that tax lot subdivisions should be discussed in coordination with the relevant agencies and stakeholders about these concerns.

The Commission recognizes that DOB is the enforcement agency of the Zoning Resolution and believes that the SNRD proposal will provide a better framework for enforcement of the SNRD regulations before, during and after construction. The Commission notes that the current SNAD regulations require discretionary approval to modify SNAD requirements, but that the SNAD regulations do not set limits on these modifications, making every SNAD approval unique. This makes it more difficult for DOB to enforce bespoke SNAD approvals. In contrast, the SNRD proposal contains specific measurable limits for development and natural features, so that each site can easily be assessed for compliance. Furthermore, application requirements are clearly defined in the SNRD regulations so that both DOB plan examiners and land owners will know what must be provided as part of an application to DOB. The Commission believes that with defined threshold limits as well as clear application requirements, the SNRD regulations will allow DOB plan examiners to more effectively verify compliance.

The Commission acknowledges that the SNRD proposal will provide new regulations to empower DOB inspectors during site inspections during construction. The SNRD proposal requires maintenance of a compliance report verifying that site protections are in place (including construction fences protecting tree roots and other areas of no disturbance), which will allow immediate action by a DOB inspector if not maintained. Under the SNRD regulations, a registered design professional, such as an architect or landscape architect, must inspect the site after construction and provide a final report to DOB to demonstrate that all trees and biodiversity plantings have been preserved or planted, and that all SNRD planting requirements have been met.

The Commission commends DCP's efforts to create for homeowners materials that clearly outline the information needed to satisfy the SNRD regulations. The Commission is pleased by the draft homeowner's guide and technical guide that DCP created for homeowners, practitioners, and professionals. The Commission encourages DOB and DCP to collaborate to create material for

DOB plan examiners, DOB site inspectors, and professionals in order to assist with the DOB application process.

The Commission recognizes testimony in support of the SNRD proposal stating that the current SNAD regulations are burdensome on small property owners, both in terms of financial cost as well as time delays, requiring the preparation of a discretionary application to the CPC, even for a small site alteration. The Commission recognizes that the framework for the SNRD proposal was established with participation from the working group in the Bronx and that the agreed upon framework included “creating a homeowner-friendly regulatory environment with robust as-of-right regulations for the development of homes on small lots that protect significant natural features.”

The Commission also acknowledges the many public comments expressing concern over removing community input from the process and a desire to maintain a public forum for discussion of SNRD applications. The Commission, however, notes that plan review sites, which include all sites over an acre and sites defined as sensitive sites, will continue to go through a discretionary process and be referred out to the Community Board before coming to the Commission for a vote.

The Commission acknowledges the many public comments expressing concern that the SNRD proposal would result in more development and less environmental protection. The Commission finds that the SNRD proposal is not increasing development potential or floor area; development will not be increased by the proposal, but will be further limited by the lot coverage and hard surface limits. To the contrary, all sites will have stronger environmental regulations under the SNRD proposal.

#### Commission Modifications to the Proposed Text Amendment

In response to public comments, the CPC is pleased to modify the proposal to provide a public notice for all SNRD applications, including those that do not require Commission discretionary approval. The SNRD proposal is modified to require all owners to share information about SNRD applications with the Community Board in advance of filing its SNRD zoning application materials with DOB. This will provide public notice and an opportunity for local discussion of SNRD plans,

while maintaining a simpler process for homeowners. The CPC acknowledges that large sites of over one acre and sensitive sites will continue to require discretionary action and will be referred to the Community Board as part of the referral process. With these provisions, the SNRD proposal will increase public opportunity for review and discussion on all SNRD proposals.

Also in response to comments, the CPC modifies the SNRD proposal to reduce minor enlargements on large sites, permit flexibility in bulk modification to preserve natural features, allow natural features in habitat preservation areas to meet biodiversity and tree requirements, and allow an elevated building or other structure to extend over a critical root zone and not be considered a disturbance. Additionally, the CPC modifies the SNRD regulations to allow retaining walls without regard to height to support safety along the Metro-North line. In addition to the various modifications made by the Commission described above, the Commission modifies a number of sections in the proposed text amendment to correct cross-references, grammar, and improve paragraph structure that provides additional clarity of the regulations.

The Commission further recognizes that DCP has made significant commitments to assist DOB in implementing SNRD during a transition phase. These commitments focus on joint site plan review, training, guides, forms, inspections, and outreach. The Commission believes that this heightened DCP role during the transition phase will foster a strong DOB enforcement regime when the SNRD regulations are adopted.

The Commission believes that the proposed SNRD, as modified, will provide a clear and consistent framework for natural resource preservation that balances development with preservation, codifies best practices and streamlines regulations to reflect a more holistic approach to natural resource protection with clear development standards, resulting in better and more predictable outcomes.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on September 13, 2019, with respect to this application (CEQR No. 19DCP083Y), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

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

**RESOLVED**, the report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action will not substantially hinder the achievement of any Waterfront Revitalization Program (WRP) policy and hereby determines that this action is consistent with the WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is hereby amended by changing the Zoning Map, Section Nos. 1a, 1b, 1c, and 1d:

1. eliminating a Special Natural Area District (NA-2) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th Street, Independence Avenue, West 240th Street, the centerline of the former West 240th Street and its westerly centerline prolongation, Douglass Avenue, West 235th Street, Independence Avenue, West 232nd Street, Henry Hudson Parkway, West 231st Street, Independence Avenue, the westerly centerline prolongation of West 230th Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231st Street, the easterly

boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations; and

2. establishing a Special Natural Resources District (SNRD) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261st Street, Independence Avenue, a line 600 feet northerly of West 256th Street, Arlington Avenue, West 254th Street, Henry Hudson Parkway West, West 252nd Street, Henry Hudson Parkway East, West 253rd Street, The Post Road, West 252nd Street, Tibbett Avenue, West 244th Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246th Street, Henry Hudson Parkway West, West 249th Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246th Street, West 246th Street, Independence Avenue, West 240th Street, the centerline of the former West 240th Street and its westerly centerline prolongation, Douglass Avenue, West 235th Street, Independence Avenue, West 232nd Street, Henry Hudson Parkway, West 231st Street, Independence Avenue, the westerly centerline prolongation of West 230th Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231st Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations;

Borough of the Bronx, Community District 8, as shown on a diagram (for illustrative purposes only) dated May 6, 2019.

The above resolution (C 190403 ZMX), duly adopted by the City Planning Commission on September 25, 2019 (Calendar No. 2), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**DAVID BURNEY, MICHELLE DE LA UZ, JOSEPH DOUEK,**

**HOPE KNIGHT, ANNA HAYES LEVIN, LARISA ORTIZ,**

**RAJ RAMPERSHAD**, *Commissioners*

**ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO III, ORLANDO MARIN,**

*Commissioners, Voting No*



**ZONING CHANGE**

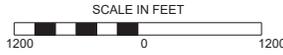
ON SECTIONAL MAP

**1a,1b,1c, & 1d**

BOROUGH OF  
**BRONX**

New York, Certification Date  
MAY 06, 2019

*S. Lenard*  
S. Lenard, Director  
Technical Review Division

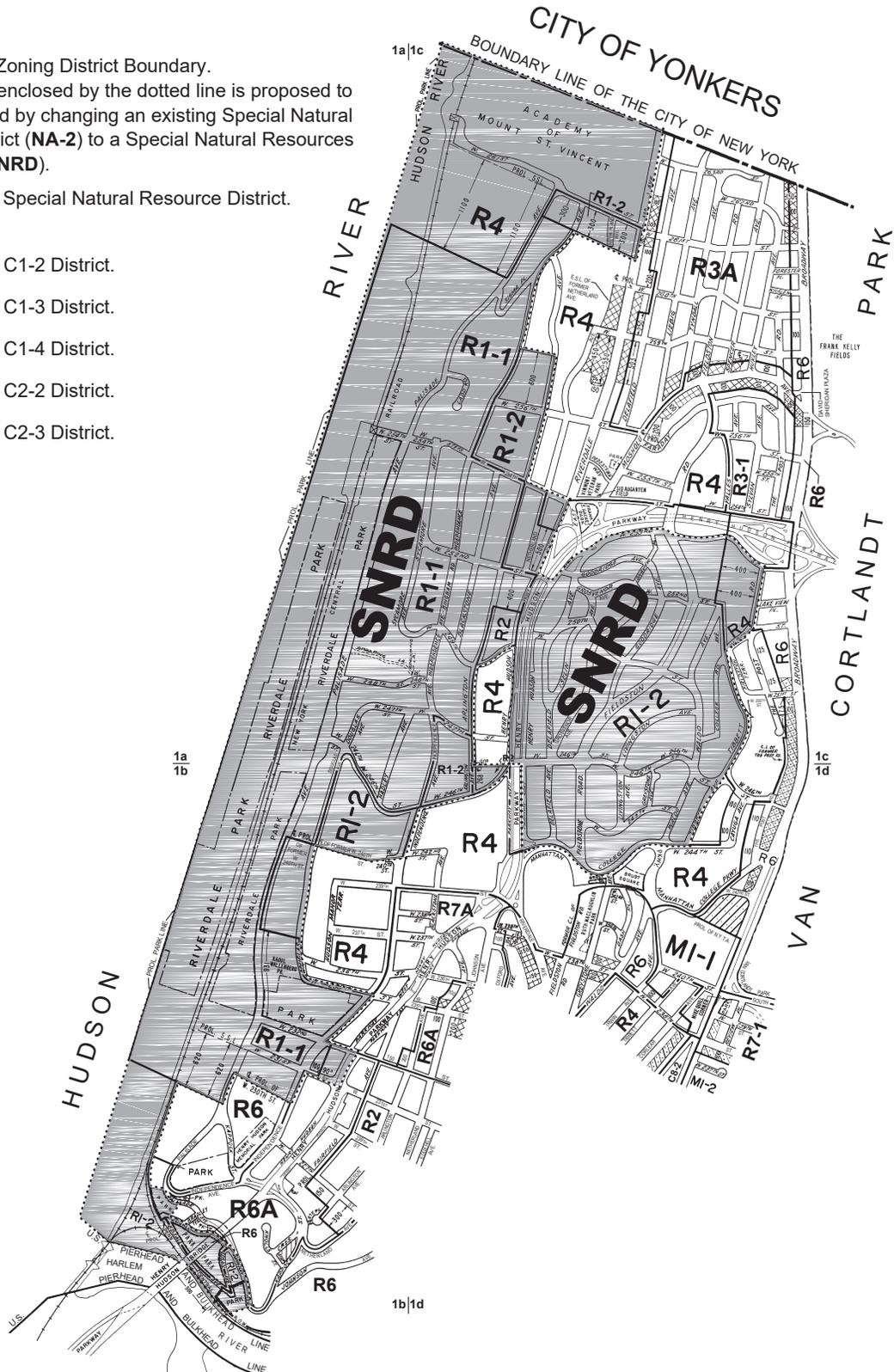


**NOTE:**

- Indicates Zoning District Boundary.
- ..... The area enclosed by the dotted line is proposed to be rezoned by changing an existing Special Natural Area District (**NA-2**) to a Special Natural Resources District (**SNRD**).

**SNRD** Indicates a Special Natural Resource District.

- Indicates a C1-2 District.
- Indicates a C1-3 District.
- Indicates a C1-4 District.
- Indicates a C2-2 District.
- Indicates a C2-3 District.





### Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application # **C 190403 ZMX**

Project Name: **SI & BX Special Districts Text Update**

CEQR Number: **19DCP083Y**

Borough: **Bronx**

Community District Number: **8**

Please use the above application number on all correspondence concerning this application

#### SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options.
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000Z50"
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - FAX** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable

See For Instructions

SEE ATTACHED

Applicant(s) NYC Department of City Planning 120 Broadway, 31st Floor New York, NY 10271		Applicant's Representative Claudia Herasme Urban Design Division, DCP 120 Broadway, 31st Floor New York, NY 10271
Recommendation submitted by: Bronx Community Board 8		
Date of public hearing: <b>June 3, 2019</b> <b>June 27, 2019</b>	Location:	<b>P.S. 81- 6560 Riverdale Ave Bronx NY</b> <b>P.S. 37- 386 W 230th Street Bronx NY</b>
Was a quorum present? YES <input type="checkbox"/> NO <input type="checkbox"/>		<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>
<b>June 3, 2019- No Quorum Present / Full Board June 27, 2019 Quorum Present + vote</b>		
Date of Vote: <b>June 27, 2019</b>	Location:	<b>PS 37, 386 W 230th Street Bronx NY</b>
RECOMMENDATION <input checked="" type="checkbox"/> <b>No Intelligible or valid ULURP Certification received. See attached Resolution</b>		
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions	
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>		
Voting # In Favor: <b>37</b> # Against: <b>0</b> # Abstaining: <b>0</b> Total members appointed to the board: <b>45</b>		
Name of CB/BB officer completing this form <b>Clara Gannon</b>	Title <b>District Manager</b>	Date <b>July 1, 2019</b>



## BRONX COMMUNITY BOARD NO. 8

5676 Riverdale Avenue, Suite 100 • Bronx, New York 10471-2194

Telephone: 718-884-3959 • Fax: 718-796-2763

E-Mail: [bx08@cb.nyc.gov](mailto:bx08@cb.nyc.gov)

Website: [www.nyc.gov/bronxcb8](http://www.nyc.gov/bronxcb8)

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Rosemary Ginty, Chairperson

Clara Gannon, District Manager

RE: CD 8 C 190403 ZMX

### OFFICERS:

**Vice Chairperson**  
Laura Spalter

**Secretary**  
Lisa Daub

**Treasurer**  
Rosalind Zavras

### COMMITTEE CHAIRS:

**Aging**  
Eric Dinowitz

**Budget**  
David Gellman

**Economic Development**  
Sergio Villaverde

**Education, Libraries &  
Cultural Affairs**  
Sylvia Alexander

**Environment & Sanitation**  
Robert Fanuzzi

**Health, Hospitals &  
Social Services**  
Omar Murray

**Housing**  
Daris B. Jackson

**Land Use**  
Charles G. Moerdler

**Law, Rules & Ethics**  
Martin Wolpoff

**Parks & Recreation**  
Bob Bender

**Public Safety**  
Margaret Donato

**Traffic & Transportation**  
Dan Pademacht

**Youth**

WHEREAS, the Special Natural Area District (“SNAD”) was established in 1974, mapped in The Bronx in 1975 with the participation and involvement of the community, and has guided development while preserving areas of critical environmental sensitivity and unspoiled natural habitat for 40 years; and

WHEREAS, in the Spring of 2015, as a result of an increasing sentiment in the community at large and among members of Bronx Community Board 8 that SNAD regulations were not adequately protecting key areas of the community, the Land Use Committee of Bronx Community Board 8 formed a Working Group of four members (Working Group”) to meet with the Bronx Office of the Department of City Planning (“DCP”) and report back with findings and recommendations; and

WHEREAS, shortly thereafter, DCP independently began a review and revision of the SNAD regulations in large part for the purpose of (1) expanding the amount of development in the Staten Island SNAD that would be “as-of-right” for owners and developers and (2) alleviating the workload of the Staten Island DCP staff responsible for reviewing applications by owners and developers; and

WHEREAS, the Working Group held numerous meetings with the Bronx Office of DCP and issued three reports describing the progress of DCP’s proposed changes to the SNAD regulations and setting forth the Working Group’s concerns and recommendations in connection therewith; and

WHEREAS, at Land Use Committee meetings and in other public meetings, the Working Group and the Bronx Office of DCP made numerous presentations regarding the status of their efforts; and

WHEREAS, the Land Use Committee on September 5, 2017, and the full Community Board on September 13, 2017, adopted resolutions urging the separation of the Staten Island SNAD regulations from The Bronx SNAD regulations out of well-founded concern that any proposed text changes would be designed to provide solutions to problems that distinctly pertain to conditions and circumstances on Staten Island; in fact, while DCP was considering expanding the amount of “as of right” development in order to accommodate development and reduce DCP’s workload in Staten Island, in the Bronx, by contrast, community sentiment increasingly favored enhanced protection of the environment and natural areas, stepped-up enforcement of SNAD regulations, and preservation of public participation in Land Use matters via democratic institutions in the form of community boards and the public at large; and

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**BRONX COMMUNITY BOARD NO. 8**

**PAGE 2**

**WHEREAS**, in or before 2018, DCP formulated, but did not disclose to the Working Group or the public, proposed amendments to the SNAD Zoning Text impacting Staten Island, the Bronx and the Ft. Totten area of Queens that would abolish SNAD in Bronx Community District 8 and create in its place a Special Natural Resource Area (“SNRD”), with such proposed changes subject to the city-wide ULURP process as a result of related changes to the Staten Island zoning map; and

**WHEREAS**, these proposed amendments to the Zoning Text would create four subdistricts, including a Riverdale-Fieldston subdistrict, through which the city-wide regulations applicable to the proposed Special Natural Resource Area would be implemented; and

**WHEREAS**, the five members of the New York City Council representing the proposed Special Natural Resource Area subdistricts jointly sent a letter to the Director of DCP formally asking that any proposed changes to the SNAD regulations be split into four separate amendments that would separately apply to each subdistrict and reflect the different circumstances present in diverse neighborhoods; and

**WHEREAS**, the City Planning Commission (“CPC”) certified the proposed changes to the SNAD (hereafter to be termed “SNRD”) Zoning Resolution (“SNAD proposal” or “proposed zoning text amendments”) on May 6, 2019, consisting of an approximately 200-page document replete with inter-related technical data, which began the ULURP process; and

**WHEREAS**, on May 8, 2019, the Land Use Committee of Staten Island Community Board 3 held a public hearing on the proposal and voted unanimously to disapprove; and

**WHEREAS**, on May 28, 2019 Staten Island Community Board 3 voted unanimously to disapprove the SNAD proposal and “strongly recommend[ed] that City Planning withdraw the entire proposed Special District amendment,” adding that Staten Island Community Boards 1 and 2 would follow suit, particularly in view of the fact that “... our elected officials have voiced their disapproval;” and

**WHEREAS**, the Land Use Committee of Bronx Community Board 8 timely published the required legal notice of its ULURP public hearing on the SNAD proposal, which hearing was held, as scheduled, on June 3, 2019; and

**WHEREAS**, not a single speaker at the June 3, 2019 public hearing spoke in favor of the CPC-certified SNAD proposal, although several participants, including the Working Group, noted that the proposal contained a number of elements that merited consideration; and

**WHEREAS**, at the June 3, 2019 public hearing, the representatives of DCP, in their 20-minute presentation and in the ensuing question and answer dialogue with the members of the Land Use Committee and the public, did not disclose or make any reference to the fact that DCP had committed to overhaul the proposed amendments to the zoning text following the Staten Island Community Board 3 unanimous rejection of the SNAD proposal, but concealed that relevant information from the Land Use Committee members who were scheduled to vote at that meeting; and

**WHEREAS**, the Land Use Committee of Bronx Community Board 8 was unable to vote on the proposal on June 3, 2019 due to the absence of a quorum; and

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**BRONX COMMUNITY BOARD NO. 8**

**PAGE 3**

**WHEREAS**, on June 14, 2019, over a month after CPC formally certified the zoning text amendments (together with the mandated environmental impact statement) that had been years in the making, Bronx Community Board 8 received from DCP a copy of a letter dated June 10, 2019, from the Staten Island Borough Director of DCP confirming that DCP was “amending the proposal for the project ‘Staten Island/Bronx Special Districts Update’ by withdrawing the application for a zoning map amendment on Staten Island.” Any subsequent SNAD proposal would be subject to the requisite formal DCP and CPC notice and procedures; and

**WHEREAS**, on June 14, 2019, Bronx Community Board 8 was advised by the Bronx Office of DCP that notwithstanding the complete withdrawal of the Staten Island portion of the SNAD proposal, (1) the approximately 200 pages of the proposed zoning text amendments would be “revised in a future update to remove all applicability from (sic) Staten Island”; (2) the SNAD proposal with respect to the Bronx would continue “to move through the official ULURP public review process”; and (3) that Community Board 8 should proceed with its scheduled vote on the proposal in accordance with ULURP – all in the absence of any such revised proposed zoning text or formal CPC action reflecting the acknowledged dramatically changed circumstances; and

**WHEREAS**, notwithstanding the withdrawal of Staten Island from the zoning text amendments and zoning map of the SNRD zoning resolution, the Bronx DCP representative stated that the process remains governed by ULURP because, among other factors, a name change and concomitant map change would result from changing “Special Natural Area District” to “Special Natural Resource District,” and, accordingly, the current “time clock” governing the time within which the Community Board may act still applies; and

**WHEREAS**, (a) the provisions of the approximately 200-page proposed zoning text amendments certified by CPC on May 6, 2019 that relate to Staten Island are inexorably intertwined with those relating to the Bronx; (b) the proposed Riverdale-Fieldston subdistrict is now the only district contemplated under a zoning resolution text change that was authorized by the CPC on May 6, 2019 as city-wide, and remains subject to zoning map changes in a ULURP application pertaining solely to Staten Island that have subsequently been withdrawn; (c) the Bronx Office of DCP estimates that it will take several weeks, at a minimum, to formulate and secure formal approval of new proposed amended zoning text language; (d) the proposed text amendments certified by CPC on May 6, 2019 no longer reflect the SNAD proposal DCP has now stated publicly has been materially changed and is being presented in indefinite form to Bronx Community Board 8 for consideration; and (e) members of Bronx Community Board 8 are being directed by DCP to adhere to ULURP strictures that may well no longer be applicable given the withdrawal of the proposed Staten Island zoning map changes and to vote, as scheduled, on June 27, 2019, on whatever it is that is before them – non-existent zoning text amendments; and

**WHEREAS**, on June 19, 2019, the Chairs of Bronx Community Board 8 and of its Land Use Committee wrote a letter (copy attached) to Marisa Lago, Chair of the City Planning Commission and Director of DCP, requesting a prompt meeting with “City Planning Commission executive staff” for the purpose of obtaining clarification of the CPC’s position on the present circumstances; and

**WHEREAS**, by letter dated June 20, 2019 (copy attached), the Executive Director of DCP responded to Bronx Community Board 8’s June 19, 2019 letter, effectively stating that the members of Community Board 8 should review the approximately 200-pages of the May 6, 2019 CPC-certified zoning text amendments and figure out for themselves what the new text language would be when the zoning text changes pertaining to Staten Island are eliminated and the balance of the text is somehow rationalized;

*Serving the neighborhoods of Fieldston, Kingsbridge, Kingsbridge Heights,  
Marble Hill, Riverdale, Spuyten Duyvil, and Van Cortlandt Village*

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**BRONX COMMUNITY BOARD NO. 8**  
**PAGE 4**

**WHEREAS**, the only justification offered for the foregoing refusal by the Executive Director of DCP even to convene a meeting with CPC executive staff to provide a measure of clarity for the Community Board – assuming such clarification were possible – was that there was a “lack of any modification to your [Bronx] geography”; and

**WHEREAS**, with the Board meeting of June 27, 2019 formally scheduled and the agenda, including a vote on the SNAD proposal, timely published in accordance with law, the officers of Bronx Community Board 8 have thus exhausted their remedies at this juncture for obtaining from either DCP or CPC timely clarification as to precisely what is before the Community Board for a vote in accordance with the purportedly continuing ULURP process; and

**WHEREAS**, Bronx Community Board 8 has made it clear that it continues to be prepared, without prejudice and as previously demonstrated, to work with DCP in good faith once the Bronx portion of the SNAD proposal certified by CPC on May 6, 2019 is similarly formally withdrawn and new proposed zoning text amendments specifically designed for the Bronx SNAD are developed and promulgated in accordance with the law.

**THEREFORE, BE IT RESOLVED**, that Bronx Community Board 8 recommends in the strongest terms that the proposed SNAD (or SNRD) zoning text amendments and accompanying proposed map change be withdrawn in their entirety forthwith; and

**BE IT FURTHER RESOLVED**, that Bronx Community Board 8 is forced to conclude under the circumstances presented that it does not have before it any intelligible zoning text amendments upon which any reasonably knowledgeable person could be expected to cast a rational or informed vote to approve or disapprove; and

**BE IT FURTHER RESOLVED**, that Bronx Community Board 8 is forced to conclude under the circumstances presented that the provisions of ULURP and other applicable laws requiring CPC and DCP to timely place before affected Community Boards for review and appropriate action any such proposed SNAD text and map changes have been and are being violated, and that the proposal to amend the SNAD regulations (whatever it now may be) and the recent CPC and DCP actions in connection therewith are a legal nullity; and

**BE IT FURTHER RESOLVED**, that the actions herein of DCP, are shameful and contrary to the spirit and language of The City Charter and applicable laws and regulations and raise serious questions.

In Favor: 37  
Abstain: 0  
Oppose: 0

**BOROUGH PRESIDENT  
RECOMMENDATION**

**CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
Fax # (212)720-3356**

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATIONS NO: 190403 ZMX- Staten Island and Bronx Special District Text Update**

**DOCKET DESCRIPTION-PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION**

**COMMUNITY BOARD NO. # 8**

**BOROUGH: BRONX**

**RECOMMENDATION**

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary): PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT'S RECOMMENDATION**

  
BOROUGH PRESIDENT

7/29/2019  
DATE

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**BRONX BOROUGH PRESIDENT'S RECOMMENDATION**  
**ULURP APPLICATION NO: C 190403 ZMX**  
**Staten Island and Bronx Special District Text Update**

**DOCKET DESCRIPTION**

**Bronx Community District #8**

**IN THE MATTER OF** an application submitted to the New York City Department of City Planning pursuant to Section 197-c and 201 of the new York City Charter for the amendment of the Zoning Map, Section Nos. 1a, 1b, 1c, and 1d:

1. Eliminating a Special Natural Area District (NA-2) bounded by a boundary line of the City of New York, Riverdale Avenue, a line 300 feet southerly of West 261<sup>st</sup> Street, Independence Avenue, a line 600 feet northerly of West 256<sup>th</sup> Street, Arlington Avenue, West 254<sup>th</sup> Street, Henry Hudson Parkway West, West 252<sup>nd</sup> Street Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Tibbett Avenue, West 244<sup>th</sup> Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246<sup>th</sup> Street, Henry Hudson Parkway West, West 249<sup>th</sup> Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue, distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246<sup>th</sup> Street, West 246<sup>th</sup> Street, Independence Avenue, West 240<sup>th</sup> Street, the centerline of the former West 240<sup>th</sup> Street, and its westerly centerline prolongation, Douglass Avenue, West 235<sup>th</sup> Street, Independence Avenue, West 232<sup>nd</sup> Street, Henry Hudson Parkway, West 231<sup>st</sup> Street, Independence Avenue, the westerly centerline prolongation of West 230<sup>th</sup> Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231<sup>st</sup> Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line) the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations; and
2. Establishing a Special Natural Resources District (SNRD) bounded by a boundary line of The City of New York, Riverdale Avenue, a line 300 feet southerly of West 261<sup>st</sup> Street, Independence Avenue, a line 600 feet northerly of West 256<sup>th</sup> Street, Arlington Avenue, West 254<sup>th</sup> Street, Henry Hudson Parkway West, West 252<sup>nd</sup> Street, Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Henry Hudson Parkway East, West 253<sup>rd</sup> Street, The Post Road, West 252<sup>nd</sup> Street, Tibbett Avenue, West 244<sup>th</sup> Street, Manhattan College Parkway, Henry Hudson Parkway East, West 246<sup>th</sup> Street, Henry Hudson Parkway West, West 249<sup>th</sup> Street, Arlington Avenue, a line perpendicular to the easterly street line of Arlington Avenue distant 268 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of Arlington Avenue and the northwesterly street line of West 246<sup>th</sup> Street, West 246<sup>th</sup>

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Street, Independence Avenue, West 240<sup>th</sup> Street, the centerline of the former West 240<sup>th</sup> Street and its westerly centerline prolongation, Douglass Avenue, West 235<sup>th</sup> Street, Independence Avenue, West 232<sup>nd</sup> Street, Henry Hudson Parkway, West 231<sup>st</sup> Street, Independence Avenue, the westerly centerline prolongation of West 230<sup>th</sup> Street, Palisade Avenue, a line 620 feet southerly of the westerly prolongation of the southerly street line of West 231<sup>st</sup> Street, the easterly boundary line of Penn Central R.O.W. (Metro North Hudson Line), the northerly, easterly and southeasterly boundary lines of a park and its southwesterly prolongation, Edsall Avenue, (northerly portion), Johnson Avenue, the southerly boundary line of a park and its easterly and westerly prolongations, the U.S. Pierhead and Bulkhead Line, the northwesterly prolongation, of the U.S. Pierhead and Bulkhead Line, and the westerly boundary line of a park and its southerly and northerly prolongations;

Borough of The Bronx, Community District #8, as shown on a diagram (for illustrative purposes only) dated May 6, 2019.

#### **BACKGROUND**

Approval of this application will eliminate the Special Natural Area District (SNAD) and establish the Special Natural Resource District (SNRD). Approving this application will not alter the boundaries of the existing Special Natural Area District (SNAD). This district is located in the Riverdale community of The Bronx, in Community District #8. The SNAD boundaries are; the cityline on the north, the merge between the Harlem and Hudson Rivers on the south (Spuyten Duyvil), the Hudson River on the west and Riverdale Avenue on the east. Whereas the Fieldston Historic District area is included in the SNAD, the eastern boundary is Tibbett Avenue, between the Henry Hudson Parkway on the north and West 244<sup>th</sup> Street on the south. The SNAD or the proposed SNRD approximates 900 acres, includes approximately 1,003 lots of which approximately 83% are occupied by one and two family homes. Of the lots remaining, 5% are multi-family and 12% are institutions. These institutions include schools, colleges and nursing home facilities.

Originally adopted by the New York City Planning Commission in 1974 and expanded into The Bronx in 1975, the key objective of Special Natural Area District (SNAD) in Riverdale is to protect and enhance the many unique natural features of this community. These features include:

- Rock outcroppings
- Steep slopes
- Old growth trees
- Buffers adjacent to aquatic resources
- Recreational Open Space

#### **The Current Special Natural Area District (SNAD)**

The primary objective of SNAD is to protect the natural features found within its boundaries. To that end, the consistent challenge has been to balance development with the need to protect these natural features. To date this has been done on a site-by-site basis, focusing on specific natural features found on the specific site, with less emphasis on how a development plan's approval may impact the broader community's natural environment. So too, the ordinances that pertain to

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development within the SNAD are applicable to all sites, regardless of their size, type of natural features that are present and whether the site is residential or institutional.

To find “relief” from this one-size-fits-all approach, property owners are able to work with the Department of City Planning (in this case the Bronx office) in order that the final plan that is adopted satisfies the SNAD’s objectives but also allows for a proposed development to proceed. Accomplishing this requires that the property owner

- Hire an architect and provide a site survey showing how the proposed project will impact the natural features.
- Properties that are located within a landmarked district (such as Fieldston) a separate filing must be submitted to the Landmark’s Preservation Commission (LPC).
  - These steps average seven months to complete.
- The proposed project is then presented to the Community Board (in this case, Community Board #8) for its review. The Community Board has 60 days to review the project. During this time ongoing presentations and subsequent modifications pursuant to the Community Board’s dictates are made of the applicant.
- The Community Board will recommend or not recommend that the project move forward.
- The proposed project goes before the City Planning Commission (CPC) for a vote. Pending approval by the CPC, the owner completes legal documents for approval by the Department of City Planning (DCP).
- Upon approval, the DCP submits the approvals and project details to the Department of Buildings (DOB).
  - This complete process averages 13 months to finalize. If necessary, resolving all outstanding matters may require additional time.
  - This review process is “subjective,” as review standards may vary from project to project. As a result, property owners cannot be certain as to precisely what is required to realize a timely approval
- In Riverdale a majority of the projects that are subject to review pertain to the horizontal addition of a residence, constructing a swimming pool, patio or a driveway.

**The Proposed Special Natural Resource District (SNRD)**

As proposed by the Department of City Planning (the applicant) the Special Natural Resource District (SNRD) will reduce the cumbersome (and subjective) approval process most applicants must currently follow. More specifically:

- Codify best practices and streamline the special districts rules
- End the site-by-site review which fail to consider implications for the broader community
- Establish specific guidelines based on property acreage and/or intended use
- Reduce the cost and time required for small property owners to obtain an approval for proposed projects
- Consider the overall ecology of an entire area rather than that of a specific site

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A significant change between the former SNAD and the proposed SNRD is that the Department of Buildings will oversee and enforce the provisions of the SNRD. This will also result in a diminishing oversight role for both the Department of City Planning and the local Community Board.

Key comparisons between the existing SNAD and the proposed SNRD include updating and existing rules that better reflect the Riverdale community's needs and proposing new rules. A general comparison includes:

- SNAD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed independently (site by site).
- SNRD: When evaluating a project's impact on the natural areas of a site, these impacts are analyzed by mapping natural features across the community (holistic).
  
- SNAD: Natural features are protected independently. The City Planning Commission can modify these rules (feature by feature).
- SNRD: All natural features are protected with special consideration to natural features that cannot be replaced (comprehensive).
  
- SNAD: Most applicants seek to modify the rules. No limits on the number of such modifications.
- SNRD: The proposed rules will define limits to modifications.
  
- SNAD: Lot coverage doesn't consider context; for example, is this site part of a larger steep slope and how steep is this slope. There are no clear guidelines for the City Planning Commission to consider. There are no lot coverage regulations for community facilities.
- SNRD: Lot coverage is based on ecological area and slope. R1 Districts range from 12.5% to 25%. Lot coverage for community facilities and large institutions; 25%. Lot coverage mandates apply to all sites. There is an incentive to preserve steep slopes by providing flexible lot coverage if the proposed development is on a flatter portion of the site. Accessory buildings are also included in calculating lot coverage.
  
- SNAD: There are no rules regulating hard surface areas (driveways).
- SNRD: Establish limits to hard surface areas as a percent of lot area. Such areas will include a building's footprint, driveways, patios, decks or pools. (R1 Districts range from 40%-50%). Provides for additional site controls to include more than a building's footprint.
  
- SNAD: Tree requirements are 1-tree per 1,000 square feet OR 51% of existing tree credits, whichever is greater. Each tree is regulated regardless of size or ecological importance. Trees can be removed within 15 feet of buildings and within required parking or driveways. Anything beyond these areas requires City Planning Commission approval.
- SNRD: In R1, R2 and R3 zoning districts tree requirements are 1-tree per 1,000 square feet AND 3 tree credits for every 750 square feet. For community facilities and

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commercial uses, one tree would be required for every 2,000 square feet of lot area and 1.5 tree credits would be required for every 750 square feet of lot area.

- SNAD: Ground cover requirements on steep slopes where average percent of slope is greater than 10%, mandates that no vegetation can be removed except within 15 feet of a building to allow for driveways, private roads or parking. These requirements can be modified by the City Planning Commission. If vegetation is disturbed it must be replaced.
- SNRD: Biodiversity is encouraged. Groundcover planting that prioritizes sensitive areas with more planting including:
  - Wildlife gardens
  - Basic gardens
  - Landscape buffer on rear or side
  - Green roofs; Intensive 12.5% roof coverage, Extensive, 15% roof coverage

Biodiversity points: 4 points for most residential uses

2 points for community facilities uses

6 points for resource adjacent area (which are properties adjacent to ecologically sensitive resources)

The objective is to make clear those planting requirements that will enhance the biodiversity and ecological health of the community.

- SNAD: Rock outcroppings; there is a prohibition on the disturbance of all rock outcrops, but this can be modified by the City Planning Commission. There is no limit as to the amount of these modifications.
- SNRD: Limit rock outcrop disturbance to 50% in front and rear portions of a lot, with no such disturbance permitted in front yard. Boulders can be moved to the front. Any disturbance greater than 400 square feet will require authorization by the City Planning Commission. This will reduce disturbance of visible outcrops.
- SNAD: Subdivisions: Rules for subdivisions are inconsistent and vague. All zoning lot subdivisions must be certified by the City Planning Commission.
- SNRD: All subdivisions and/or development on sites exceeding one acre must meet clear rules for protection of natural features. Subdivisions will require a site plan review by the City Planning Commission. This review will include public comments and community board input. A natural resource assessment would map out the habitat areas that would be preserved and maintained permanently and could only be modified by special permit if the City Planning Commission finds strict conditions are met. This applies to:
  - Sites larger than one acre: residential development would be required to preserve 25% of the site, community facilities, 35% of the site with 15% preserved as open space. This open space could be used for recreation.
  - Sites in an Historic District (Fieldston).
  - Sites that create 4 or more lots or 8 or more dwelling units in a Resource Adjacent Area.
  - Sites with private roads.

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Sites that are less than 1-acre are not subject to review by the City Planning Commission but compliance remains subject to approval by the Department of Buildings.

#### **A Campus Plan**

To facilitate long term planning on large sites (more than 1 acre) an applicant may apply for a campus plan. This requires the entire scope of future work to be established; including an open space plan and a habitat preservation area plan. A Designated Development Area for future work is defined as either flexible or defined. In addition to any other approvals being sought, a campus plan will require authorization. All campus plans are subject to review by the Community Board. Such plans allow for better long term planning.

#### **Preserving Valuable Habitat**

Natural areas located within the SNRD that provide valuable habitats referred to as “Designated Natural Resources” (DNR) serve as the basis for a holistic ecological strategy. In addition to the specific area so designated, those areas located within proximity to the DNR are prioritized to ensure proposed development is balanced by:

- Establishing clear requirements for trees, ground planting, permeability for the overall special district gleaned from 40 years of experience.
- Establishing tailored regulations for trees, ground planting, permeability for properties adjacent to DNR’s. These adjacent areas will be referred to as Resource Adjacent Areas and Escarpment Areas.
- For properties exceeding 1-acre require preservation of portions of existing habitat, where applicable, while considering cluster development to maintain development potential and create options for long-term planning approvals.
- Establishing a review process based on the size of the property and its proximity to sensitive areas.

The City Planning Commission will review plans for properties less than 1-acre based on the following:

- Sites with four or more lots or buildings, or eight dwelling units in a Resource Adjacent or Escarpment Areas because the revised as-of-right rules may not predict every outcome that best achieves the goals of balancing development with preservation.
- Developments with private roads.
- Development or subdivisions in an historic district such that the goals of the historic district and resource preservation are met.

The Department of City Planning notes that 4 out of 7 yearly applications in the Riverdale SNAD (60%) would now be able to apply directly to the Department of Buildings (DOB). Likewise, 3 or of 7 applications (40%) would apply to the Department of City Planning for Plan Site Review approval. Those applications going directly to the DOB will save approximately 7 months.

Ultimately, pursuant to SNRD the benefits include:

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- Clearer rules
  - More knowledgeable and empowered enforcement provided by the DOB
  - Site plan review by the DOB
  - Site inspections
  - A better informed community by offering on-line tools to track construction sites

#### **ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION**

This application was reviewed pursuant to CEQR and SEQRA a Type I Designation. An EAS was filed on November 9, 2018. The City Planning Commission certified this application as complete on May 6, 2019.

#### **BRONX COMMUNITY BOARD PUBLIC HEARING**

Bronx Community Board #8 held a public hearing on this application on June 27, 2019. At that hearing Community Board #8 adopted a resolution stating that they could not properly vote on this application given that “no intelligible or valid ULURP Certification received.” The complete resolution is attached. A unanimous vote to adopt this resolution was zero opposed, 37 in favor, zero abstaining.

#### **BRONX BOROUGH PRESIDENT’S PUBLIC HEARING**

The Borough President convened a public hearing on July 11, 2019. Representatives of the applicant spoke in favor of this application. Twelve members of the public attended the hearing, of which all speakers voiced their opposition to this application and requested that it be denied. In addition, a total of 96 e-mails were received. Of this total 94 recommended that this application be denied and 2 recommend approval. Verbal testimony at the hearing was closed. Written testimony and/or e-mail submission remained open through Friday, July 26, 2019.

#### **BOROUGH PRESIDENT’S RECOMMENDATION**

The New York City Department of City Planning’s (DCP) proposed change would facilitate an amendment to the City Map by removing the Special Natural Area District (SNAD) and establishing the Special Natural Resource District (SNRD) within the Riverdale neighborhood of Bronx Community Board #8. While there are regulatory changes between the two districts will be governed under different regulations and guidelines, the geographic boundaries will remain exactly the same under the DCP’s new proposal.

Currently, there are two major SNADs in New York City, the aforementioned Bronx location and the other located in Staten Island. While separate SNADs, both boroughs fell under the same SNAD regulations. The initial intent of this ULURP was to make wholesale changes to SNAD that would impact both boroughs. Halfway through the process, a decision was made by DCP to remove Staten Island from the existing ULURP to reevaluate the borough separately at the request of local residents. It was also decided that the ULURP would proceed for the Bronx SNAD.

This process to update SNAD has taken more than four years. DCP went to great efforts to include local residents, community boards and elected officials. My staff continually participated in the working group on this. While I commend the outreach effort of the DCP Bronx office in

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garnering input the last four years, and have no issue with the content of the Bronx SNAD, I have very serious procedural concerns regarding the splitting of the existing ULURP before us, and the lack of adequate notification Bronx Community Board #8 was afforded in reviewing the changes.

On May 6, 2019, the City Planning Commission certified the “Staten Island and Bronx Special Districts Text Update” as finalized. Following this, on May 15, 2019, the required application documents were sent to Bronx Community Board #8 and my office, in accordance to ULURP regulation and thereby starting the clock for our subsequent evaluation. My planning and development department began its review of this material, based only on what was initially delivered to us.

Succeeding this however, in a letter dated June 10, 2019, Bronx Community Board #8 was notified that the Staten Island office of the Department of City Planning sought to modify this matter and was granted a “withdrawal” from this current ULURP. Given this change made after the fact, Staten Island was to be afforded an undetermined amount of time to reconsider the full scope of approving this application and the impact that it may have in Staten Island. No such option was afforded to The Bronx. At my public hearing on July 11, 2019, my staff asked a number of questions about the procedure of withdrawing or pulling a ULURP, whether Staten Island would have to restart the ULURP process or if they were just being given additional time along the existing ULURP timeframe; and if the latter, why The Bronx was not afforded the same courtesy in having more time to review changes made to the now split ULURPs. The response from DCP was they had not made a determination if Staten Island would have to restart the ULURP process or if they would be given an extension, and said it was “a judgement call” to continue with Bronx Community Board #8 as-is.

Conceptually, I have no problem in amending, splitting or pulling ULURPs, particularly when it is done at a community’s request. In fact, I made such a request in a previous ULURP regarding the siting of the proposed jail in Mott Haven, asking the City Planning Commission that the site be pulled and reevaluated while the other sites could proceed in order to facilitate the closing of Rikers Island. The issue I have is the lack of proper notification and opportunity to review changes to the ULURP for Bronx Community Board #8. The clock was ticking and decisions were made. Unfortunately, the Community Board did not have an updated document to review in a timely fashion. In essence, Bronx Community Board #8 was asked to “take DCP’s word for it” that there were no content changes as it pertained to what was agreed upon with the working group.

This strikes at the heart of checks and balances. New York City has a Charter for a reason; part of it is to lay out proper procedure to assure that established entities within City government have proper review and say in the land use process. Asking one of those entities to move forward without the opportunity for proper review while another one of those entities in another geographic location is given an undetermined amount of time to reimagine their land use process is entirely unacceptable. My office did receive updated copies of the ULURP reflecting the changes, but I often take the views of community boards into consideration. If they were not afforded sufficient chance to review the document, even if to affirm that there no changes, how am I able to take into consideration all viewpoints that may advise my recommendation?

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I want to be very clear: ultimately the purpose of ULURP is to afford the public, community boards, City Planning Commission and elected officials the opportunity to comment and if necessary oppose applications that so warrant. To assure that this procedure is followed by all concerns, a *uniform* set of rules, which include very strict time limitations, must be followed. In the matter of the jail, the city saw no legitimate reason to grant The Bronx any variance from ULURP despite what we in The Bronx believe to be a very poor proposal. In the matter of SNAD vs. SNRD the city takes the opposite position, apparently seeing no reason why a variance from ULURP should not be provided to Staten Island. In both cases however, one ULURP application pertains to a related matter in multiple boroughs. In my opinion this alone violates a key rationale for ULURP. I do not wish to suggest that this was done unscrupulously, nor do I view it as done at the expense of The Bronx. The contents of this proposal are sound. However, the process has become muddled and decisions appear to be made subjectively at the behest of the City's particular stance at the time.

It is unclear if the decision to make changes to this ULURP was done by the City Planning Commission or if it was solely a staff decision. It is my understanding that the City Planning Commission has the power to amend ULURPs prior to their vote. As such, I request the Commission give Bronx Community Board #8 similar "pause" in the ULURP process as was given to Staten Island. Whether or not my objection as stated here is sustained going forward, and regardless of what a future ULURP application may pose, I do not believe that when the city is the applicant it should be able to unilaterally and arbitrarily determine that what is granted to one party cannot be granted to all parties. Again, there may be merit to the proposed SNRD map change, but as of July 23, 2019, the required text associated with this application had yet to be finalized.

At this time, based on procedural grounds, unless the City Planning Commission allows Bronx Community Board #8 the same opportunity Staten Island has to review the major changes made after initial certification, I recommend that this application be denied.