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PUBLIC REVIEW BEGINS FOR CITY PLANNING'S ZONING CHANGES TO FACILITATE FLOOD RESILIENT CONSTRUCTION IN DESIGNATED FLOOD ZONES

May 20, 2013 – City Planning Commissioner Amanda M. Burden today announced the beginning of public review for zoning changes to enable new and existing buildings throughout designated flood zones in New York City to meet the latest federal standards for flood-resistant construction. This proposal codifies and expands on Mayor Bloomberg's emergency Executive Order announced on January 31, 2013 which temporarily suspended height and other restrictions to allow flood-resilient reconstruction. The proposed text amendment would eliminate conflicts between the current zoning regulations and Building Code for buildings adhering to the Federal Emergency Management Agency's (FEMA) flood standards by allowing limited additional flexibility for building height, placement of stairs and ramps, and location of mechanical systems and off-street parking. The proposal would also mitigate the effects of federal requirements on ground-floor activity and quality of the streetscape.

Commissioner Burden said, "These adjustments will relieve conflicts between zoning and steps owners of buildings in flood zones can take to make their buildings more flood resilient. It will enable them to rebuild or retrofit to new flood protection standards and help restore the same amount of living and working space they were previously permitted. And they recognize that a vibrant public realm is critical to the fabric of the City's communities, and that zoning can promote neighborhoods that are active and pedestrian-friendly as well as flood-resistant."

After Hurricane Sandy, FEMA issued new, non-binding flood maps for New York City, reflecting the best available information about the city's flood risks. The City also increased the flood elevation standards required under Building Code by adding an additional one or two feet of required elevation, known as "freeboard," to code requirements as a margin of safety.

Owners of severely damaged or destroyed buildings are required to comply with the flood resistant construction standards of Building Code when they rebuild. In addition, any property owner within the newly enlarged FEMA flood zones may wish to make their building comply with new FEMA standards, which call for them to be raised or floodproofed to a higher elevation. This will reduce their vulnerability to future floods, as well as help to avoid higher flood insurance premiums. However, in many instances, zoning regulations or conflicts between zoning and Building Code requirements would make it difficult, or in some cases impossible, for owners to build or retrofit to these standards.

January 31, 2013 Emergency Executive Order

On January 31, 2013, Mayor Michael R. Bloomberg announced an emergency Executive Order to allow property owners rebuilding after Hurricane Sandy to meet updated FEMA flood standards. The Executive Order suspended height and other restrictions to the extent necessary to rebuild to the latest flood-resilient standards. The Executive Order is by nature an interim measure which will expire and must be codified by a zoning text amendment.

Proposed Text Amendment

The proposed text amendment would apply to all buildings that meet flood resistant construction standards in the 100-year (1% annual chance) flood zone identified on the most recent FEMA flood maps, using the most recent FEMA flood elevations.

Like the Executive Order, the proposed Flood Resilience Text Amendment modifies zoning to enable buildings to meet the latest flood zone standards. It also removes additional impediments to flood-resistant construction, and modifies regulations to mitigate potential negative effects of flood-resistant construction on the streetscape and public realm. Issues addressed by the text amendment include:

- Measuring building height with respect to the latest FEMA flood elevations
- Accommodating building access from grade
- Locating mechanical systems above flood levels
- Accommodating off-street parking above grade
- Accommodating flood zone restrictions on ground floor use
- Improving streetscape

Under current zoning regulations, many home and business owners in flood zones would not be able rebuild to the latest flood protection requirements and keep the same amount of space they once had for living and working. The proposal

would alleviate these conflicts by allowing space below the flood elevation that is restricted in use by flood regulations to be exempted from floor area calculations; usable floor area could be replaced elsewhere within the applicable height and setback limits. It would allow more room to locate mechanical equipment above flood level by allowing a larger volume for permitted obstructions above a height limit and greater floor area exemptions for mechanical space in lower-density districts. It would also provide additional flexibility in bulk regulations to accommodate the need for larger stairs and ramps. For one- and two-family homes that fill in sub-grade parking spaces to comply with flood-resistant construction requirements, the proposal would allow required parking to be located elsewhere on the zoning lot, or waived if no alternative location is possible.

The proposal recognizes that elevating buildings and adjusting building access to accommodate federal flood standards can have implications for how buildings meet the street and how pedestrians experience the street. Current regulations allow little flexibility to manage these effects. To help ensure that the streetscape remains vibrant and engaging as buildings are rebuilt to meet new flood protection standards, the proposal would permit buildings to grade up gradually to flood elevations by raising their yards and would require buildings to provide simple but effective streetscape enhancements such as stair turns, plantings, and porches to ensure that buildings maintain visual connectivity with the street. These modifications would prevent unnecessarily stark landscapes with blank walls, and promote “eyes on the street” to foster street-level vitality.

Expected Future Flood Zone Changes

FEMA is in the process of updating its Flood Insurance Rate Maps (FIRMs) for New York City, and the City expects to adopt new FIRMs in 2015. These maps will become the basis for building code requirements for flood-resistant construction. The proposed text amendment will enable buildings to be designed and constructed today based on the best current understanding of future flood standards.

Within a year after the adoption of new FIRMs, the Department would advance a second zoning text amendment to address any further flood zone issues resulting from the new maps and further refine the regulations as warranted.

The proposed zoning text amendment will be referred to forty-one community boards, all of which contain flood zones, and all five Borough Presidents and Borough Boards for a 60-day review period, followed by a City Planning Commission and City Council review.

Department of City Planning

The Department of City Planning (DCP) promotes strategic growth, transit-oriented development, and sustainable communities in the City, in part by initiating comprehensive, consensus-based planning and zoning changes for individual neighborhoods and business districts, as well as establishing policies and zoning regulations applicable citywide. It supports the City Planning Commission and each year reviews more than 500 land use applications for actions such as zoning changes and disposition of City property. The Department assists both government agencies and the public by providing policy analysis and technical assistance relating to housing, transportation, community facilities, demography, waterfront and public space.